

**MAYOR AND COUNCIL
REGULAR MEETING
August 15, 2007**

This meeting was held at the Robert D. Wilson Community Center Building located on Snug Harbor, Highlands, NJ.

Mayor O'Neil called the meeting to order at 7:02 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, Mr. Caizza, Mr. Urbanski, Mayor O'Neil

Absent: None

Late Arrival: Miss Thomas

**Also Present: Nina Light Flannery, Borough Clerk
Bruce Hilling, Borough Administrator
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. Litigation**
 - (a) Agreement with Franklin v. First Aide Squad**

- 2. Personnel**
 - (a) Code Enforcement/Landlord Registration Officer**

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:

4. Deals with collective bargaining, including negotiation positions.

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.

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

ROLL CALL:

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

NAYES: None

ABSENT: Miss Thomas

ABSTAIN: None

The Governing Body then entered into Executive Session.

Mayor O'Neil called the Regular Meeting back to order at 8:10 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
Bruce Hilling, Borough Administrator
Dominick Manco, Esq., Borough Attorney
Stephen Pfeffer, Chief Financial Officer

Resolution R-07-152 Appoint Regular Police Officer

Mrs. Flannery read the title of the following Resolution for adoption:

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

R-07-152

**RESOLUTION APPOINTING GEORGE H. ROXBY
REGULAR POLICE OFFICER, PROBATIONARY**

WHEREAS, the Governing Body of the Borough of Highlands, with the assistance of the Chief of Police, Joseph Blewett, have determined that there is a need in the community for an additional police officer; and

WHEREAS, a list if eligible applicants had been requested and obtained from the State of New Jersey Department of Personnel; and

WHEREAS, George H. Roxby, 127 Navesink Avenue, Highlands, NJ 07732 was interviewed by the Chief of Police, Joseph Blewett and the appropriate background checks concluded; and

WHEREAS, Chief Joseph R. Blewett has recommended to the Governing Body of the Borough of Highlands that George H. Roxby be appointed as Regular Police Officer, full-time, probationary); and

NOW, THEREFORE, BE IT RESOLVED by the Governing of the Borough of Highlands that George H. Roxby be and hereby is appointed Regular Police Officer, Probationary; and

BE IT FURTHER RESOLVED that said appointment be effective August 16, 2007 and compensated as a rate as set forth in the current salary ordinance of the Borough of Highlands.

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

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ROLL CALL:

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

George H. Roxby was then sworn in as a Regular Officer (full-time, probationary) by Mayor O'Neil.

**PRESENTATION OF MONMOUTH COUNTY MUNICIPAL
OPEN SPACE GRANT APPLICATION**

Mr. Hill, Highlands Director of Recreation addressed the audience with regard to the Open Space Grant Program that municipalities can apply for. Mr. Hill stated that tonight he will give an overview of the program and that the public hearing will take place on September 5th. He stated that if we are to apply for a grant, it is due on September 19th.

Mr. Hill stated that the purpose of the Monmouth County Open Space Program is to expand open space and recreation opportunities. The objectives are to preserve open space either through acquisition or to develop or re-develop open space areas in communities. He stated that only municipalities in Monmouth County can apply for this funding.

Mr. Hill went on to say that there is approximately \$2 million that is awarded annually through the Monmouth County Open Space tax, which we all pay into. He stated that the Borough was successful two years ago when it received funding to do the Community Center Park and Playground project, which is going to start this Monday. The Borough can also apply for land, if we are in a position to do so, for parks and recreation open space conservation.

Mr. Hill added that partnerships are encouraged, public/private partnership, but that the municipality must be the lead agency in terms of applying for the funds. The Borough must own and control the land.

Mr. Hill stated that the maximum grant amount is \$250,000 from the County. It is a 50/50 match, whereby if we apply for a project for \$250,000, the Borough must match that with non-county dollars. The funding cannot be used to pay for soft-costs, such as engineers, architects, administrative costs, etc.

He then added that limitations on the program are that they must be park and recreation open space projects. There is only one application per funding cycle. The Borough must come up with one project within the next six weeks for this funding and funded projects must be completed within two years. He stated that the County would like to see the money go towards acquisition projects rather than development/re-development projects. Mr. Hill gave a breakdown of previous grants in Monmouth County. He then gave details of high and low priority projects.

Mayor O'Neil asked if there were any questions or comments from the public.

Elaine Hoffman - Laurel Drive - she suggested that the Borough purchase Shadow Lawn and make a park up there.

Tara Ryan - 17 Ocean Street - she asked Mr. Hill if he had any preferences as to what to do with the grant.

Mr. Hill stated he did not.

Ms. Ryan then asked if it is all output to the community.

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Mr. Hill said yes, there is output to the community. He added that there are many projects that have been considered.

Ms. Ryan asked if he had a cost on any of those projects.

Mr. Hill said that at this time he did not have costs on any of those projects.

Ms. Ryan again stated that buying Shadow Lawn would be a good thing.

Mr. Hill stated that he appreciated Ms. Ryan's confidence in him, but that it is the Governing Body's decision.

Chris Francy - 36 Fifth Street - he asked what uses are allowed in the open spaces.

Mr. Hill stated that it is public recreation. He suggested that anyone can go online to the Monmouth County Park System's website to see all the criteria for this grant.

Pauline Petersen - 22 Ocean Avenue - she asked whose property the ball field is located on.

Mayor O'Neil stated that it belongs to the Borough of Highlands.

Mr. Hill stated that the property sits in the Township of Middletown and was deeded to the Borough of Highlands by the Kavookjian Family.

Laurel McSherry - 21 Ocean Street - she asked Mr. Hill to clarify his statements as to the grant being better used for land already owned by the Borough but then later said that the grants are better for acquisitions.

Mr. Hill stated that the Borough must own the land not a government agency.

Ms. McSherry asked if he meant that if, per say, Property Owner X had a piece of property, the Borough could purchase that property, with grant money, to be used for recreational purposes, broadly defined?

Mr. Hill stated that is true.

Ms. McSherry asked Mr. Hill if he is making a recommendation.

Mr. Hill stated that he is not making any recommendations tonight.

Ms. McSherry asked if there were parcels identified in the Master Plan for the Borough of Highlands for their high open space value or potential open space value, either as link between two pieces of disconnected open spaces.

Mr. Hill stated that if there is a parcel like that, a link would be great. That it depends on who owns the property on the other side.

Art Gallagher - 221 Linden Avenue - he stated that he would like to see a boat ramp.

Carol Cassidy - 7 Kay Street - she asked if the money could be used as a partial payment for property or does the grant money have to cover the entire expense.

Mr. Hill stated that he believed it could be use for partial expense.

Honey Stoever - 1 Scenic Drive - she asked if there was anything under consideration at this time.

Mr. Hill stated that there are some things under consideration, and that the Borough is listening to the residents regarding this application.

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Steve Cassidy - 7 Kay Street - he asked how to send suggestions to Mr. Hill.

Mr. Hill stated that he can be reached by phone at 732-872-1959, by e-mail at THill@mycomcast.com or by sending correspondence directly to the Borough.

Fran Benson - South Bay - she asked about the Careless Navigator lot.

Dolores Francy - 36 Fifth Street - asked if the library could be considered recreation.

Mr. Hill stated that it would not under the Open Space Grant Program.

Laurel McSherry - 21 Ocean Street - what about a view shed?

Miss Thomas stated that it is listed in the Master Plan.

Tara Ryan - 17 Ocean Street - she suggested the Cottrell lot.

Miss Thomas stated that piece of property is one that is being looked into.

Mr. Hill stated that the Borough needs to walk a very fine line when stating particular pieces of property that it may be interested in.

Dolores Francy - 36 Fifth Street - if this is a yearly grant; she asked if there could be something done next year to publicize this grant well before hand.

Mr. Hill stated that the hearing for this grant is scheduled for September 5th, and that the public should feel free to get information to the Borough and to him.

Michelle Pizzulo - 115 Highland Avenue - she asked Mr. Hill to repeat the date for the meeting and the application deadline.

Mr. Hill stated that the public hearing is scheduled for September 5th and the application deadline is September 19th.

Tara Ryan - 17 Ocean Street - she asked Mr. Hill to explain the process between the public hearing on September 5th, and the deadline of September 19th.

Mr. Hill stated that the Mayor and Council will ultimately make the decision regarding the grant.

Chris Francy - 36 Fifth Street - asked if there would be enough time from the 5th to the 19th to perhaps get a cost value on any particular piece of property.

Mr. Hill stated that he can get the information from the County as to what the process would be. He stated that the Borough would still have to apply and that appraisal costs are not eligible for reimbursement.

Laurel McSherry - 21 Ocean Street - she asked if Mr. Hill will be giving a presentation on projects that are being considered that are not being brought forward from the floor.

Mr. Hill stated that the Governing Body will have a presentation regarding potential projects.

ORDINANCES O-07-07

Review of Planning Board Recommendations & 2nd Reading, P.H. & Adoption

Mrs. Flannery read the title of Ordinance O-07-07.

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O-07-07

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 21 OF THE REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED "ZONING" TO MODIFY THE REQUIREMENTS OF THE MH MOBILE HOME RESIDENCE DISTRICT, AND TO FURTHER ALLOW MULTI-FAMILY DEVELOPMENTS IN THE MH ZONE AS CONDITIONAL USES, AND TO ESTABLISH REGULATIONS PERTAINING THERETO).

Mayor O'Neil stated that the Borough has been contacted by the owner's attorney to be given more time to look over the Ordinance.

Mr. Nolan offered a Motion to carry O-07-07 to September 5th, 2007.

Seconded by Mayor O'Neil 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

CONSENT AGENDA - RESOLUTIONS:

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

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

R-07-138

RESOLUTION – COMPENSATED ABSENCE-RESIGNATION

WHEREAS, Mary Ann Lawson has been employed by the Borough of Highlands as Tax Clerk since January 1979; and

WHEREAS, on June 30, 2007 Mary Ann Lawson retired; and

WHEREAS, Mary Ann Lawson is entitled to compensated absence benefits for her accrued vacation time of 440.50 hours equating to \$10,140.31 and accrued sick time of 2,347.50 hours equating to \$54,039.45 totaling \$64,179.76; said benefits are in accordance with Borough Ordinance 95-29, Personnel Policy Manual and the collective bargaining agreement between the Borough of Highlands and the Communications Workers of America Local 1032 effective July 1, 2004-June 30, 2008 as authorized by Resolution 06-114; 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 Mary Ann Lawson receive the aforementioned compensated absence benefits.

Certification of Funds: Trust Fund – Reserve for Accumulated Leave
Contingent upon adoption of 2008 temporary budget and adequate funds being appropriated in the adopted SFY 2008 budget.

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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

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

**R-07-139
RESOLUTION
RENEWING 2007-2008 LIQUOR LICENSES**

WHEREAS, Liquor License Renewal Applications were filed for the year 2007-2008 for the following Liquor Licenses; and

WHEREAS, no objections were filed against the renewals of licenses listed below:

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the following liquor licenses be renewed for the period of July 1, 2007 to June 30, 2008:

**1317-32-009-006 The Sugar Shack, LLC 23 Bay Ave
 t/a The Sugar Shack**

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
ABSTAIN: None
ABSENT: None

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**INSERT R-07-140
HERE**

HIGHLANDSNJ.COM

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Mr. Caizza offered the following resolution and moved its adoption:

**R-07-141
RESOLUTION AUTHORIZING ENGINEER
TO OFFER EXPERT TESTIMONY ON BEHALF OF
THE BOROUGH OF HIGHLANDS**

WHEREAS, it may be necessary for expert testimony to be given in the case *Mazzella v. Borough of Highlands*; and

WHEREAS, the Borough Engineer may be called for that expert testimony;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the Borough's Engineer, T&M Associates may act as the experts for the Borough of Highlands in the case *Mazzella v. Borough of Highlands*; and

BE IT FURTHER RESOLVED, that the expenses for such testimony may be charged to the General Engineering account.

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. Caizza offered the following resolution and moved its adoption:

**R-07-142
RESOLUTION AUTHORIZING AN EXTENSION OF TIME
FOR PAYMENT OF MUNICIPAL TAXES WITHOUT
INTEREST TO SEPTEMBER 4, 2007**

WHEREAS, the Borough of Highlands mailed Municipal tax bills in August, 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.

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 September, 4 2007
2. In the event that the tax bills are not paid by a resident on September 4 2007, interest shall be retroactive to the August, 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:

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ROLL CALL:

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

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

**R-07-143
RESOLUTION – CHANGE ORDER
WHIRL CONSTRUCTION CO. INC.
EXTENSION OF CONTRACT COMPLETION DATE
COMMUNITY CENTER PLAYGROUND PROJECT**

WHEREAS, Resolution R-07-86 awarded a contract to Whirl Construction Co. Inc. on May 2, 2007 for \$202,531.00 for the Community Center Playground Project and;

WHEREAS, change order # 1 dated July 6, 2007 prepared by T & M Associates, Borough Engineer, sets forth reasons for said change order (extension of contract completion time until September 30, 2007 at no additional cost to the Borough),

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Highlands that change order #1 granting an extension of the contract completion time until September 30, 2007 at no additional cost to the Borough of Highlands is hereby authorized for the Community Center Playground Project.

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. Caizza offered the following Resolution and moved its adoption:

**R-07-144
RESOLUTION – CHANGE ORDER #7
M & R MECHANICAL CONTRACTORS, INC.
INCREASE OF \$5,590.45
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
R-07-23	January 17, 2007	\$ 19,187.06
R-07-38	February 7, 2007	\$ 5,078.98
R-07-57	April 4, 2007	\$ 9,983.09
R-07-96	May 16, 2007	\$ 6,549.47

WHEREAS, change order # 7 dated July 16, 2007 prepared by George Cooper Rudolph, professional architectures, sets forth reasons (concrete parking blocks, modifications to fire alarm system and additional signage) 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 #7 increasing the original contract amount by \$5,590.45 is hereby authorized for Construction of a New Firehouse. The contract is hereby amended to \$1,779,734.62.

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. Caizza offered the following Resolution and moved for its adoption:

**R-07-145
RESOLUTION – APPROPRIATION RESERVE TRANSFERS**

WHEREAS, N.J.S.A. 40A:4-59 provides for appropriation reserve transfers during the first three months of the succeeding year;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highlands (four affirmative votes) that transfers between SFY 2007 Budget Appropriations Reserves be made as follows:

CURRENT FUND -----	FROM -----	TO -----
Police:		
Other Expenses	\$ 8,000	
Salaries & Wages		\$ 8,000
	-----	-----
	\$ 8,000	\$ 8,000
	=====	=====

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. Caizza offered the following resolution and moved its adoption:

R-07-146

A RESOLUTION OF THE BOROUGH OF HIGHLANDS, NEW JERSEY, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AND AGREEMENT WITH THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY TO FINANCE THE ACQUISITION OF CERTAIN CAPITAL EQUIPMENT WHICH WILL BE LEASED BY THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY TO THE

**MAYOR AND COUNCIL
REGULAR MEETING
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**BOROUGH OF HIGHLANDS, NEW JERSEY; APPROVING THE
FORM AND AUTHORIZING THE EXECUTION AND DELIVERY
OF A LETTER OF REPRESENTATION AND A CONTINUING
DISCLOSURE AGREEMENT IN CONNECTION WITH THE
ISSUANCE AND DELIVERY OF THE MONMOUTH COUNTY
IMPROVEMENT AUTHORITY'S CAPITAL EQUIPMENT
POOLED LEASE REVENUE BONDS, SERIES 2007 AND
AUTHORIZING AN AUTHORIZED MUNICIPAL
REPRESENTATIVE TO DO ALL OTHER THINGS DEEMED
NECESSARY OR ADVISABLE IN CONNECTION WITH THE
ISSUANCE, SALE AND DELIVERY OF SUCH BONDS.**

WHEREAS, the Borough of Highlands, New Jersey (the "Municipality") desires to lease and permanently finance the cost of acquisition of certain capital equipment (the "Equipment") from The Monmouth County Improvement Authority (the "Authority"); and

WHEREAS, the Authority will provide for the financing of the cost of the acquisition of the Equipment by the issuance of its Capital Equipment Lease Revenue Bonds, Series 2007 (Highlands Project) in an aggregate principal amount not to exceed \$270,000 (the "Bonds") payable from rentals by the Municipality pursuant to a lease and agreement by and between the Municipality and the Authority; and

WHEREAS, Municipality and the County of Monmouth, New Jersey, will each unconditionally and irrevocably guaranty the punctual payment of the principal of and the interest on the Bonds; and

WHEREAS, there have been prepared and submitted to the Municipality forms of: (a) a Lease and Agreement by and between the Municipality and the Authority, to be dated as of August 1, 2007 (the "Agreement"), attached hereto as Exhibit A; and (b) a Letter of Representation, to be dated the date of delivery of the Bonds (the "Letter of Representation"), attached hereto as Exhibit B; and

WHEREAS, there has been prepared and submitted to the Municipality a Continuing Disclosure Agreement in the form appended hereto as Exhibit C for execution by the Municipality if the Authority shall determine that the Municipality is or will be an "obligated person" with respect to the Authority's Capital Equipment Lease Revenue Bonds, Series 2007 within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission (an "Obligated Person");

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH OF HIGHLANDS, NEW JERSEY, AS FOLLOWS:

Section 1. That the Agreement, in substantially the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative (as that term is defined in the Agreement) is hereby authorized to, and one of such officers shall, execute the Agreement, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the Authority, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 2. That the Letter of Representation, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative is hereby authorized to, and one of such officers shall execute the Letter of Representation, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the addressees designated on such Letter of Representation, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. That the Continuing Disclosure Agreement, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative is hereby authorized to, and one of such officers shall execute the Continuing Disclosure Agreement, with such additions, deletions or modifications as such officer shall approve, and to deliver the same upon the determination by the Authority that the Municipality is or will be an Obligated Person, such approval to be conclusively evidenced by the execution and delivery thereof.

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Section 4. That any Authorized Municipal Representative is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for the execution and delivery of the Agreement and for carrying out the sale, issuance and delivery of the Bonds, the Authority's Capital Equipment Pooled Lease Revenue Bonds, Series 2007 and all related transactions contemplated by this resolution.

Section 5. All resolutions or proceedings, or parts thereof, in conflict with the provisions of this resolution are to the extent of such conflict hereby repealed

Section 6. This resolution shall become effective immediately.

Dated: August 15, 2007

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. Caizza offered the following Resolution and moved its adoption:

**R-07-147
RESOLUTION – CHANGE ORDER #2 & #3
WASHINGTON AVENUE & RECREATION PLACE ROADWAY
RECONSTRUCTION &
MILLER STREET ROADWAY IMPROVEMENTS
A. MONTONE CONSTRUCTION, INC.
#2 INCREASE OF \$7,500.00
#3 NET DECREASE OF \$531.00**

WHEREAS, a contract was awarded for A. Montone Construction Inc. as follows:

Resolution 06-188 on December 14, 2006 for \$253,512.80
Resolution 07-83 on May 2, 2007 for \$7,600.00

WHEREAS, change order # 2 dated April 25, 2007 prepared by T & M Associates sets forth reasons (uniform police officers to provide traffic control) for said change order ,

WHEREAS, change order # 3 dated July 13, 2007 prepared by T & M Associates sets forth reasons (changes to as built quantities of various contract line items) for said change order ,

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Highlands that change order #2 increasing the original contract amount by \$7,500.00 and change order #3 decreasing the contract amount by \$531.00 are hereby authorized for Washington Avenue & Recreation Place Roadway Reconstruction & Miller Street Roadway Improvements. The contract price is amended to \$268,081.80.

Certification of Funds:

I hereby certify that funds are available from Bond Ordinance 06-13.

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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

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

**R-07-148
RESOLUTION GRANTING TAX EXEMPTIONS TO
DISABLED VETERANS**

WHEREAS, the following persons are 100% service connected disabled veterans, awarded by the Veterans Administration for medical conditions arising from military service:

William Doyle	Block 11.01	Lot 8	A-8 Twinlights Terrace
Robert L. Ford	Block 44	Lot 2	25 Shrewsbury Avenue
Edwin H. Goodman	Block 37	Lot 4	154 Highland Avenue

; and

WHEREAS, the petitioners have applied for exemption of the taxes assessed for their properties as a disabled veteran, pursuant to N.J.S.A. 54:4-3.30, and their residences are tax exempt for its local assessment as the residence of a 100% disabled American veteran; and

WHEREAS, the Governing Body upon recommendation of the Tax Assessor has determined that the residents are entitled to this exemption as a 100% disabled veteran for conditions received in the honorable service of their country and their fellow citizens, and that effectuating the policy of tax exemption as of the appropriate date is proper;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that pursuant to the authority of N.J.S.A. 54:4-3.30, the Tax Collector is hereby authorized to exempt the following from the assessments set forth below:

Block 44	Lot 2	25 Shrewsbury Avenue	June 1, 2007
Block 11.01	Lot 8	A-8 Twinlights Terrace	July 1, 2007
Block 37	Lot 4	154 Highland Avenue	August 1, 2007.

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-07-149
RESOLUTION FOR RENEWAL OF MEMBERSHIP
IN THE
MONMOUTH MUNICIPAL JOINT INSURANCE FUND**

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WHEREAS, the Borough of Highlands is a member of the Monmouth Municipal Joint Insurance Fund; and

WHEREAS, said renewed membership terminates as of December 31, 2007 unless earlier renewed by agreement between the Municipality and the Fund; and

WHEREAS, the Municipality desires to renew said membership;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Borough of Highlands agrees to renew its membership in the Monmouth Municipal Joint Insurance Fund and to be subject to Bylaws, Rules and Regulations, coverages, and operating procedures thereof as presently existing or as modified from time to time by lawful act of the Fund.
2. The Mayor and Clerk shall be and hereby are authorized to execute the agreement to renew membership annexed hereto and made a part hereof and to deliver same to the Monmouth Municipal Joint Insurance Fund evidencing the Municipality's intention to renew its membership.

**AGREEMENT TO RENEW MEMBERSHIP IN THE IN THE
MONMOUTH MUNICIPAL JOINT INSURANCE FUND**

WHEREAS, the Monmouth Municipal Joint Insurance Fund (hereinafter the Fund) is a duly chartered Municipal Insurance Fund as authorized by NJSA 40A:10-36 et seq., and;

WHEREAS, the Borough of Highlands is currently a member of said Fund, and;

WHEREAS, effective December 31, 2007, said membership will expire unless earlier renewed, and;

WHEREAS, the Mayor and Council of the Borough of Highlands has resolved to renew said membership;

NOW, THEREFORE, BE IT AGREED as follows:

1. The Borough of Highlands hereby renews its membership in the Monmouth Municipal Joint Insurance Fund for a three (3) year period, beginning January 1, 2008 and ending December 31, 2010*.
2. The Borough of Highlands hereby ratifies and reaffirms the Indemnity and Trust Agreement, Bylaws and other organizational and operational documents of the Monmouth Municipal Joint Insurance Fund as from time tot time amended and altered by the Department of Insurance in accordance with the Applicable Statutes and administrative regulations as if each and every one of said documents were re-executed contemporaneously herewith.
3. The Borough of Highlands agrees to be a participating member of the Fund for the period herein provided for and to comply with all of the rules and regulations and obligations associated with said membership.
4. In consideration of the continuing membership of the Borough of Highlands in the Monmouth Municipal Joint Insurance Fund agrees, subject to the continuing approval of the Commissioner of Insurance, to accept the renewal application of the Borough of Highlands.

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5. Executed the 16th day August, 2007 as the lawful and binding act and deed of the Borough of Highlands, which execution has been duly authorized by public vote of the governing body.

MAYOR

ATTEST: _____

**MONMOUTH MUNICIPAL JOINT
INSURANCE FUND**

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

**R-07-150
RESOLUTION AUTHORIZING
THE CANCELLATIONS/DISCHARGE OF MORTGAGES**

WHEREAS, the six year terms of Mortgages Note for the following have expired and same are to be canceled pursuant to the terms of the Mortgage in accordance with requirements of the Regional Contribution Agreements as established in the rules and regulations of the Council of Affordable Housing and the Department of Community Affairs Housing Rehabilitation Program; and

WHEREAS, the Mayor and Council of the Borough of Highlands hereby authorize the Borough Attorney to prepare cancellations/discharges of mortgages execution on the following Mortgage Notes.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the Mayor and the Borough Clerk be and are hereby authorized to execute cancellation/discharge of Mortgages in accordance with the recommendation of the Borough Attorney, Dominick Manco, Esq., for the following mortgages:

NAME:	Property Location:	Block	Lot	Amount
Quast, C. & E.	50 Center St.	49	13	\$15,200
Mancinelli, T.	28 Cornwall St	52	16	\$ 9,700
Moran, J. & P	67 Barberue Ave	75	16	\$16,100
Patterson, G	42 Barberie Ave	79	4	\$ 8,000

BE IT FURTHER RESOLVED that the Borough Attorney is hereby authorized to prepare Discharge Forms for execution.

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

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**R-07-151
RESOLUTION APPOINTING FULL TIME, PERMANENT CODE
ENFORCEMENT OFFICER AND LANDLORD
REGISTRATION OFFICER**

Ms. Flannery stated that this resolution will be tabled until the September 5th, 2007 meeting.

Mr. Caizza offered the following Payment of Bills and moved on its approval for payment:

**RECAP OF PAYMENT OF BILLS
08/15/07**

CURRENT:		\$	89,477.73
Payroll	(07/30/07)	\$	140,622.22
Manual Checks		\$	164,809.97
Voided Checks		\$	
SEWER ACCOUNT:		\$	91,429.66
Payroll	(07/30/07)	\$	6,057.48
Manual Checks		\$	4,716.09
Voided Checks		\$	
CAPITAL/GENERAL		\$	97,579.78
CAPITAL-MANUAL CHECKS		\$	124,403.26
WATER CAPITAL ACCOUNT		\$	5,956.19
TRUST FUND		\$	10,113.20
Payroll	(07/30/07)	\$	67,328.21
Manual Checks		\$	894.33
Voided Checks		\$	
UNEMPLOYMENT ACCT-MANUALS		\$	3,081.30
DOG FUND		\$	19.80
GRANT FUND		\$	14,277.84
Payroll	(07/30/07)	\$	1,380.61
Manual Checks		\$	
Voided Checks		\$	
DEVELOPER'S TRUST		\$	724.00
Manual Checks		\$	452.10
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

ABSENT: None

ABSTAIN: None

OTHER RESOLUTIONS:

**MAYOR AND COUNCIL
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Mrs. Flannery read the titles of the following Resolution for approval:

Mr. Nolan offered the following resolution and moved its adoption:

**R-07-153
RESOLUTION APPOINTING FILL-IN
POLICE COMMUNICATIONS OPERATOR**

WHEREAS, the Chief of Police, Joseph R. Blewett, has advised the Governing Body that there is a need to hire a part-time/fill-in Police Communications Operator; and

WHEREAS, Chief Blewett has recommended that Kevin O'Donnell, 274 Navesink Avenue, Highlands, NJ 07732 to fill that position; and

WHEREAS, the Governing Body concurs with Chief Blewett's recommendation;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that Kevin O'Donnell be and hereby is appointed Police Communications Operator (back-up);

BE IT FURTHER RESOLVED that said appointment be effective immediately and that the salary be set at \$9.50.

Seconded by Miss Thomas 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. Nolan offered the following resolution and moved its adoption:

**R-07-154
RESOLUTION AUTHORIZING AWARD OF CONTRACT
FOR:
ELECTRICAL REPAIR AND MAINTENANCE**

WHEREAS, bids were received August 14, 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. SODON ELECTRIC P.O. BOX 408 ATLANTIC HIGHLANDS, NJ 07716	\$86.00 PER HOUR

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

SODON ELECTRIC, P.O. BOX 408, ATLANTIC HIGHLANDS, NJ 07716

Shall Furnish and Deliver the following as per Bid Proposal & Specifications & Covenants thereof dated August 14, 2007, said bidder being the Lowest Responsible Bidder.

DESCRIPTION

VENDOR

**MAYOR AND COUNCIL
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August 15, 2007**

**PROVIDE ALL INCLUSIVE
ELECTRICAL REPAIR AND
MAINTENANCE FOR THE
BOROUGH'S FACILITIES
AND PARKS FOR A TWENTY
FOUR (24) MONTH PERIOD**

**SODON ELECTRIC
P.O. BOX 408
ATLANTIC HIGHLANDS, NJ 07716**

WHEREAS, bids have been reviewed by the Purchasing Agent and it is his recommendation that the contract be awarded to **SODON ELECTRIC, P.O. BOX 408, ATLANTIC HIGHLANDS, NJ 07716**, in the amount of: \$86.00 PER HOUR.

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 "Electrical Repair and Maintenance" to Sodon Electric, P.O. Box 408, Atlantic Highlands, NJ 07716 at a rate of \$86.00 per hour.

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.

2. **BE IT FURTHER RESOLVED**, this contract is open-ended pursuant to N.J.A.C. 5:34-5-2(b) with no firm quantities being guaranteed. Funds will be certified and encumbered by individual purchase order prior to each request for service.

3. A certified copy of this resolution shall be provided to the Office of the Borough Clerk to each of the following:

- A) Purchasing Agent
- B) Administrator
- C) Chief Financial Officer
- D) All of the above bidders

Seconded by Mr. Urbanski 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 its adoption:

**R-07-155
RESOLUTION AUTHORIZING AWARD OF CONTRACT
FOR:
PLUMBING REPAIR AND MAINTENANCE**

WHEREAS, bids were received August 14, 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.	GEORGE B. TREVETT PLUMBING & HEATING 336 ROUTE 36 PORT MONMOUTH, NJ 07758	\$95.00 PER HOUR

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

**MAYOR AND COUNCIL
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**GEORGE B. TREVETT PLUMBING & HEATING, 336 ROUTE 36, PORT
MONMOUTH, NJ 07758**

Shall Furnish and Deliver the following as per Bid Proposal & Specifications & Covenants thereof dated August 14, 2007, said bidder being the Lowest Responsible Bidder.

DESCRIPTION

VENDOR

PROVIDE ALL INCLUSIVE PLUMBING REPAIR AND MAINTENANCE FOR THE BOROUGH'S FACILITIES AND PARKS FOR A TWENTY FOUR (24) MONTH PERIOD	GEORGE B. TREVETT PLUMBING & HEATING 336 ROUTE 36 PORT MONMOUTH, NJ 07758
---	--

WHEREAS, bids have been reviewed by the Purchasing Agent and it is his recommendation that the contract be awarded to **GEORGE B. TREVETT PLUMBING & HEATING, 336 ROUTE 36, PORT MONMOUTH, NJ 07758**, in the amount of: \$95.00 PER HOUR.

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 "Plumbing Repair and Maintenance" to George B. Trevett, 336 Route 36, Port Monmouth, NJ 07758 at a rate of \$95.00 per hour.

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.

2. **BE IT FURTHER RESOLVED**, this contract is open-ended pursuant to N.J.A.C. 5:34-5-2(b) with no firm quantities being guaranteed. Funds will be certified and encumbered by individual purchase order prior to each request for service.

3. A certified copy of this resolution shall be provided to the Office of the Borough Clerk to each of the following:

- E) Purchasing Agent
- F) Administrator
- G) Chief Financial Officer
- H) All of the above bidders

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

ORDINANCES:

O-07-11 Introduction & Setting of a P.H. Date:

Mrs., Flannery read the title of Ordinance O-07-11 for introduction and setting of a public hearing date.

**MAYOR AND COUNCIL
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Mayor O'Neil offered the following Ordinance and moved on its approval for introduction and setting of a public hearing date for September 19, 2007 at 8:00 P.M. and authorized its publication according to law:

O-07-11

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER II OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS , ENTITLED "FIRE DEPARTMENT", AND MORE PARTICULARLY SECTION 2-11.2, TO PERMIT AN INCREASE IN MEMBERSHIP OF THE FIRE DEPARTMENT, AND ANY VOLUNTEER FIRE COMPANY WHICH IS A PART THEREOF.

BE IT ORDAINED, by the Borough Council of the Borough of Highlands that Chapter II of the Revised General Ordinances of the Borough of Highlands be amended and supplemented to read as follows:

New Text denoted by Underline, deletions by ~~Strikeover~~.

2-11.2 Organization: Powers and Duties.

The volunteer fire companies shall be organized and regulated in accordance with their bylaws. Notwithstanding anything contained in said by-laws to the contrary, membership of any duly formed volunteer fire company operating within the Borough of Highlands may consist of up to sixty (60) members. The fire department shall have exclusive control over all fires within the borough and shall have access to the borough water supply system serving the borough through its fire hydrants for the purpose of extinguishing fires.

The above ordinance shall take effect upon adoption and publication in accordance with law. All ordinances inconsistent herewith shall be repealed to the extent of any such inconsistency. Should the aforesaid ordinance be determined to be void or unenforceable by a court of competent jurisdiction, in whole or part, the remainder shall remain in full force an effect.

Seconded by Mr. Caizza 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

=====

ORDINANCES:

Ordinance O-07-12 Second Reading, Public Hearing and Adoption:

Mrs. Flannery read the title of Ordinance O-07-12 for the second reading and opening of the public hearing.

Mr. Nolan offered a Motion to carry O-07-12 for public hearing and adoption to the meeting on September 19, 2007.

Seconded by Mr. Urbanski 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

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Ordinance O-07-14 – Introduction & Setting of a P.H. Date:

Mrs. Flannery read the title of the title of Ordinance O-07-14.

Mayor O'Neil offered the following Ordinance pass introduction and that a Public Hearing Date be set for Wednesday, September 19, 2007 after publication according to law:

O-07-14

AN ORDINANCE AMENDING CHAPTER 10 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS TO PROVIDE FOR ADOPTION BY REFERENCE OF THE INTERNATIONAL CODE COUNCIL (ICC) INTERNATIONAL PROPERTY MAINTENANCE CODE, 2006 EDITION

BE IT ORDAINED, by the Borough Council of the Borough of Highlands that Chapter X of the Revised General Ordinances of the Borough of Highlands be amended and supplemented to read as follows:

New Text denoted by Underline, deletions by ~~Strikeover~~.

10-9 ~~B.O.C.A. NATIONAL PROPERTY MAINTENANCE CODE, 1993 EDITION.~~ International Code Council (ICC) International Property Maintenance Code, 2006 Edition.

10-9.1 Adoption by Reference.

There is hereby adopted, for the purpose of providing regulations for the protection of public health, safety and welfare in existing buildings within the borough, that certain code known as "International Code Council (ICC) International Property Maintenance Code, 2006 Edition. ~~The B.O.C.A. National Property Maintenance Code, 1993 Edition~~" and any subsequent supplements or amendments thereto, or new editions thereof, as published by International Code Council ~~the Building Officials and Code Administrators International, Inc.~~, which is hereby adopted as the Property Maintenance Code of the Borough of Highlands in the State of New Jersey for the control of buildings and structures as herein provided; and each and all the regulations, provisions, penalties, conditions and terms of said International Code Council (ICC) International Property Maintenance Code, 2006 Edition. ~~B.O.C.A. National Property Maintenance Code, 1993 Edition~~ are hereby referred to, adopted, and made a part hereof, as if fully set out in this section.

10-9.2 Enforcement.

The Department of Building and Housing within the Borough of Highlands, inclusive of all its officials and subcode officials, shall be empowered to enforce the International Code Council (ICC) International Property Maintenance Code, 2006 Edition. ~~B.O.C.A. National Property Maintenance Code, 1993 Edition~~ as part of the

10-9.3 Penalties.

Any person violating any provision of this section and therefore, the International Code Council (ICC) International Property Maintenance Code, 2006 Edition. ~~B.O.C.A. National Property Maintenance Code, 1993 Edition~~, shall be subject to a fine of not more than five hundred (\$500.00) dollars for each violation.

All other provisions of this ordinance shall remain in full force and effect except to the extent modified hereby.

This ordinance shall take effect upon final adoption and publication in accordance with law.

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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

=====

Ordinance O-07-16 – Introduction & Set P.H. Date:

Mrs. Flannery read the title of Ordinance O-071-16 for introduction & Setting of a public hearing date.

Mr. Nolan offered the following ordinance pass introduction, that a public hearing date be set for Wednesday, September 5, 2007 at 8:00 P.M. after publication according to law:

O- 07-16

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3-7A OF
THE REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS
ENTITLED ““COLLECTION OF BULK GARBAGE” TO ESTABLISH
APPOINTMENT FEES.**

[additions shown in underline, deletions shown by ~~strikeout~~]

WHEREAS, it has been determined by the Governing Body of the Borough of Highlands that in order to better serve and to advance the interests of the health, safety and welfare of the general public, that procedures for the collection of bulk waste be amended so as to promote efficiency, safety, and the public health and welfare;

THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Highlands that Chapter 3-7A, of the Revised General Ordinances of the Borough of Highlands, be amended and supplemented in following part only:

§3-7A.2 Collection of Bulk Garbage

a. no change

b. Subsection 2 shall be amended and supplemented in following part only:

2. Every property owner, including landlords, shall be entitled to two annual bulk garbage collections ~~without charge~~ upon payment of a TWENTY DOLLAR (\$20.00) appointment fee, provided that the materials collected do not exceed five cubic yards for each pick-up.

BE IT FURTHER ORDAINED THAT all other provisions of Ordinance 3-7A which are not expressly amended herein shall remain in full force and effect, except to the extent modified hereby.

Seconded by Mr. Urbanski 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

=====

Ordinance O-07-17 Introduction & Set P. H. Date:

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Mrs. Flannery read the title of Ordinance O-07-17 for introduction and setting of a public hearing date:

Mayor O'Neil offered the following Ordinance pass introduction, that a public hearing be set for Wednesday, September 5, 2007 at 8:00 P.M. and authorized its publication according to law:

**ORDINANCE O-07-17
AN ORDINANCE DESIGNATING CLARIFYING THE APPROPRIATE
AUTHORITY FOR THE POLICE DEPARTMENT AND REVISING
PROCEDURES FOR POLICE OFF-DUTY WORK**

WHEREAS, the Borough of Highlands has heretofore had in place ordinances establishing a police department; and

WHEREAS, as required by State Statute the Borough must designate the appropriate authority for the police department and must also designate the organization of the police department; and

WHEREAS, the Borough seeks to designate the Borough Administrator as the Appropriate Authority for its Police Department and to clarify the duties and responsibilities of both the Appropriate Authority and the Chief of Police; and

WHEREAS, the Borough has established the organization of the Police Department along with the particular ranks and number of individuals holding such ranks; and

WHEREAS, the Borough of Highlands has determined that there exists a need to clarify and specify the policy of the Borough as it pertains to the provision of approval for and payment for such off-duty work to insure that its police officers are paid for their work; and

WHEREAS, this ordinance is intended to provide such clarification and specification consistent with the provisions of Highlands hereby establishes a policy regarding the use of said officers in compliance with N.J.S.A. 45:19-9 et seq., as amended by the Security Officers Registration Act, P.L. 2004, c.134

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Highlands that the Borough Ordinances are hereby amended as follows to provide a guide for the purpose of clarifying and specifying the organization of its police department and clarifying the standards and procedures applicable to police off-duty work and assignments:

2-10 POLICE DEPARTMENT.

2-10.1 Creation.

There shall be a police department of the borough, the head of which shall be the chief of police.

2-10.2 Composition

The police department shall consist of a chief, and one captain, one lieutenant, no more than four (4) sergeants and no more than eight (8) patrolmen.

The Borough Administrator is designated as the Appropriate Authority for the Police Department and shall be responsible for the overall performance of the Police Department. The Appropriate Authority shall promulgate and adopt Rules and

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Regulations for the governance of the Police Department and for the discipline of its members.

2-10.3 Chief of Police

The Chief of Police shall be the head of the Police Department and shall be directly responsible to the Appropriate Authority for the department's efficiency and day-to-day operations.

Pursuant to policies established by the Appropriate Authority, the Chief of Police shall:

- Administer and enforce the rules and regulations of the police department and any special emergency directive for the disposition and discipline of the department, its members and officers;*
- Delegate such authority as may be deemed necessary for the efficient operation of the Police Department to be exercised under the Chief's direction and control;*
- Prescribe the duties and assignments of all subordinates and all other personnel; and*
- Report at least monthly to the Appropriate Authority in such form as shall be prescribed on the operation of the Police Department during the preceding month and make such other reports as may be requested by the appropriate authority.*

2-10.4 Probationary Appointment.

No person shall be given or accept a permanent appointment as a police officer in the borough unless such person has first been given a probationary appointment to such office for a period of one year and has successfully completed a police training course at a school approved and authorized by the police training commission in the Department of Law and Public Safety of the State of New Jersey, pursuant to the provisions of N.J.S.A. 52:17B-66 and any subsequent amendments or revisions thereto.

2-10.5 Leave of Absence.

If any member of the police force is injured, ill or disabled from any cause so as to be physically unfit for duty during the period of such disability and physical unfitness for duty, where same shall be evidenced by the certificate of a physician designated by the mayor and council to examine such person he may grant a leave of absence with full pay or such proportion thereof as they may fix to such person, provided no leave of absence with pay shall exceed one (1) year commencing with the date of such illness, injury or disability.

2-10.6 Police Headquarters.

The police headquarters are hereby established in the municipal building, situated at 171 Bay Avenue, Highlands, New Jersey which shall be open for the transaction of business at all hours of the day and night including Sundays.

2-10.7 Duties of Police Officers.

It shall be the duty of police officers to preserve public peace and to see that all laws and ordinances relating thereto are properly enforced; they shall faithfully and promptly obey all orders, rules and regulations prescribed and perform such other duties as directed by the appropriate authority.

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2-10.8 Removal and Suspension.

Each regular police officer shall hold his office and continue in his employment during good behavior, efficiency, and no person shall be removed from office or employment for any other causes than incapacity, misconduct, neglect of duty, conduct unbecoming a police officer, disobedience of the rules and regulations established and hereafter established for the department or absence from duty without just cause for five days or more.

Any regular member of the department may be suspended, removed, fined, or reduced from his office or employment, therein, for just cause upon due notice and service of written charges and a hearing. This subsection shall not apply to probationary patrolmen.

2-10.9 Charges Against Police Member.

No member or officer of the police department shall be suspended, removed, fined or reduced in rank for any cause other than for incapacity, misconduct or disobedience as provided in the New Jersey Statutes and the police department's rules and regulations.

2-10.10 Rules to be Made by Appropriate Authority

The Borough Administrator, who is hereby designated as the "appropriate authority" pursuant to N.J.S.A. 40A:13-118, may make such rules and regulations concerning the conduct and duties of the officers, the kinds of uniform and insignia to be worn by them and concerning such other matters as may be necessary for the proper regulation of the Police Department and when same have been adopted by the appropriate authority such rules and regulations shall be binding upon each member of the Department.

2-10.11 Special Law Enforcement Officers.

a. *Classification of Officers.* There are hereby established two classifications of special law enforcement officers:

1. Class One. Officers of this class are hereby authorized to perform routine traffic detail, spectator control and similar duties. Class one officers shall have the power to issue summonses for disorderly persons and petty disorderly person's offenses, violations of municipal ordinances and violations of Title 39 of the New Jersey Statutes. The use of a firearm by an officer of this class shall be strictly prohibited, and no class one officer shall be assigned any duties which may require the carrying or use of a firearm.

2. Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent regularly appointed full-time police officer. The use of a firearm by an officer of this class is authorized only after the officer has been fully certified as successfully completing training as prescribed by the police training commission.

b. *Uniforms.* The uniform worn by the special law enforcement officer shall include an insignia issued by the police training commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification (i.e., class one or class two) issued by the commission.

c. *Carrying of Firearms.* Special law enforcement officers who are permitted to carry and return firearms shall do so pursuant to the guidelines established in N.J.S.A. 40A:14-146.14(b).

d. *Rules and Regulations.* Special law enforcement officers shall comply with the rules and regulations applicable to the conduct and decorum of the permanent regularly-appointed police officers of the borough, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

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e. *Number of Categories of Officers.* The number of special law enforcement officers designated as class one members shall not exceed ten persons. The number of special law enforcement officers designated as class two members shall not exceed four persons.

2-10.12 Uniforms.

All members of the police department shall provide and maintain in clean and serviceable condition such wearing apparel and equipment as shall be prescribed by the police commissioner.

2-10.13 Firearms.

All firearms which may be provided by the borough shall remain the property of the borough.

2-10.14 Promotions.

All promotions will be made in accordance with current New Jersey State Department of Personnel Guidelines and procedures.

2-10.15 Special Duty Assignments.

A. *General.*

For the convenience of those persons and entities which utilize the services of off-duty law enforcement officers of the Borough of Highlands, and to authorize the outside employment of municipal police while off-duty, the Borough of Highlands hereby establishes a policy regarding the use of said officers in compliance with N.J.S.A. 45:19-9 et seq., as amended by the Security Officers Registration Act, P.L. 2004, c.134.

1. *Any and all extra duty assignments for police personnel shall be determined and approved by the Chief of police or his designee. No police officer shall perform special duty assignments for private parties for compensation other than through the procedure set forth in this subsection and in the Police Manual of the Borough of Highlands. The Chief shall obtain such information as he determines necessary and is authorized to approve such special duty police work in accordance with this subsection. The Chief of police may assign a patrol vehicle for use in performing extra duty if and in the event it is determined that the use of a patrol vehicle is necessary to perform the contracted duty. The Chief may deny the assignment or use of police officers or vehicles and/or impose any conditions or requirements as in his sole discretion and determination the Chief or his designee feels is in the best interest of the Borough and/or the police officers or public safety. The Chief shall be guided by the nature of the assignment and should avoid those with conflicts of interest and/or high risk of injury.*

2. *Members of the Borough of Highlands Police Department, at their option, shall be permitted to accept police-related employment for private employers, who are separate and independent from the Borough of Highlands, only during off-duty hours and at such time as will not interfere with the efficient performance of regularly scheduled or emergency duty of the Borough.*

3. *The work to be performed shall be considered "special assignment from independent contractors" and will not be considered a direct assignment. The taking of any and all extra duty assignments shall be on a voluntary basis in accordance with a fair and reasonable system established by the governing body and administered by the Chief of police.*

4. *Officers engaged in special duty assignments shall be deemed on-duty and shall conform to all police department procedures. All such agreements for special duty assignments shall be contracted for in writing by the completion of a form available from*

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the police department which contracts shall be kept on record as other such public documents.

5. *All special duty assignments shall be within the municipality, unless specific written approval is given by the Chief to the officer to work outside of the municipality. The Chief of police may contact adjoining borough police departments to see if they are willing to perform such special assignments.*

B. Trust Account and Billing for Services

1. *To assure the timely payment of wages to police officers who perform off-duty services, the Borough of Highlands has established a trust fund known as the "Off-Duty Employment Trust Account," which trust fund is dedicated for the receipt of fees collected from private persons or entities for the payment to police officers for off-duty or outside employment services. The Off-Duty Employment Trust Account shall be administered by the Finance Office of the Borough of Highlands.*

2. *Any person or entity requesting the services of an off-duty law enforcement officer in the Borough of Highlands shall estimate the number of hours such law enforcement services are required, which estimate shall be approved in writing by the Chief of Police, or his or her designee, and upon Chief of Police approval, a copy of said approval shall be forwarded to the Finance Office of the Borough of Highlands. The person or entity requesting the services shall then forward payment for services for the total estimated hours of service, the rates of compensation and administrative fees as set forth in Subsection C to the Finance Office for deposit in a Trust Account within the Off-Duty Employment Trust Account. In any instance where the number of hours required is unknown and cannot be reasonably estimated, or is anticipated to be in excess of 10 days, the person or entity requesting the services of an off-duty law enforcement officer shall deposit an amount sufficient to cover the rate of compensation and administrative fees set forth in Subsection C for Page 7 the equivalent of 10 days prior to the commencement of any work. Any unused portion of the deposit shall be returned or credited against the final amount owed.*

3. *Prior to posting any request for services of off-duty law enforcement officers, the Chief of Police or his or her designee shall verify that the balance in the Trust Account of the person or entity requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Chief of Police or his or her designee shall not post a request for services from any person or entity unless all fees and compensation required in the manner described above have been deposited in the Off-Duty Employment Trust Account. All payments must be remitted directly to the Borough for said account. No officer shall be paid directly by any employer for requested services nor provide any such services for more hours than are specified in the request for services.*

4. *In the event of an unforeseen emergency situation requiring an officer's services when funds have not been posted, the Chief of Police or his or her designee may waive the requirement for posting funds in advance for any person or entity exhibiting a previous satisfactory payment history. However, payment for the services and/or posting of funds for any additional services shall be made by the person or entity requiring the service within 48 hours.*

5. *In the event the funds in such a Trust Account should become depleted, services of off-duty law enforcement officers shall cease, and further requests for further or future services shall not be performed or posted until additional funds have been deposited in the Trust Account in the manner prescribed above. In the event of an unforeseen emergency situation that would require an officer to remain beyond the time for which funds have been posted, the Chief of Police or his or her designee may waive the requirement for posting additional funds after the first 10 hours for any person or*

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entity exhibiting a previous satisfactory payment history. However, payment for the additional hours shall be made by the person or entity requiring the extended service within 48 hours.

6. *The person or entity requesting such services shall be responsible for ensuring that sufficient funds remain in the Trust Account in order to avoid any interruption of services.*

7. *All payments for special duty assignments shall be made through the special police fund established by the Borough's Chief Financial Officer from which payments shall be made to the individual police officers performing such services. All payments from the trust fund shall be made to the police officers subject to required deductions and an administrative fee to be retained by the borough. The charges for such service shall be set forth annually, or as otherwise provided in a resolution adopted by the governing body. Any dispute between the contractor and the police officer on assignment as to services required or compensation due shall be determined by the Chief. His decision shall be final and binding.*

8. *Exemption. All non-profit entities, including public school districts, are exempt from the provisions set forth in this section requiring advance payment to the Trust Account; providing, however, that there are no amounts previously due that are outstanding for a period in excess of 30 days. Any such delinquent balances shall require advance payment of the amount outstanding prior to any officer engaging in any further off-duty assignments.*

C. Rates of compensation; administrative fee; payment for services.

1. *The rate of compensation for police officer for all private entities, excluding non-profit entities, shall be \$40 per hour, gross pay before taxes.*

2. *An additional fee of \$10 per officer hour is hereby established to cover the administrative costs, overhead and out-of-pocket expenses of the Borough of Highlands.*

3. *The rate of compensation for police officer for all non-private entities, including public school districts, shall be \$25 per hour, gross pay before taxes.*

4. *For non-profit entities, an additional fee of \$5 per officer hour is hereby established to cover the administrative costs, overhead and out-of-pocket expenses of the Borough of Highlands.*

5. *All rates are subject to change by way of resolution of the Mayor and Council.*

6. *Any assignment which is canceled on less than two hours notice will result in the contracting party being charged for four hours.*

D. Requests for Services

1. *Any person or entity wishing to employ off-duty police shall first obtain the approval of the Chief of Police or his or her designee, which approval shall be granted if, in the opinion of the Chief of Police or his or her designee, such employment is necessary and would not be inconsistent with the efficient functioning and good reputation of the Police Department and would not unreasonably endanger or threaten the safety of the officer or officers who are to perform the work.*

2. *The Chief of Police has the authority to order any police officer to vacate or terminate any special duty assignment in response to emergency situations or whenever the assignment creates an unacceptable risk to health, safety and welfare of the police officer and/or public in the sole determination and discretion of the Chief. The*

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contractor shall not be responsible for any compensation for the time that the police officer is away from the special duty assignments and shall have no claim for any costs or damages against the municipality, the Chief, or the police officer arising from the termination for special duty assignment other than the prorated return of any costs prepaid to the borough.

3. *The contractor for services shall be responsible to provide to the Chief and borough administrator all necessary insurance coverage as required by law, including but not limited to, worker's compensation, public liability, and claims for damage, for personal injury including death or damage to property which may arise as a result from the officer's performance under the contract.*

4. *The Borough shall be responsible to provide all necessary insurance coverage as required by law including, but not limited to, worker's compensation, public liability and claims for damage, for personal injury, including death or damage to property which may arise as a result from the borough's performance under the contract — said insurance being in all respects secondary to the contractor for services insurance required in paragraph h. above.*

5. *Copies of any "special duty/extra duty assignments" shall be provided by the Chief to the Borough Administrator simultaneously with their being entered into. All special duty/extra duty requirements shall provide the information called for in the Police Manual, Section 4.*

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

Ordinance O-07-18 – Introduction & Set P.H. Date:

Mrs. Flannery read the title of Ordinance O-07-18 for introduction and setting of a public hearing date.

Mayor O'Neil offered the following ordinance pass introduction, that a public hearing date be set for Wednesday, September 19, 2007 and publication according to law:

O-07-18

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXII OF THE REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED "TREE REMOVAL [ORD. 0-88-20§1]" IN ITS ENTIRETY, AND ESTABLISHING A NEW CHAPTER XXII ENTITLED, "ENVIRONMENTAL PROTECTION", AND MORE PARTICULARLY ESTABLISHING SECTION 22-1 ENTITLED, "TREE PROTECTION"

BE IT HEREBY ORDAINED, FOR THE PURPOSES HEREINBELOW EXPRESSED, THAT CHAPTER XXII OF THE REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED "TREE REMOVAL [ORD. 0-88-20§1]" BE AND HEREBY IS REPEALED IN ITS ENTIRETY, AND REPLACED WITH A NEW CHAPTER XXII, ENTITLED, "ENVIRONMENTAL PROTECTION" AND MORE PARTICULARLY ESTABLISHING SECTION 22-1 ENTITLED, "TREE PROTECTION"

NOW, THEREFORE, BE IT ORDAINED THAT CHAPTER XXII, ENTITLED, "ENVIRONMENTAL PROTECTION", be and hereby is established to read as follows:

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22-1.1 Title.

This section shall, be known as and may be cited as “the Environmental Tree Protection Ordinance of the Borough of Highlands.”

22-1.2 Purpose

The purpose of this chapter is to prevent clear cutting of trees through the Borough, and to restrict the removal of other trees, thereby maintaining the beauty and character of the Borough of Highlands, preventing erosion, controlling action that will substantially change drainage patterns, and restricting any action that could create a hazard to persons or property.

22-1.3 Definitions and Word Usage.

For the purposes 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 text 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.

Applicant shall mean any person making application to the Tree Commissioner for a Tree Protection Permit.

Clear cutting shall mean the removal of all, or substantially all, of any size or type of trees within an area on a lot larger than five hundred (500) square feet, or within noncontiguous areas on a lot which have a total combined area greater than one thousand (1,000) square feet.

Diameter at breast height (DBH) shall mean the diameter of a tree measured at breast height, which is approximately four and one-half (4.5’) feet above the ground. The diameter of a multi-trunked tree shall be two-thirds (2/3) of the sum of the diameters of all trunks but not less than the diameter of the largest trunk. Diameter shall be calculated to be one-third (1/3) of the circumference for the purpose of this definition.

Emergency shall mean any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger or hazard to person or property.

Mitigation plan shall mean a plan prepared by a qualified person acceptable to the Tree Commissioner showing the planting of replacement trees on the property on which a restricted regulated activity is taking place or on other properties within the Borough. Said plan must depict, in a manner acceptable to the Tree Commissioner, a reasonable scheme for the ultimate full replacement of trees removed.

Ornamental tree. See *Tree, ornamental.*

Permittee shall mean any person who has been issued a permit pursuant to the terms and conditions of this section and who is obligated to fulfill all the terms of this section.

Person shall mean any person, firm, partnership, association, corporation, company, or public or private organization of any kind other than those exempted from the provisions of this section.

Significant specimen tree shall mean any tree or ornamental tree with a diameter at breast height (DBH) exceeding sixty (60%) percent of that of the largest similar tree listed in either of these references: Monmouth County’s Largest Trees, prepared and updated annually by the Monmouth County Shade Tree Commission or New Jersey’s Big Trees, prepared and updated biannually by the Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

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Specimen tree shall mean any tree or ornamental tree which is not a significant specimen tree and which has a diameter at breast height (DBH) of eighteen (18") inches or more.

Thinning shall mean the removal of undesirable, competitive, diseased or damaged trees so as to improve the development of the remaining trees on a lot.

Tree shall mean any living deciduous or coniferous (evergreen) tree with a normally anticipated mature height of twenty (20') feet or greater (including, but not limited to: Norway, Red, Silver or Sugar Maple, Sweetgum, London Plane, American Sycamore, White, Red or Pin Oak, American Elm, Yellow or White Poplar, Copper Beech, Cedar, Spruce, Pine, Fir or Hemlock).

Tree Commissioner shall mean the person designated by resolution of the Borough Council to administer and enforce this section. If no such person is designated, the Borough Clerk or the Clerk's designee, shall act as Tree Commissioner.

Tree expert shall mean a specialist in trees or tree care whose qualifications are acceptable to the Tree Commissioner.

Tree, ornamental shall mean any living Dogwood, American Holly, Native Laurel, and any other small decorative tree with a normally anticipated mature height of six (6') feet or greater (including, but not limited to: Birch, Japanese Maple, Cherry, Crabapple, Magnolia, Bradford Pear and Willow).

22-1.4 Regulated Activity

The activities described in this subsection and any substantially similar activity are regulated activities:

- a. Removing, causing or permitting the removal of any significant specimen tree.
- b. Except on lots where the principal use is an existing single-family dwelling, not subject to a contract to sell, an option or agreement to buy or a similar agreement, and where no change of title has taken place within the prior calendar year.
 1. Removing, causing or permitting the removal of any tree having a trunk: DBH diameter of four (4") inches DBH or larger.
 2. Removing, causing or permitting the removal of any ornamental tree having a size as follows:
 - (a) One (1") inch DBH or larger for any Dogwood (*Cornus Florida*) or American Holly (*Illex Opaca*);
 - (b) Three (3") inches or larger root crown diameter for any Native Laurel (*Kalmia Latisolia*);
 - (c) Two and one-half (2 ½") inches DBH or larger for any other ornamental tree.
 3. Clear cutting areas which total more than twenty (20%) percent of a lot or on slopes steeper than fifteen (15%) percent.
- c. Undertaking, causing or permitting any activities including occupancy, grading, demolition or construction on, or adjacent to, any lot which may damage; or otherwise causing or permitting any damage, injury or disfigurement to any tree or ornamental tree described in paragraphs a. and/or b. above.

22-1.5 Permit Required.

No person shall engage in, nor allow, permit or direct any person to engage in, any regulated activity as defined in subsection 22-1.4 above unless a tree protection permit is first obtained from the Tree Commissioner.

22-1.6 Permit Application Procedure.

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- a. Application for a tree protection permit shall consist of:
1. A fully and accurately completed application form provided by the Borough.
 2. A Tree Removal Plan in sufficient detail to identify the nature and limits of all regulated activities including the location, species, diameter and estimated height of all tree removals and the limits of all existing and proposed accessory structures in relations to any removals. All trees described in subsection 22-1.4b,1 or 2 shall be shown on a tree removal plan if construction or any grading activity is proposed within ten (10') feet of the canopy line of such trees. For removals of five (5) or fewer trees on a lot where the principal use is an existing single-family dwelling, the Tree Removal Plan may be provided using a legible sketch, a tax map reproduction, a copy of an existing survey or similar drawing with field measurements and dimensions provided by, the property owner or the owner's agent. For other removals, the Tree Removal Plan shall be prepared by a qualified professional, acceptable to the Tree Commissioner.
 3. A narrative description of the property owner's reasons for removing the trees, including a description of any alternates considered.
 4. A signed evaluation and recommendation from a tree expert, whose qualifications are acceptable to the Tree Commissioner, shall be provided if the reasons for the removal include the removal of dead or diseased trees or a horticulturally advantageous thinning or an overgrown area.
 5. A tree protection permit application fee as set forth herein shall be paid:
 - (a) Ten (\$10.00) dollars for applications proposing removal of five (5) or fewer trees on a lot containing an existing single-family dwelling.
 - (b) One hundred fifty (\$150.00) dollars for other applications proposing removal of five (5) or fewer trees; or
 - (c) One hundred fifty (\$150.00) dollars, plus twenty-five (\$25.00) dollars per tree removed, for all other applications.
 - (d) Fees may be waived or modified by the Borough Council for charitable, public or quasi-public agencies or for eleemosynary institutions or in unusual and exceptional circumstances.
- b. The applicant will place or cause to be placed, in a highly visible manner, a one (1") inch wide yellow ribbon, which may be obtained from the Tree Commissioner, around the trunk of each tree to be removed, to aid the Borough in evaluating the proposed removals.
- c. The Tree Commissioner may seek the advice of such Borough officials, agencies, committees, boards and commissions, as the Officer may believe necessary in evaluating a permit application.
- d. After evaluation of an application, the Tree Commissioner will take one (1) of the following actions within the time set forth:
1. If the Officer determines that the permit application is incomplete, unclear, inaccurate or otherwise deficient, the Officer shall so advise the applicant and return the permit application within ten (10) days of the date of application. The applicant may revise, supplement and/or resubmit the application, which will then be treated as a new application except no additional fee is required. An applicant may elect not to resubmit a

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returned application and, in such case, may request refund of fifty (50%) percent and any fee paid.

2. If the Officer determines that the proposed regulated activity is permitted or prohibited by the standards set forth in subsection 22-1.7 herein below, a permit shall be, respectively, issued or denied within thirty (30) days of the date of application.
 3. If the Officer determines that the proposed regulated activity is restricted by the standards set forth in subsection 22-1.7, the application will be referred to the Planning Board for review and recommendation pursuant to *N.J.S.A. 40:55D-25b(3)* within sixty (60) days of the date of application. The Officer shall issue or deny a permit for a restricted activity within ninety (90) days of the application.
 4. In issuing permits under this section, the Officer may impose reasonable permit conditions necessary to effectuate the purposes of this section.
- e. Any person aggrieved by any decision taken by the Tree Commissioner in the administration and/or enforcement of this section may, within ten (10) days of the date of action of the Officer, appeal to the Planning Board. The Planning Board may establish procedures to hear such appeals and shall render a decision affirming, reversing and/or modifying the decision or action of the Tree Commissioner within ninety (90) days of the date of appeal. In hearing such appeals, the Planning Board may seek the opinion of the Shade Tree Committee, the Environmental Commission or any other State, County or municipal agency or official.

22-1.7 Review of Applications.

a. When reviewing applications, the Tree Commissioner will, after inspecting the site, evaluating soil, grading, drainage and other conditions on the site and adjacent properties and consulting with such other officials, agencies, committees, boards and commissions as the Officer deems appropriate, determine if the regulated activity proposed is prohibited, permitted or restricted in accordance with this section.

1. Prohibited regulated activities include:

- (a) Clear cutting areas, outside of the limits of removal permitted by subsection 22-1.7a,2 hereinbelow, which, in the aggregate, exceed forty (40%) percent of a lot.
- (b) Removal of a significant specimen tree.
- (c) Any action which will substantially increase the potential of erosion.
- (d) Any action which will substantially change drainage patterns.
- (e) Any action inconsistent with other land use approvals or regulations affecting the site.
- (f) Any action which would create a potential hazard to persons or property.

2. Permitted regulated activities include:

- (a) Tree removal within a line drawn fifteen (15') feet outside the limits of any existing principal structure or any proposed principal structure for which site plan approval has been granted or a valid building permit or other necessary municipal approval exists.
- (b) Tree removal within a line drawn five (5') feet outside the limit of any existing accessory structure or any proposed accessory structure for which site plan approval has been granted or a valid building permit or other necessary municipal approval exists.

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(c) Any action, including tree removals, required or permitted pursuant to subdivision, site plan and/or variance approval granted by a municipal agency acting under the Municipal Land Use Law and local, ordinances.

(d) Removal of dead, dying or diseased trees or which constitutes a horticulturally advantageous thinning of an existing overgrown area.

3. Restricted regulated activities include:

(a) All regulated activities, which are neither prohibited nor permitted, are restricted. Applications may propose a combination of prohibited, permitted and restricted activities. In such cases, the Tree Commissioner may segregate the activities proposed and take the appropriate action on each type of activity.

(b) Applications for restricted activities shall be referred to the Planning Board for recommendation to the Tree Commissioner.

b. The Planning Board shall consider these factors in making a recommendation to the Tree Conservation Officer concerning a restricted regulated activity:

1. Whether the proposed cutting or removal would impair the growth and redevelopment of the remaining trees on the applicant's property or adjacent property.

2. Whether the proposed cutting or removal would change existing drainage patterns.

3. Whether the proposed removal would allow soil erosion or increase dust.

4. Whether the proposed removal would constitute a significant change in the screening between existing or proposed buildings on contiguous lots or the aspect of the lot as viewed from the adjacent public road.

5. The overall, effect of removal of such tree(s) on the physical and aesthetic value of the property and the neighborhood.

6. Whether proposed changes to the topography of the area where such tree(s) are located will have a land configuration which shall be deemed injurious to the trees or other trees located nearby so as to require welling, construction of an aerification system, or tree removal or replacement.

7. Whether a mitigation plan is required. The purpose of such a plan shall be the ultimate replacement on the property of the trees being removed, giving due consideration to a reasonable maturity period for new plantings, and the maintenance at all times of at least twenty (20%) percent of the existing trees on a lot in the existing state.

8. Whether alternative plans, which eliminate or reduce undesirable impacts, but provide reasonable use of the property are possible, technically practicable and financially feasible. In particular, the Board will consider if the removal of any specimen trees, which are not significant specimen trees, is unavoidable and whether clear cutting, in excess of twenty (20%) percent of lot area but forty (40%) percent or less of that portion of a lot outside of the limits of removal permitted by subsection 22-1.7a,2 is unavoidable.

9. Whether reasonable application of the standards of this section create a substantial hardship for the applicant, prohibiting reasonable use of the property consistent with the Planning and Development Regulations, and whether, therefore, one (1) or more of the standards should be waived.

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10. In appropriate circumstances, an applicant may be required to post performance and maintenance guarantees assuring compliance with the provisions of any tree protection permit and this section and assuring provision of replacement plantings required by any mitigation plan or damaged or removed contrary to the terms of any tree protection permit or this section.

c. The Tree Commissioner shall give due deference to the recommendations of the Planning Board with regard to an application for a permit to allow a restricted regulated activity. The Officer may only act contrary to, or significantly modify, the recommendations of the Planning Board if the Officer finds that the recommendations are based on incomplete or inaccurate information, are unreasonable or impracticable or would produce results contrary to the intent of this section. The Officer shall, provide the Planning Board with a copy of the Officer's final action on all permits for a restricted regulated activity.

22-1.8 Protection of Existing Trees.

In connection with any construction, subsequent to tree clearing but prior to the start of other construction, snow fencing or other protective barrier acceptable to the Construction Official and/or Tree Commissioner, shall be placed around trees that are not to be removed. The protective barrier shall be placed at the drip line (or canopy line) of any tree and shall remain in place until all construction activity is terminated. No equipment, chemicals, soil deposits or construction material shall be placed within any areas so protected by barriers. Any landscaping activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

22-1.9 Emergency Action.

In the event of an emergency, any person, otherwise subject to this section, having responsibility, jurisdiction and/or authority to cure, remedy or mitigate dangerous, hazardous, inconvenient, unhealthy or obnoxious conditions resulting from the emergency may, without first applying for and obtaining a permit under this section, take any lawful action which is otherwise a regulated activity. However, such person, or the agent or designee of such person shall apply for a tree protection permit not later than the end of the second succeeding business day after any regulated activity takes place and may not proceed with non-emergency work including restoration until a permit is obtained.

22-1-10 Persons Exempt.

This section shall not apply to regulated activities by:

- a. The Borough or those acting under the control and direction of the Borough including any person acting pursuant to a specific agreement or contract approved by the Borough Council.
- b. Federal, State or County agencies or those, acting under their control and direction.
- c. Entities, having by their charters and the Laws of the State, authority to engage in a regulated activity without the consent of the Borough but only insofar as the purpose to which such authority extends; in all other respects, such entities shall comply with this section.
- d. Commercial nurseries and similar established legally operating uses.
- e. Properties operating under a silviculture or forestry management plan approved by the State of New Jersey.

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- f. Utility companies with public rights-of-way when such companies are operating under the jurisdiction of the public agency controlling the right-of-way.

22-1.11 Violations and Penalties.

a. Pursuant to *N.J.S.A. 40:49-5*, any person, firm, association or corporation violating any section of this chapter, shall, upon conviction in the municipal court having jurisdiction, be subject to a fine not exceeding one thousand two hundred fifty dollars (\$1,250.00) or imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding ninety (90) days, or both. Every day of noncompliance with this chapter shall constitute a separate offense and subject to punishment as provided by this section.

b. Each instance of engaging in a separate regulated activity, including specifically each tree removed, in violation of this section shall be deemed a separate offense.

c. Furthermore, the Borough may institute civil action for injunctive or other relief to enforce the provisions of this section including requiring the replacement of all trees illegally removed and/or, at the option of the Borough, the payment of a contribution to allow equivalent mitigation on public land. In addition, the remedy provisions of this section shall be cumulative, not exclusive, and the State or any other person shall have the right to proceed under any other legally available remedies, if any.

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

Ordinance O-07-19 – Introduction & Set P.H. Date:

Mrs. Flannery read the title of Ordinance O-07-19 for introduction and setting of a public hearing date:

Mr. Urbanski offered the following ordinance pass introduction, that a public hearing date be set for Wednesday, September 5, 2007 at 8:00 P.M. and publication according to law:

O- 07-19

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3 OF THE
REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED
“GENERAL POLICE REGULATIONS TO ADD A NEW SECTION 23
ENTITLED: REGULATION OF SEXUALLY ORIENTED BUSINESSES.**

[additions shown in underline, deletions shown by ~~strikeout~~]

WHEREAS, the unregulated location of sexually oriented businesses presents a variety of conditions which present hazards to the health, safety and general welfare of the community, including but not limited to such negative secondary effects as neighborhood deterioration and concentration of crime, as well as the creation of public and private nuisances and health **concerns; and**

WHEREAS, it has been determined by the Governing Body of the Borough of Highlands that it is reasonable, necessary and proper to establish reasonable rules and regulations pertaining the location, signage placement and buffering of such businesses from the surrounding neighborhoods so as to minimize these health and safety concerns to advance the general welfare of the residents of the Borough of Highlands;

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NOW, THEREFORE, BE IT ORDAINED THAT SECTION 23 OF CHAPTER 3 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS BE AND HEREBY IS ESTABLISHED TO READ AS FOLLOWS:

Section 23 REGULATIONS PERTAINING TO SEXUALLY ORIENTED BUSINESSES.

a. Location

Except where the Borough has duly adopted a municipal zoning ordinance pursuant to N.J.S.A. 2C:34-2, no sexually oriented business shall be operated by any individual, partnership, corporation, limited liability company, or other business entity within 1,000 feet of any existing sexually oriented business, church, synagogue, temple or other place of public worship, or any school, school bus stop, municipal or county playground or place of public recreation or resort, or any child care center, hospital or area zoned for residential use.

b. Buffer Requirements

Except where duly adopted ordinances of the Borough of Highlands establish greater buffer requirements, every sexually oriented business must be surrounded by a minimum perimeter buffer of 50 feet in width. The buffer shall be sufficient to impede the view of the interior of the subject premises and shall consist of a fence, or plantings or other physical divider installed along the outside of the perimeter

c. Signage Limitations

Page 2 No more than two exterior signs, one sign for identification and one sign giving notice that the premises are off limits to minors shall be permitted on the premises shall be permitted per business establishment. All signs shall conform with the duly adopted sign ordinance requirements of the municipality, where specified. In no event, however, shall the identification sign shall exceed 40 S.F.

d. Exceptions

Any sexually oriented business already lawfully in operation on the effective date of this ordinance, which is located within 1,000 feet of any facility described in subsection (a) above shall not be subject to enforcement or penalty provisions of Section 23 of Chapter 3 of the Ordinances of the Borough of Highlands.

d. Penalties.

Any person, persons, corporation, or partnership that violates any provisions of this article shall be subject to a fine not less then \$500.00 nor more than \$1,000.00, for each day the violation persists.

Seconded by Mayor O'Neil 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

Ordinance O-07-15 - 2nd Reading, Public Hearing, Adoption

Mrs. Flannery read the title of Ordinance O-07-15 for the second reading and public hearing.

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Mayor O'Neil opened the meeting for public comment regarding this Ordinance.

Mayor O'Neil explained that this Ordinance is regarding the sewer system's in-flow and infiltration (I&I) and that when the pipes leak into the ground, they put water into the sewer system, and that costs money. He stated that this is an effort to reduce the I&I.

Roberta McEntee - Fifth Street - she asked if the Borough was putting in for grants with the Sewerage Authority for the pipe work.

Mayor O'Neil said yes.

Mayor O'Neil closed public portion.

Mrs. Flannery read the title of Ordinance O-07-15 for the third and final reading and adoption.

Mayor O'Neil offered the following Bond Ordinance pass third and final reading and moved on its adoption and authorized its publication according to law:

**O-07-15
BOND ORDINANCE AMENDING BOND
ORDINANCE NUMBER 06-06 FINALLY ADOPTED
BY THE BOROUGH COUNCIL OF THE BOROUGH
OF HIGHLANDS, NEW JERSEY ON JUNE 7, 2006**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH
OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY** (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. The Bond Ordinance of the Borough Council of the Borough of Highlands, in the County of Monmouth, New Jersey (the "Borough") entitled "Bond Ordinance Providing An Appropriation Of \$650,000 For Rehabilitation of Sanitary Sewer For And By The Borough Of Highlands In The County Of Monmouth, New Jersey And, Authorizing The Issuance Of \$400,000 Bonds Or Notes Of The Borough For Financing Part Of The Appropriation," finally adopted on June 7, 2006 (the "Ordinance") is hereby incorporated by reference in its entirety.

Section 2. The Ordinance is hereby amended by (a) deleting the reference of "\$650,000" for the appropriation and estimated cost and "\$400,000" for the estimated maximum amount of bonds or notes and substituting in lieu therefor "\$750,000" and "\$500,000;" and by (b) deleting the reference to "\$130,000" for expenses permitted under Section 20 of the Local Bond Law and substituting in lieu therefor "\$150,000".

Section 3. The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolutions in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 4. This Section 4 constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Borough reasonably expects to pay expenditures with respect to the Improvements prior to the date that the Borough incurs debt obligations under this Bond Ordinance. The Borough reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Borough under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$500,000.

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Section 5. All other provisions of the Ordinance shall remain unchanged.

Section 6. This amendatory bond ordinance shall take effect twenty days after the first publication thereof after final adoption as provided by Local Bond 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

OTHER BUSINESS:

Engineer's Report

Jackie Flor, P.E. of T & M Associates stated the following:

General

1. **Community Center Improvements:** The final payment is being processed.
2. **Community Center Playground/Sports Courts Improvements:** Actual site construction is scheduled to start August 17, 2007.
3. **Firehouse:** The contractor has received a Certificate of Occupancy for the building and is currently completing the punch list items for the building and the site.
4. **NJDEP Stormwater Management Regulations:** We have responded to the violations and the Borough is working to correct those conditions.
5. **South Bay Avenue Pumpstation:** Working with Pumping Services to discuss their findings to date.
6. **Valley Avenue Emergency Sewer Repair:** PMK has submitted a report for review and also a cost estimate for their recommendations.
7. **Sanitary Sewer Investigation at Waterwich Avenue and Route 36:** The NJDOT has issued a permit for the traffic control plan. We are currently scheduling the videotaping of the sewer main with Oswald Enterprises.

Capital Improvement Projects

1. **Valley Street Pumpstation Rehabilitation Project:** The contractor is currently completing the remaining punch list items.
2. **2006 Road Program:** NJNG is scheduled to complete the work this week. We will be coordinating with Montone to complete the paving.
3. **Washington Avenue Phase II:** We have been authorized by the Mayor to begin the design for this portion of Washington Avenue. We will begin as soon as the survey is completed
4. **Basin Eight Sanitary Sewer Rehabilitation Project:** The contractors for proposals A and Cursive have mobilized and have started their appropriate portions of the project.
5. **Basin 2 Sanitary Sewer Rehabilitation Program:** Testing is complete and we are compiling a report for the Borough's review.

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Grants and Loans

1. **FY2008 Community Development Block Grant:** We have completed and submitted the grant application and will be appearing before the committee on August 22nd for a presentation.
2. **FY2008 NJDOT Municipal Aid:** We have prepared the application for Highland Avenue between Portland Road and Highland Avenue.
3. **Rural Development Program:** We recently meet with the Borough Administrator and a representative from the program to support funding opportunities for various sanitary sewer infrastructure improvements.

Dolores Francy - 36 Fifth Street - regarding the punch list items for the firehouse, why are these items not completed?

Mr. Caizza stated that we are currently waiting for a report tomorrow and we will take it from there.

PUBLIC PORTION:

Tara Ryan - 17 Ocean Street - is there any word from the Governor's Office regarding the petition about the bridge, and if so, what was the response. If there has been no word, what is being planned to urge the Governor's Office to respond?

Mayor O'Neil stated that there has been no word.

Ms. Ryan asked if they could find out if the petition was even received.

Mayor O'Neil stated that someone from the Borough would call and find out.

Conner Jennings - 27 Ralph Street - he thanked everyone for the change of venue regarding tonight's meeting. He also requested that the venue be the same for the September 5th meeting.

Mayor O'Neil did not see a problem with that request.

Mr. Jennings went on to say that with regard to his questions on the OPRA regarding R-07-07, he has not received a response. He wants to know, who drafted this Ordinance, what is the role of that person and by what process did Ordinance Amendment 07-07 find its way to first reading on May 2nd?

Mayor O'Neil stated that they are not prepared to answer that question at this time.

Mr. Jennings asked if the developer wrote this Ordinance.

Mayor O'Neil supposed that it came from the Planning Board.

Mr. Jennings noted that this is the third postponement of this Ordinance, first in June, then in July and now in August, carried to September 5th. He asked for an explanation of the reason why there have been postponements.

Mayor O'Neil stated that it has been postponed at the request of the attorney for the property owners. He offered Mr. Jennings a copy of that attorney's letter.

Mr. Jennings thanked the Mayor. He then stated that postponements are hardly conforming to the purpose or the intent of OPRA. He noted that Councilwoman Thomas was quoted in an article in the Courier claiming that the Borough of Highlands Master Plan allows for a multi-family dwelling or a high rise on that property, i.e. Shadow Lawn Park. Mr. Jennings flatly contradicts that statement, unless it is a misquotation.

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Miss Thomas stated that it is a miss-quote.

Mr. Jennings questioned why there has been no contact to correct that misstatement. He challenged Miss Thomas to point out where in the Master Plan she found that statement. He referenced Page LU13 of the Master Plan stating that there is no mention of multi-family dwellings and there certainly is no mention of high rises.

Miss Thomas knows that it does not say high rise and that there may have been a misunderstanding on the article author's part. She stated that what she said was that the Master Plan says to look into additional uses for mobile home park, Shadow Lawn, to include multi-family homes, town homes, etc., something to that extent.

Mr. Nolan stated that he was contacted Monday by Mr. Hilling and he said that not only did the property owner ask for a postponement but also members of the board. They felt that they did not have enough time to go over all the material, which is quite extensive.

Mr. Manco stated that he had conversations with Mr. McCann, the attorney for the applicant, he had indicated that the Planning Board had made significant recommendations and needed time to investigate what was proposed and to confer with his client.

Ms. Flannery stated that the Board received the recommendations from the Planning Board Friday evening and did not have sufficient time for review.

Peter Ottinger - 17 Ralph Street - wanted to know when the Mayor and Council will be prepared to answer the questions and draw up the resolution.

Mayor O'Neil stated at the September 5th meeting.

Mr. Ottinger asked if it was possible for the Mayor to find out who drew the Ordinance up.

Mayor O'Neil stated yes.

Mr. Nolan asked Mr. Jennings what was the third question.

Mr. Jennings stated that he wanted to know what was the process whereby the ordinance amendment found its way to first public reading on May 2nd.

Ann Marie Tierney - Shrewsbury Avenue - she asked if someone from the council puts this ordinance in front of the rest of the members.

Mayor O'Neil stated that it came from the Planning Board.

Ms. Tierney who on the council is responsible for the ordinance. She is offended that whoever it is, is not taking credit now.

Dolores Francy - Fifth Street - she is concerned that last year the engineering company sent this back and said that it is "out of whack" with the Master plan, and this year the Planning Board reintroduces it, and says that we don't need the engineering company, that this is right in sync with our master plan. She stated that perhaps we get another engineering company, or another planning board.

Maureen Kramer - 200 Portland Road - she is still waiting for an answer regarding the cost for the master plan. She asked how long this may take. She asked for the cost initially of the master plan and the spot zoning.

Mr. Urbanski stated that it was approximately \$60 thousand.

Ms. Kramer asked how long it would be to get that information.

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Ms. Flannery stated that it should not take very long and that when asking for public records, one needs to be very specific.

Chris Francy - Fifth Street - with regard to the Neighborhood Watch website, he asked if a link could be placed on the Borough's website.

Mr. Hilling stated that he would work with Mr. Francy on that issue.

Tara Ryan- 17 Ocean Street - regarding the Borough's website, she asked if there are guidelines as to what should be on the website.

Mr. Hilling stated that there are.

Ms. Ryan asked if the website was constantly being updated with regard to those guidelines. She has noticed that some items have been taken down, she is unsure as to what is supposed to be on the website. Ms. Ryan also questioned if the website should be a dot gov.

Mr. Hilling stated that it is at the discretion of the town.

Ms. Ryan requested a list or help in finding out what is supposed to be on the website.

Mr. Hilling stated that he would help her find out.

Peter Ottinger - 17 Ralph Street - he asked if there was a geological study done regarding the high rise.

Mayor O'Neil stated that we are not building a high rise. The only thing that this ordinance will do is to allow it.

Mr. Ottinger said to create a potential.

Mayor O'Neil said that he is sure that there will be a lot of studies done to see if that is even feasible.

Mr. Ottinger asked why we are not doing that.

Mayor O'Neil stated that we are not doing the study.

Mr. Ottinger stated that if we are rezoning, that it is the responsibility of the Borough to see if it is even feasible to put up a high rise.

Mayor O'Neil stated that the developer's engineer will come up with that.

Mr. Ottinger asked if the Borough of Highlands is putting its faith in a developer's engineer.

Mr. Manco stated that the function of this governing body is to legislate, which would be to adopt the zoning ordinance and a framework for the entire town, it's a guideline. He stated that the Planning Board has a statutory duty and they would then hear an application. That they would take the testimony of the applicant, the applicant's experts, engineers, etc., they would take public comment, they would take comment from any opposition, who could hire their own engineer, and they would make a decision based on a site specific application.

Mr. Ottinger then asked why allow a high rise without studies if the slope cannot maintain that?

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Mr. Manco stated that different agencies have different functions. Typically, the Borough would not do a site specific study in the context of a re-zone.

Mr. Ottinger stated that we are all aware that this is site specific and that the slope is not granite, it's sand. And we are all also aware that there are on-going problems with Eastpointe. He asked the council if that is true.

Mr. Urbanski stated that there were problems with Eastpointe.

Mr. Somer - Ralph Street - would rezoning, generally speaking, be the biggest obstacle the developer faces in trying to put in high rises?

Mayor O'Neil that he believes the board would be the biggest obstacle.

Mr. Somer stated that Shadow Lawn shares a long property line with Ralph Street - zoned low density, residential. He feels that it is irresponsible zoning to allow a large tower which will impact not only Ralph Street, but many other streets.

Mr. Urbanski would like to reserve his comments for the September 5th meeting.

Mr. Manco stated that this is not a public hearing on that ordinance.

Mr. Somer asked that if someone wanted to answer they should.

Mr. Manco asked that the panel wait until they have all the information and to put forth their opinions at the September 5th meeting.

Mr. Nolan asked if the opposition is for the high rise or for the rezoning itself.

Mr. Somer stated that they are not against development per say.

Mr. Nolan stated that in the Master Plan, it says to pursue alternate zoning up there, it does not say high rise, or anything else. He asked if the opposition was for rezoning, or to rezoning to that degree.

Miss Thomas stated that when she received the packet from the Planning Board on Friday with the recommendation, she was happy to see the recommendations to consider the use change, but then to go back and as a council, rewrite the ordinance. She stated that she was not prepared to move on this ordinance tonight and that this now gives them more time to go through and be prepared to make this ordinance more effective for this town.

Mayor O'Neil stated that the last time this ordinance was tabled was due to the fact that the Planning Board attorney could not turn it around in time for the council meeting. Tonight's postponement came from the attorney for the land owner. He said that the postponements are not to put anyone off, just to assure that they get the best product to the table.

Toni Jennings - 27 Ralph Street - she questioned the zone for trailer parks and that no where does it mention high density. Ms. Jennings asked Mr. Manco what is the nature of the further information that the Board may have presented to them regarding this ordinance.

Mr. Manco stated that he would not know what that information is until it is received.

Ms. Jennings asked where it would be coming from.

Mr. Manco stated that the applicant's attorney requested time to respond the Planning Board's recommendations. His response will be provided to the council.

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Ms. Jennings asked if there will be an opportunity for public comment and will there be an effort to answer the three questions negative, positive or I don't know before any vote is taken.

Mr. Manco stated that by law, there has to be a public hearing on this ordinance. Should there be additional changes, there will be advertisement and hearings regarding same.

Veronica Fennell - 25 Miller Street - With regard to Mr. Nolan asking what do residents want who live in mixed use zones, she feels that her quality of life and enjoyment of her home have been severely impacted by the Windansea. She is opposed to anything other than a residential use for the top of the hill.

Don Manrodt - 268 Bayside Drive - he stated that this is the first time that the Planning Board, having an ordinance of this nature, did not have a public hearing.

Mayor O'Neil stated that he would find out, but that he believes there was a public meeting regarding that.

Jim Parla - regarding his three points at the July meeting, he noticed that in the Master Plan, it states that the Borough should consider creating a ridgeline protection ordinance to ensure that development in ridgeline areas blend in rather than interrupt or modify the natural contour elevations of this tract.

Carol Hickey - Bayside Drive - she stated that the residents and the council, etc., need to walk a very thin line to not change the character of this town.

Laurel McSherry - 21 Ocean Street - asked if she could get a copy of correspondence from the Boroughs chairperson of the Environmental Commission to the Planning Board.

Miss Thomas stated that the Borough does not have an Environmental Commission.

Ms. McSherry asked why.

Mayor O'Neil stated that generally why seats are not filled is because it is difficult to find someone who wants to do it.

Miss Thomas stated that they have been working for approximately two months to get a commission together.

Ms. McSherry requested that the council panel an Environmental Commission for the Borough of Highlands.

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

The Meeting adjourned at 10:02 p.m.

NINA LIGHT FLANNERY, BOROUGH CLERK