

**MAYOR AND COUNCIL
REGULAR MEETING
SEPTEMBER 5, 2007**

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

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

ROLL CALL:

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

Absent: None

Late Arrival: None

**Also Present: Carolyn Cummins, Deputy Borough Clerk
Bruce Hilling, Borough Administrator
Dominick Manco, Esq., Borough Attorney
Stephen Pfeffer, Chief Financial Officer**

EXECUTIVE SESSION RESOLUTION:

Mrs. Cummins 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 (potential)**
 - (a) **Bridge Project (update)**

2. **Personnel**
 - (a) **Paul Murphy - title rectification**
 - (b) **Mary Tangolics - request for additional hours**
 - (c) **Susan Meehan - Court matter**

3. **Contract Negotiation**
 - (a) **Linda Greco - claim of fees due**

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:

8. Related to investigation of violations or possible violation of law.

9. Related to pending or anticipated litigation or contract negotiations in which the public body is or may be a party.

10. Falls within the attorney-client privilege and confidentiality is required.

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

Offered by Mayor O'Neil.

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

ROLL CALL:

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

The Governing Body then entered into Executive Session.

Mayor O'Neil called the Regular Meeting back to order at 8:36 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: Carolyn Cummins, Deputy Borough Clerk
Bruce Hilling, Borough Administrator
Dominick Manco, Esq., Borough Attorney
Stephen Pfeffer, Chief Financial Officer

Ordinance O-07-07 P.H. & Adoption

Mr. Manco - Informed the Council of receipt of a letter from Martin McGann, attorney for the party requesting the zone change, received September 4th, 2007, indicating that he was challenging the legal sufficiency of the notice that was given when the Ordinance was sent out to property owners within 200 feet, questioning the validity of notice to people within 200 feet who may have been in other townships as well. Additionally, because the Planning Board has made significant changes or recommendations for change to this Ordinance, on the basis of the legal challenge to the notice and the basis of an Ordinance in front of us, which is not yet written to reflect any of the recommendations, I would recommend at this time that the Borough Council entertain a motion to defeat the Ordinance and vote accordingly.

Mr. Urbanski offered the following Ordinance not be adopted and moved that it be defeated:

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).

Additions noted by underline. Deletions noted by strikeover.

NOW, THEREFORE, BE IT ORDAINED that Section 21 of the revised general ordinances of the Borough of Highlands be and hereby is amended in the following part only:

Section 21-89 MH Mobile Home Residence The following regulations shall apply to all MH districts:

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1. Permitted Uses:

Mobile Homes, in a mobile home park only.

2. Permitted Accessory Uses”

Utility Buildings incidental to residential use

Clubhouses, swimming pools and other recreational facilities and structures for the exclusive use of the residents.

Tennis courts

Other accessory uses and structures incidental to the permitted principal and conditional uses, including but not limited to structured parking for multi-family residences only.

3. Conditional Uses.

Satellite Dish Antennas

Multi-family dwellings, and structured parking accessory or appurtenant thereto

4. Relocation Rights and Non-severability

Any approval for development in the MH Mobile Home Residence District Zone, which results in the retirement of the Mobile Home Park or the removal of any residents of the Mobile Home Park shall contain a condition that the applicant shall provide proof, to the satisfaction of the Board of Original Jurisdiction, that adequate private residential facilities and circumstances exist for the relocation of those mobile park residents consistent with the requirements of N.J.S.A. 46:8C-21. Although N.J.S.A. 46:8C-21 is invoked by an application for one or more variance(s), the requirements of N.J.S.A. 46:8C-21 shall apply to the aforementioned circumstances regardless of whether or not the application requires one or more variance(s). For purposes of this Ordinance, ‘adequate private residential facilities and circumstances’ shall share the definition of ‘comparable housing or park site’ as provided in N.J.S.A. 2A:18-61.7(a). An applicant must provide proof of compliance with Section 15 to the Board of Original Jurisdiction prior to obtaining Final Approval. This Section is not severable from the other provisions of the Ordinance and the zoning of the property to the MH Mobile Home Residence District Zone is conditioned upon the above relocation provision.

Section 21-97 Conditional Uses

Add new Subsection to existing text:

I. Multi-Family developments in the MH Zone

Multi-family developments in the MH Zone are subject to RSIS standards, and shall not be required to meet the requirements of Schedule I where said requirements are inconsistent with either RSIS or the following requirements

1. Density shall not exceed 20 dwelling units per acre.
2. Minimum lot size: 10 acres

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3. Minimum front yard: 100 feet to a principal building
4. Minimum side yard: 60 feet to a principal building
5. Minimum rear yard: 60 feet to a principal building
6. Minimum Buffer area along any property line: 25 feet. Driveways and sidewalks shall be permitted to cross buffer areas to provide access to streets and adjacent properties. Pedestrian paths shall be permitted within buffer areas. Development identification signs and gatehouses shall be permitted in buffer areas within 75 feet of driveway entrances providing access to a public street.
7. maximum building coverage: 25 per cent.
8. Maximum lot coverage: 50 per cent.
9. Maximum FAR: 1.50
10. Maximum Height:
 - a. Residential buildings: 180 feet, not including the height of attached parking structures. The height of residential buildings shall be measured from the floor of the building lobby or the first level that contains dwellings, whichever is lower. Elevator shaft may exceed this limitation by no more than 15 feet.
 - b. Structured parking: 45 feet. Parking structures may be located underneath and /or adjacent to residential buildings.
 - c. Recreational facilities and other accessory structures: 25 feet.
11. Accessory Structures:
 - a. Recreational facilities. Recreational facilities shall be provided for the use of residents of the multi-family development. Such facilities shall be setback a minimum of 50 feet from any property line.
 - b. Signs. Development identification signs shall be permitted adjacent to the main entrance of a multi-family development. Such signs shall either consist of a monument sign or be mounted on a freestanding wall. The maximum number of signs shall be two faces on a monument sign or two wall-mounted signs. The maximum area per sign face shall not exceed 100 square feet. A development identification sign shall be setback a minimum of 5 feet from any property line.
 - c. A gatehouse or similar structure shall be permitted within 75 feet of driveway entrances providing access to a public street.

Notwithstanding anything contained herein to the contrary, all ordinances inconsistent herewith are expressly repealed to the extent of such inconsistency.

Seconded by Mr. Nolan and defeated 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

Councilwoman Nancy Thomas
Presentation for Open Space Grant
Block 43 Lot 1
18 Shrewsbury Avenue

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Miss Thomas - The goal of the program is to acquire and preserve land for park, recreation and open space purposes. Emphasis of the program is placed on land acquisition.

Possible Uses:

Boat Launch
Environmental Center
Visitor Center with Restroom
Recreation
Day Dock
Water Taxi Hub
And much more...

Consistent with officially adopted plans:

Bayshore Region Strategic Plan adopted December, 2006
The Borough of Highlands Master Plan

Organizations in support of Acquisition:

Monmouth County Conservation Foundation
NY/NJ Baykeeper
Green Acres
NJ Marine Trades Program

Additional Grant and Funding Opportunities:

DEP Municipal Green Acres Project
25% Grant, 2% loans payable over 30 years at 2% interest
NY/NJ Baykeepers
Monmouth Conservation Foundation
NJDOT I Boat NJ
NJDOT Day Dock Boating Infrastructure
And many more...

Miss Thomas requested that the Borough give her the opportunity to work with Tim Hill to apply for this acquisition. She then asked if there were any questions.

Mr. Hill - he stated that he was not all that familiar with the different uses that the Borough would be able to gain from the acquisition of this property, other than from a recreation standpoint. He said that any time you can gain property next to an existing park, it is indeed something worthwhile looking into.

Mr. Nolan, asked Mr. Hill, with his experience, what did he think the chances are of gaining the majority of the funds from grants?

Mr. Hill stated that he was not fully familiar with what particular funds would be available for this, but that there are a lot of grants out there.

Miss Thomas stated that the grant is due September 19th. The next grant which is for any recreational use, is not due until October 24th. She stated that the cost for appraisal would be approximately \$2,600.

Mr. Urbanski stated that he did not support the purchase of what is most likely a \$1 million piece of property and taking it off the tax roll, when he feels that there is plenty of open space for these types of uses that are under-utilized at this point.

Mr. Nolan stated that he is in support of this purchase.

Unidentified man - asked what would be the harm in letting Miss Thomas look into it?

Miss Thomas stated that it is rare to acquisition water-front property.

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Mr. Cassidy - 7 Kay Street - he stated that this piece of property is adjacent to a piece of property that the Borough already owns, not only is it rare as water-front property, and it may not come available for a very long time, if ever. He thinks the Borough should grab this piece of property. He understands that the Borough had a chance to buy Conners' for \$800,000, and was that a good decision to pass on it?

Mayor O'Neil agrees that Conners' should have been bought, that that it was a whole different spectrum. He stated that he did not support this issue.

Tara Ryan - 17 Ocean Street - she agrees that it does not need to be decided tonight, give Miss Thomas time to look into this.

Mayor O'Neil stated that there is no purpose in going forward because there is no support to purchase the property.

Barbara McDevit does not understand why the Borough does not pursue purchasing this property?

Mayor O'Neil stated that there is not a majority in favor of this issue.

Mr. Caizza stated that he did not believe it is a good idea to take this property off the tax roll.

Mr. Urbanski stated that there are a lot more projects in this town to spend \$1 million on.

Jim Parla - Portland Road - he feels that Miss Thomas has a vision, and what would be the harm in giving her the opportunity to study this a little bit more to make sure that it is the right decision to say no.

Mr. Pfeffer discussed what this purchase could cost the taxpayers. The amount of debt service is based on two functions, interest rates and the time it takes to pay back the debt. Based on a \$1 million purchase price, the cost could be anywhere from \$37 a year to \$54 a year in additional taxes on a \$300,000 home. If Miss Thomas were able to obtain more grants, that would bring that number down.

Mayor O'Neil stated that then developing the property would incur additional costs.

Carol Cassidy - 7 Kay Street - stated that she is familiar with grants and that she would volunteer her services toward getting the grants.

Jim Blonks - 330 Shore Drive - believes that putting a facility on the property that generates income would reduce the cost of the purchase.

Mayor O'Neil suggested to look into another project.

Miss Thomas suggested that perhaps instead of the State giving the Borough property in exchange for the property they are taking for the bridge project, that they give the Borough approximately \$254,000 towards the purchase of the Shrewsbury Avenue property. Miss Thomas also asked the Council for approval to have the property appraised, not to exceed \$4,000.

Mayor O'Neil asked for a vote.

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas,
NAYES: Mr. Caizza, Mr. Urbanski, Mayor O'Neil
ABSENT:
ABSTAIN:

Scott Kelly - 8 Huddy Avenue - he suggested that perhaps other business entities come in and

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raise funds for this property for use as water sports or other uses, which brings people into the town, which can raise quite a bit of revenue.

Mr. Urbanski suggested that perhaps we take money and improve Veteran's Park, which the Borough already owns, instead of taking money to buy property and improve it.

Kim Schorca - 315 Shore Drive - suggested that a business purchase the property to improve it and bring revenue and people into the Borough.

Mayor O'Neil stated that he did not believe that it would be in the Borough's best interest to go into the "boat" business. No launching ramp, there is no parking available. He explained that with all the other improvements in the Borough, the Fire House, there is a need for a new Borough Hall, and other improvements, there will be a tax burden without the purchase of this property, which will just add to that burden.

Unidentified Person - asked Mayor O'Neil what is his vision?

Mayor O'Neil stated that he would like to see the problem of absent landlords solved, to give the town a better quality of life. There are sewer issues, there are many things that need to be done in the Borough.

Unidentified Person - regarding the meeting of February 9th, 2004, with Frank Pallone and the Army Corps of Engineers discussing the shoreline project, where does that stand today?

Mr. Urbanski stated that the Borough filed for a grant for beach replenishment and that it was denied.

Mayor O'Neil reiterated that there is no disrespect to the people in the room that think that the purchase of the property is a good idea, it's the majority at the table that think it is not.

Tara Ryan questioned what the Borough could do with the piece of property that they get from the DOT in exchange for property they need for the bridge project?

Mayor O'Neil stated that it could be a playground.

Louise Davis - 1 Scenic Drive - is familiar with grants and stated that you have to have matching funds to get a grant or you can surely be rejected.

Joe Green - Ocean Street - Miss Thomas is asking for three weeks to research - he supports her vision.

Carla Braswell - HBP - asked if there was a reason the Borough has not pursued the purchase of SeaStreak, which is for sale.

Mayor O'Neil stated that they have talked to SeaStreak, but not for a ferry service.

Miss Thomas stated that there was also discussion regarding improvements to athletic fields, water-front access, improvements to Snug Harbor Beach.

Mayor O'Neil asked Mr. Hill with regard to the improvements to Kavoojian Field.

Mr. Hill stated that possibly improvement such as artificial turf surface, which is another option as far as this grant cycle is concerned.

Tara Ryan stated that improvements to the field does not go hand in hand with this grant.

Mr. Hill stated that it is with regard to the Monmouth County Open Space Grant Program, which will fund improvements to facilities that can show uniqueness in design, what it would impact as far as use and downtime.

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Fran _____ asked if the bicycle path that is not being done is also a Green Acres project.

Mr. Hill stated that it is still being studied and not completed after 10 years.

Miss Thomas stated that the project she would like to see move forward is improvements to Snug Harbor Beach, with the installation of public restrooms, showers, handicap access.

Patricia Roberts - 101 Shore Drive - regarding the memorial project for Vets Park, she would support a grant for work on that park.

Mr. Fox stated that the memorial project is in final design. He also stated that there will be an observance September 11th at Vets Park should anyone wish to attend.

Miss Thomas asked if Mr. Fox could get prices together for improvements for the memorial project within 12 days.

@9:30:06 Can Not Hear the comments of an unidentified woman.

Lori Dibble - 32 Paradise Park - wanted to know if some of the grant money can be used to purchase steep slope properties and view sheds.

Miss Thomas stated that she did not believe that any were available at this time.

Unidentified Woman - The seaport in Tuckerton was with grant money, as well as the boat basin in Belmar, could the Borough get some of that money?

Miss Thomas stated that those are the grants that she was referring to and she will continue to look into this issue.

Jim Blonks - 330 Shore Drive - he understands that there are 12 days to acquire grant money, is anyone helping Miss Thomas? If there is an opportunity to get grant money, the Borough should work hard to get that money and not pass it up.

Unidentified Woman asked about the ordinance that was denied earlier this evening.

Mayor O'Neil stated that the ordinance was not ready, that there was believed to be some problems with it that could have lead to legal action, so it was done away with for now. He stated that it could come back in the future.

Mr. Manco stated that there were a number of problems with this ordinance, the applicant was concerned about legal deficiencies, so it was appropriate to deny the ordinance tonight.

Mrs. Francy - with regard to the athletic field, she feels that artificial turf is the lowest priority.

Mayor O'Neil stated that there are a lot of teams that use the field, it gets a lot of use. There is a court case pending over an injury at the field, so it needs improvement.

Janet _____ - with regard to the beach improvement, will it include lighting for security purposes?

David _____ - 19 Ralph Street - he would like to see Miss Thomas leave here tonight with a purpose to move forward.

Mayor O'Neil stated that that is the purpose of this meeting tonight. He stated that Miss Thomas and Mr. Hill will come up with improvements for the beach and other improvements necessary to get grant money.

Jerry Callahan - 193 Bay Avenue - asked if the council had ever considered putting up windmills.

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Mayor O'Neil stated that he did not believe so.

Unidentified Person - have there been any discussions regarding improvements to the SeaStreak parking lot?

Mayor O'Neil stated that there have been plans rendered for improvements, but now it is for sale.

Miss Thomas stated that she believes he was referring to the gravel parking lot owned by the Borough by Havana.

Army - 50 Valley Street - was the parking lot next to Havana leased to a private enterprise?

Mayor O'Neil stated that it is not.

Mr. Manco stated that there should be a motion to advertise for public hearing for the specified project at the next meeting.

Offered by Mr. Nolan

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

CONSENT AGENDA - RESOLUTIONS:

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

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

**R-07-156
RESOLUTION AUTHORIZING DISPOSAL OF
OFFICE EQUIPMENT**

WHEREAS, the Dell Computer, Serial #75T9121, Monitor, Serial #MX03K648 46634-2AA 106X and Phaser 3400 Printer assigned to the PB/ZB Secretary have all been replaced by new equipment due to the condition of the equipment; and

WHEREAS, because of the age and bad condition of the equipment it is determined that they are of little or no value;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that said equipment may be disposed of.

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

ROLL CALL:

AYES: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski

NAYES:

ABSENT:

ABSTAIN:

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

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**R-07-157
RESOLUTION
AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES
FOR FOREFRONT HOMES, LLC FOR PROPERTY LOCATED
ON SHORE DRIVE ALSO KNOWN AS
BLOCK 104 LOTS 7.01,7.02, 8.01, 8.02**

WHEREAS, the applicant Forefront Homes, LLC posted the following bond and fee amounts for property located on Shore Drive (Block 104 Lots 7.01, 7.02, 8.01, 8.02): \$66,876.30 (90% Performance Bond written by The Service Insurance Co., Inc. Bond #17763) and \$7,430.70 (10% Cash Portion paid by check), and \$500.00 (Legal Fees – Preparation of Developers Agreement) and Engineering Inspection Fees; and

WHEREAS, the Borough Engineer has performed an inspection of the site improvements; and

WHEREAS, the Borough of Highlands has received a letter from T & M Associates, dated 7/6/07 authorizing the release of said performance guarantees subject to the following conditions:

1. The applicant must post a 2-year Maintenance Bond in the amount of \$11,146.05;
2. The applicant must also post an additional \$1,500 into the project escrow account to cover prior deficiencies, as well as anticipated time expenditures pertaining to completing project closeout documentation.

WHEREAS, the applicant posted a 2-year Maintenance as required and approved by the Borough Attorney and posted the additional \$1,500 engineering escrow funds.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Highland that the Borough Clerk is hereby authorized to release the Performance Bond for Forefront Home, LLC for property located on Shore Drive (Block 104 Lots 7.01, 7.02, 8.01, 8.02) in the amount of \$66,876.30 (90% Performance Bond), \$7,430.70 (10% Cash Portion).

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

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

**R-07-158
RESOLUTION AUTHORIZING
REFUNDS OF REMAINING
UNUSED ZONING BOARD ESCROW FUNDS**

WHEREAS, the Board Secretary has reviewed the following escrow accounts and has received authorization from both the Board Attorney and Board Engineer that there are no outstanding invoices due to them; and

<u>Account #</u>	<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
9500-9-01-07	Maxson, Richard	64	2	\$31.50
9500-9-2-07	Alvator, Donna	35	6&7	\$71.37
9500-9-3-07	Burton, Robert	72	4	\$140.86
9500-9-4-07	Zazzara, Joseph	43	14	\$750.00
9500-9-5-07	Renner, Robert	64	21	\$571.78

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9500-9-08-06	Kurtz, R. & D.	36	2	\$182.06
9500-9-07-06	Dorin, Joseph	35	10 & 11	\$102.17
9500-9-04-06	Alvator, Mike	70	5	\$7.19
9500-9-2-06	Worthington Capital	9	6&7	\$744.85
9500-9-9-05	Palatial Homes, Inc.	63	19.01	\$605.94
9500-9-05-05	Coleman, Janet	49	8	\$151.47
9500-9-03-05	Adams, Brian	97	4	\$17.26
9500-9-05-02	Peterson, Pauline	100	3	\$46.59

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the Chief Financial Officer is hereby authorized and directed to refund the above referenced applicants their remaining escrow funds.

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

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

**R-07-159
RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
T & M ASSOCIATES**

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

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

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

WHEREAS, this contract is to be awarded for an amount not to exceed \$70,000 plus reimbursable expenses for Professional Engineering Services provided to the Borough of Highlands for the period July 1, 2007 through December 31, 2007; and

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

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

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

I hereby certify funds are available as follows contingent upon adoption of the SFY 2008 budget:

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

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Stephen Pfeffer, Chief Financial Officer

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

NOW, THEREFORE, BE IT RESOLVED BY THE Borough Council of the Borough of Highlands as follows:

1. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$70,000 plus reimbursable expenses.
2. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession.
3. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

R-07-160

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL LABOR RELATIONS COUNSEL AND OTHER
SPECIAL COUNSEL SERVICES
APRUZZESE, McDERMOTT, MASTRO & MURPHY**

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

WHEREAS, such professional legal services can only be provided by licensed professionals and the firm of Apruzzese, McDermott, Mastro & Murphy, 25 Independence Boulevard, P.O. Box 112, Liberty Corner, New Jersey 07938 is so recognized; and

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

WHEREAS, this contract is to be awarded for an amount not to exceed \$35,000 plus reimbursable expenses for professional labor relations counsel services and other special counsel services provided to the Borough of Highlands for the period July 1, 2007 through December 31, 2007, and

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

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WHEREAS, the firm of Apruzzese, McDermott, Mastro & Murphy has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 271; and

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

I hereby certify funds are available as follows contingent upon the necessary funds being appropriated by the governing body the SFY 2008 Municipal Budget:

Current Fund: Legal
Bond Ordinance O-98-11

Stephen Pfeffer, Chief Financial Officer

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

NOW, THEREFORE, BE IT RESOLVED BY THE Borough Council of the Borough of Highlands as follows:

5. The firm of Apruzzese, McDermott, Mastro & Murphy are hereby retained to provide professional labor relations counsel services and other special counsel services as described above for an amount not to exceed \$35,000 plus reimbursable expenses.
6. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession.
7. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
8. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

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

**R-07-161
TEMPORARY CAPITAL BUDGET**

WHEREAS, the Borough of Highlands desires to constitute the SFY 2008 Temporary Capital Budget of the Borough of Highlands by inserting therein various capital projects,

NOW, THEREFORE, BE IT RESOLVED the Governing Body of the Borough of Highlands as follows:

Section 1. The SFY 2008 Temporary Capital Budget of the Borough of Highlands is hereby constituted by the adoption of a schedule to read as follows:

Temporary Capital Budget
Borough of Highlands
County of Monmouth, New Jersey

Projects Scheduled for SFY 2008

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Costs	Fund	Estimated Authorized	Capital Improvement Other	Debt	Project

Reconstruction of Washington Avenue					
Project # R-08-01		\$ 180,000	\$1,600	\$30,400	\$148,000

Section 2. The Borough Clerk be and is authorized and directed to file a certified copy of this resolution with the Division of Local Government Services, within three days after the adoption of these projects for the SFY 2008 Temporary Capital Budget, to be included in the SFY 2008 Permanent Capital Budget as adopted.

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

**R-07-162
RESOLUTION AUTHORIZING CORRECTIONS TO TAX MAP**

Carried to the meeting of September 19th, 2007

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

**R-07-163
RESOLUTION AUTHORIZING PERSON-TO-PERSON
TRANSFER OF LIQUOR LICENSE 1317-33-024-012
STL, Inc., TO
WAZ TWO, L.L.C., t/a 128 BAY AVENUE**

WHEREAS, an application has been filed for a Person-to-Person transfer of Liquor License 1317-33-024-012, hereto issued to STL, Inc. at 128 Bay Avenue, Highlands, NJ; and

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

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

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

NOW, THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Highlands does hereby approve, effective September 5, 2007, the Person-to-Person transfer of the aforesaid Liquor License #1317-33-024-012 to Waz Two, L.L.C. t/a 128 Bay Avenue at 128 Bay Avenue, Highlands, NJ.; and

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

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

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ROLL CALL:

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

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

**R-07-164
RESOLUTION
PROFESSIONAL ENGINEERING SERVICES
T & M ASSOCIATES
FIREHOUSE CONSTRUCTION CLOSEOUT AND LITIGATION SUPPORT**

WHEREAS, there exists the need for Professional Engineering Services to be provided for the Firehouse Construction Closeout and Litigation Support; and

WHEREAS, such Professional Engineering Services can only be provided by licensed professionals and T & M Associates, 11 Tindall Road, Middletown, NJ 07748 is so recognized; and

WHEREAS, T & M Associates has requested \$5,000 per their letter dated August 21, 2007 for the purposes listed above; and

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

WHEREAS, the determination of value has been placed on file with this resolution with the Borough Clerk; and

WHEREAS, T & M Associates has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

WHEREAS, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands; and

Ordinance O-98-11 = \$5,000

Stephen Pfeffer, Chief Financial Officer

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

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

1. T & M Associates is hereby retained to provide professional engineering services described above for an amount not to exceed \$5,000 plus reimbursables expenses.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.

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4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

**R-07-165
RESOLUTION APPOINTING TEMPORARY
FULL-TIME EMPLOYEE BARRY J. MCKELLAR
FOR THE DEPARTMENT OF PUBLIC WORKS**

WHEREAS, there exists the need to appoint full time (temporary) help for the Department of Public Works; and

WHEREAS, the Borough Administrator recommends the appointment of Barry J. McKellar as Temporary Full-Time Employee for the DPW; and

WHEREAS, the Mayor and Council of the Borough of Highlands agrees with this recommendation;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that Barry J. McKellar is hereby appointed Temporary Full-Time Employee for the DPW; and

BE IT FURTHER RESOLVED that this appointment for Barry McKellar is effective Thursday, September 6, 2007 and shall terminate on or within 90 days of this appointment; and

BE IT FURTHER RESOLVED that compensation shall be set at \$09.00/hour.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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INSERT R-07-166

HIGHLANDSNJ.COM

**MAYOR AND COUNCIL
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Mayor O'Neil offered the following Resolution and moved on its adoption:

**R-07-168
RESOLUTION
AWARDING CONTRACT FOR THE BOROUGH OF HIGHLANDS
BASIN 8 (Proposal B) Rebid**

WHEREAS, the Borough of Highlands has advertised for the Rebid for the Basin 8 Sanitary Sewer Rehabilitation Pipe and Manhole Repair Project (Proposal B) in accordance with the Local Public Contracts Law; and

WHEREAS, three (3) bids were received and reviewed by the Borough Engineer and the Borough Attorney; and

WHEREAS, the lowest responsible bid appears to be from National Water Main Cleaning Co., 875 Summer Avenue, Newark, NJ 07104 in the amount of \$99,303.88; and

WHEREAS, funds are available in municipal bond ordinance adopted for said purpose:

Bond Ordinance	
O-06-06	\$540,000.00

Stephen Pfeffer, CFO

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the contract is hereby awarded to National Water Main Cleaning Co., 875 Summer Avenue, Newark, NJ 07104 in the amount of \$99,303.88;

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

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

**RECAP OF PAYMENT OF BILLS
09/05/07**

CURRENT:		\$ 538,733.79
Payroll	(08/30/07)	\$ 283,598.38
Manual Checks		\$ 123,032.94
Voided Checks		\$
SEWER ACCOUNT:		\$ 1,050.75
Payroll	(08/30/07)	\$ 4,071.29
Manual Checks		\$ 13,680.24
Voided Checks		\$
CAPITAL/GENERAL		\$ 268.00
CAPITAL-MANUAL CHECKS		\$
WATER CAPITAL ACCOUNT		\$

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TRUST FUND	\$	26,879.26
Payroll (08/30/07)	\$	2,495.00
Manual Checks	\$	
Voided Checks	\$	
UNEMPLOYMENT ACCT-MANUALS	\$	
DOG FUND	\$	
GRANT FUND	\$	
Payroll (08/30/07)	\$	1,729.32
Manual Checks	\$	
Voided Checks	\$	
DEVELOPER'S TRUST	\$	
Manual Checks	\$	
Voided Checks	\$	

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

Seconded by Mr. Caizza 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

Miss Thomas asked for an explanation of R-07-162 from the Borough Engineer.

Mr. Manco stated that R07-162 was tabled and carried to the September 19th, 2007 meeting. He stated that the Borough is waiting for a report from the assessor.

=====

OTHER RESOLUTIONS:

Mr. Manco explained that Resolution R-07-167 is an application in connection with the bridge project, where part of the property that is involved in construction of the bridge project is going to require adersion application. This Resolution would authorize the DOT to make that application to the DEP.

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

**R-07-167
RESOLUTION SUPPORTING THE STATE HOUSE
COMMISSION APPLICATION TO THE NJDEP GREEN ACRES
PROGRAM FOR ROUTE 36 HIGHLANDS BRIDGE REPLACEMENT**

WHEREAS, Block 8, Lot 2 is part of the Borough of Highlands which is encumbered with restrictions against disposal or diversion from recreation and conservation uses under the New Jersey Department of Environmental Protection Green Acres Program; and

WHEREAS, in conjunction with the proposed Route 36 Highlands Bridge Replacement, it is necessary to submit a Resolution affirming the Borough of Highlands support of the application to the State House Commission for the diversion of a portion of Block 8 Lot 2; and

WHEREAS, the area to be diverted/disposed of comprises 0.223 Acre and has been valued at 274,629 dollars; and

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NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands, state of New Jersey as follows:

The Borough of Highlands supports the application for the diversion of a portion of Block 8, Lot 2 to the State House Commission.

Attest:

By:

Carolyn M. Cummins
Deputy Borough Clerk

Richard W. O'Neil
Mayor

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

ROLL CALL:

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

Miss Thomas wanted to state on the record regarding Mr. Urbanski's comments, the e-mail does not say "behind our backs." She stated that he did have a meeting and he did not bring it to her attention.

Mayor O'Neil stated that he and Mr. Urbanski met with a man from the State on behalf of the people of this Borough --

Miss Thomas stated that he could have asked her opinion --

Mayor O'Neil stated that he did not have to ask her opinion, and that he brought the information back.

=====

ORDINANCES: Introduce and Set Public Hearing Date for September 19, 2007

Ordinance O-07-11

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

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~~.

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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 and 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

O-07-13

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

Mr. Nolan offered the following Ordinance pass introduction and that a Public Hearing Date be set for Wednesday, September 19, 2007 at 8:00 P.M. and authorized its publication according to law:

O-07-13

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER X OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS, ENTITLED "BUILDINGS UNFIT FOR HUMAN HABITATION, OCCUPANCY OR USE AND MORE PARTICULARLY SECTION 10-4.3, "SUBSTANDARD HOUSING COMMITTEE", TO INCREASE ITS MEMBERSHIP.

BE IT ORDAINED, by the Borough Council of the Borough of Highlands that SECTION 10-4.3 of 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~~.

10-4 BUILDINGS UNFIT FOR HUMAN HABITATION, OCCUPANCY OR USE.

10-4.3 Substandard Housing Committee.

There is hereby created, a committee to be known as substandard **housing** committee, to consult with and advise the public office. Such committee shall consist of nine (9) members, seven (7) of which shall be the health officer; fire chief or his designee; welfare director, plumbing inspector; building inspector or assistant building inspector; fire inspector; electrical inspector; and two members to be appointed by the mayor as follows: one member of the borough council and one other member ~~to be selected by the mayor.~~

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

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

Seconded by Miss Thomas 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

O-07-20

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

Mayor O'Neil offered the following resolution on introduction and set a public hearing date for Wednesday, September 19, 2007 after publication according to law:

O-07-20

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER X OF THE
REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS, AND
MORE PARTICULARLY SECTIONS 10-5 HOUSING CODE TO AMEND
CERTIFICATE OF OCCUPANCY REQUIREMENTS**

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~~.

10-5 HOUSING CODE.

10-5.2 Certificate of Occupancy Required.

No person shall rent, lease or allow any person to live in or occupy as a tenant, any room, dwelling, apartment or the like except if the same is part of a motel or hotel unless a certificate of occupancy is obtained from the inspector after an inspection certifying that the room, dwelling, apartment or the like is fit for human habitation and is in compliance with all applicable Federal and State laws and borough ordinances.

Notwithstanding anything to the contrary contained herein, no room located within a licensed rooming or boarding house within the Borough of Highlands shall be required to submit to a certificate of occupancy inspection requirement more than once every three months, or four times in any given calendar year, except where otherwise required by State law or regulation.

A certificate of occupancy shall be required of all new construction, new rental situations or re-rental situations or sales or resales. The said certificate of occupancy shall apply only to the tenancy for which it is issued. In the event that the rental unit has been inspected as new construction or a sale or resale of an existing structure and a certificate of occupancy issued, then a subsequent inspection for a rental certificate of occupancy and the receipt of a rental certificate of occupancy shall not be required so long as the unit is rented within 30 days of the issuance of the certificate of occupancy for new construction, sale or resale, and the owner complies with the application provisions of subsection 10-5.3. The inspector shall prepare appropriate application forms for such a certificate of occupancy, which shall be available to applicants at the office of the inspector.

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10-5.4 Statement of Vacated Premises.

The owner shall not more than 30 days prior nor less than ten days after a tenant vacates a room, dwelling, apartment or the like, file with the office of the inspector a statement containing the address of the premises and the number or other specific description of the place vacated.

Notwithstanding anything to the contrary contained herein, no owner of a room located within a licensed rooming or boarding house within the Borough of Highlands shall be required to submit to a certificate of occupancy inspection requirement more than once every three months, or four times in any given calendar year, except where otherwise required by State law or regulation.

10-5.5 Inspection Required.

No such vacated room, dwelling, apartment or the like shall be rented or occupied in whole or in part by any new tenant until an inspection has been made by the inspector to determine whether such room, dwelling, apartment or the like is in violation of any applicable Federal and State law or borough ordinance. If no violation exists, the inspector shall issue a certificate of occupancy; otherwise he shall notify the owner in writing setting forth the specific existing violations. The inspection shall be made and either a certificate of occupancy or a notice of violation shall be issued within five days from the date of application. If the inspection is not accomplished in the five day period, the room, dwelling, apartment or the like may be occupied by the new tenant but subject to the right of the borough to inspect the room, dwelling, apartment or the like and if a violation is found, to cause the premises to be vacated within ten days from the date of notice thereof.

Notwithstanding anything to the contrary contained herein, no room located within a licensed rooming or boarding house within the Borough of Highlands shall be required to submit to a certificate of occupancy inspection requirement more than once every three months, or four times in any given calendar year, except where otherwise required by State law or regulation.

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.

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

Ordinance O-07-21

Mrs. Cummins read the title of the following Bond Ordinance for introduction and setting of a Public Hearing Date:

Mayor O'Neil offered the following Bond Ordinance on introduction and set a Public Hearing date for Wednesday, September 19, 2007 at 8:00 P.M. after publication according to law.

**O-07-21
BOND ORDINANCE PROVIDING AN APPROPRIATION
OF \$180,000 FOR RECONSTRUCTION OF
WASHINGTON AVENUE, PHASE II FOR AND BY THE
BOROUGH OF HIGHLANDS IN THE COUNTY OF
MONMOUTH, NEW JERSEY AND, AUTHORIZING
THE ISSUANCE OF \$30,400 BONDS OR NOTES OF THE**

**MAYOR AND COUNCIL
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**BOROUGH FOR FINANCING PART OF THE
APPROPRIATION**

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 members thereof affirmatively concurring) as follows:

SECTION 1:

The improvements described in Section 3 of this bond ordinance (the "Improvements") are hereby authorized to be undertaken by the Borough of Highlands, New Jersey (the "Borough") as general improvements. For the said Improvements there is hereby appropriated the amount of \$180,000, such sum includes the sum of (a) \$148,000 expected to be received from the New Jersey Department of Transportation and (b) \$1,600 as the down payment (the "Down Payment") required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the "Local Bond Law"). The Down Payment is now available by virtue of provision in one or more previously adopted budgets for down payments for capital improvement purposes.

SECTION 2:

In order to finance the cost of the Improvements, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$30,400 pursuant to the provisions of the Local Bond Law (the "Bonds"). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Borough are hereby authorized to be issued in the principal amount not exceeding \$30,400 pursuant to the provisions of the Local Bond Law (the "Bond Anticipation Notes" or "Notes").

SECTION 3:

- (a) The Improvements authorized and the purpose for which obligations are to be issued, the estimated cost of each Improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each Improvement and the period of usefulness of each Improvement are as follows:

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Improvements	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or Notes	Period of Usefulness
Reconstruction of Washington Avenue from Marine Place to Recreation Place, which include drainage, installation of curbs, sidewalks and handicap accessible ramps including all work or materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications thereof on file in the office of the Borough Clerk.	\$180,000	\$30,400	20 Year

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$30,400.

(c) The estimated cost of the Improvements is \$180,000 which amount represents the initial appropriation made by the Borough. The excess of the appropriations made for the Improvements over the grant expected to be received and the estimated maximum amount of Bonds or Notes authorized to be issued therefor as stated above is the amount of the Down Payment.

SECTION 4:

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Borough (the "Chief Financial Officer"); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Borough Council of the Borough at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

**MAYOR AND COUNCIL
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SECTION 5:

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 resolution 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, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Borough Clerk and is available for public inspection.

SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvements described in Section 3 of this bond ordinance are not current expenses, and are capital improvements or properties that the Borough may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the Improvements, within the limitations of the Local Bond Law, and according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Borough, as defined in the Local Bond Law, is increased by the authorization of the Bonds and Notes provided in this bond ordinance by \$30,400 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$45,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

Any funds received from time to time by the Borough as contributions in aid of financing the purposes described in Section 3 of this Ordinance shall be used for financing said Improvements by application thereof either to direct payment of the cost of said Improvements or to the payment or reduction of the authorization of the obligations of the Borough authorized therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvements shall, be held and applied by the Borough as funds applicable only to the payment of obligations of the Borough authorized by this Bond Ordinance.

SECTION 8:

The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

SECTION 9:

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This Bond Ordinance 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 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 \$30,400.

SECTION 10:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

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-07-22

Mrs. Cummins read the title of the following Ordinance 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 19, 2007 and publication according to law:

O- 07-22

**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 24
ENTITLED: REGULATION OF REHABILITATION FACILITY, BUSINESS,
CENTER OR CLUB**

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

WHEREAS, the unregulated location of Rehabilitation oriented centers, businesses facilities or clubs 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 facilities 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;

**NOW, THEREFORE, BE IT ORDAINED THAT SECTION 24 OF
CHAPTER 3 of THE REVISED GENERAL ORDINANCES OF THE BOROUGH
OF HIGHLANDS BE AND HEREBY IS ESTABLISHED TO READ AS
FOLLOWS:**

**Section 24 REGULATIONS PERTAINING TO REHABILITATION
FACILITIES, BUSINESSES, CENTERS OR CLUBS**

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a. Location

Except where the Borough has duly adopted a municipal zoning ordinance pursuant to N.J.S.A. 2C:34-2, no rehabilitation facility, business, center or club shall be operated by any individual, partnership, corporation, limited liability company, or other business entity within 1,000 feet of any existing rehabilitation facility, business, center or club, 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 rehabilitation facility, business, center or club 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 and no minors shall be permitted on the premises shall be approved 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 rehabilitation facility, business, center or club 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 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

=====

OTHER ORDINANCES: 2nd Reading, Public Hearing, Adoption

Ordinance O-07-16

**MAYOR AND COUNCIL
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Mrs. Cummins read the title of Ordinance O-07-16 for the second reading and opening of the public hearing.

Mayor O'Neil opened the public hearing on Ordinance O-07-16.

Mayor and Council discussed making amendments to the ordinance.

Mrs. Cummins read the title of the following Ordinance for introduction of amendments and to set a public hearing date:

Mr. Nolan offered the following ordinance as amended and moved to carry the public hearing to September 19, 2007 at 8:00 P.M.

**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 two items or 2 cubic yards, whichever is the lesser.

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. 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

Ordinance O-07-17

Mrs. Cummins read the title of the Ordinance O-07-17 for the second reading and opening of the public hearing:

Mayor O'Neil opened the public hearing up but there were comments from the public.

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Mrs. Cummins read the title of Ordinance O-07-17 for the third and final reading and adoption.

Mr. Nolan offered the following Ordinance pass third and final reading and moved on its adoption and authorized its publication according to law:

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

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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 persons 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 entity exhibiting a previous satisfactory payment history. However, payment for the

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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 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

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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 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

Ordinance O-07-09

Mrs. Cummins read the title of Ordinance O-07-19 for the second reading and opening of the public hearing.

Mayor O'Neil opened the public hearing up for Ordinance O-07-19 but there were no comments from the public.

Mrs. Cummins read the title of Ordinance O-07-19 for the third and final reading and adoption.

Mr. Nolan offered the following pass third and final reading and moved on its adoption and authorized its 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 25
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

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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;

NOW, THEREFORE, BE IT ORDAINED THAT SECTION 25 OF CHAPTER 3 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS BE AND HEREBY IS ESTABLISHED TO READ AS FOLLOWS:

Section 25

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 Limitiations

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.

e. 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 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

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OTHER BUSINESS:

Authorize Engineer to apply for DOT Funding for Shore Drive and Valley Avenue

The Governing Body briefly discussed this matter and it was 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

ABC Special Affairs Permit: HBP – Oktoberfest on October 6, 2007

Mr. Nolan offered a motion to approve the Social Affairs Permit Application the HBP, seconded by Miss Thomas 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

Raffle License: HBP – Oktoberfest RA#1317-07-7

Miss Thomas offered a motion to approve the Raffle License for the HBP, 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

APPROVAL OF MINUTES

Mayor O'Neil offered a motion to approve the May 16th, 2007 minutes, seconded by Mr. Nolan and all eligible members were in favor.

PUBLIC PORTION:

Chris Francy - 36 Fifth Street - with regard to the resolution for the Rehab Facility - will that have an impact on the _____ property?

Mayor O'Neil stated hopefully so.

Mr. Manco stated that this is an on-going case, the ordinance was introduced tonight, but is not law.

Steve Cassidy - 7 Kay Street - with regard to the meeting between the DOT and Mr. Urbanski and Mayor O'Neil - is it correct that Mr. Urbanski called them and suggested a meeting or they called you and suggested a meeting?

Mr. Urbanski - he stated that he asked them for their position and the person from the DOT suggested a meeting to give him his answer. He also asked the County Chairman for an answer from Corzine, and did not receive one.

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Mr. Cassidy asked if he then invited the Mayor to join him at the meeting with the representative from the DOT.

Mr. Urbanski stated that he asked the Mayor if he in fact wanted to come down and hear what the man had to say.

Mr. Cassidy asked Mr. Urbanski if he had invited any of the other council members to join him.

Mr. Urbanski stated no, that that would be illegal.

Mr. Manco stated that it would have been a violation of the Sunshine Law to have more than two voting members present.

Mr. Cassidy asked if had called anyone and told them that he had this meeting scheduled or did he call them afterwards.

Mr. Urbanski stated that he told Mr. Caizza and Mr. Nolan.

Mr. Cassidy question why he did not inform Miss Thomas.

Mr. Urbanski stated that he did tell Miss Thomas after the meeting. He stated that if he is working on a project, and he obtains worthy information, he brings it to the table.

Mr. Cassidy asked for clarification as to why he told other people and not Miss Thomas.

Mr. Urbanski stated that he did not talk to Miss Thomas that week regarding that issue. He stated that he made is decision based on safety after looking at the bridge.

Mr. Cassidy asked Mr. Urbanski if his position was based on what the DOT said.

Mr. Urbanski stated that he went and looked at the bridge and came to this conclusion on his own.

Mr. Cassidy asked Mayor O'Neil if the Borough just voted to trade a piece of water-front property for a piece of highway property on Route 36.

Mayor O'Neil stated that the Borough okayed the transfer of a piece of water-front property. He said whether or not the Borough got a piece of property on Route 36 is a moot point. The property was transferred so that the bridge project could go further because there is a belief that there is a safety issue.

Mr. Cassidy asked if in fact they voted to give the State Highlands property and not get anything for it.

Mayor O'Neil stated no.

Mr. Cassidy said that he is just trying to understand what the Borough did.

Mayor O'Neil stated that the Borough allowed them to "build" in our airspace, he does not believe that they are physically taking any property.

Mr. Urbanski stated that the Borough is getting improvements to the beach area --

Miss Thomas - "And the property on Route 36." She stated that contacts at the DEP said that never do you divert property for improvements.

Shirley _____ - 30 Portland Road - with the passing of the Resolution, does this mean there will be no fishing pier that was originally in exchange for that property?

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Mayor O'Neil - No. He stated that it was to be more in standing for what we wanted than what they wanted to give us.

Shirley _____ asked what is it that they wanted to give us?

Mayor O'Neil stated that they wanted to give us a dock.

Shirley _____ stated that it was her understanding that they wanted to give us two dollars. She asked what exactly is it the Borough is going to get as a result of the passage of the resolution.

Mr. Urbanski stated that at first it was to be the bridge beach to be bulkheaded in, and DEP would not approve the backfilling of the beach.

Mayor O'Neil stated that it was to be a sheathed bulkhead, fill-in behind it, put in a picnic area, fishing spot and bait tables. The DEP would not go for that, and they offered the Borough a dock.

Shirley _____ asked what it is that we are now going to get.

Mayor O'Neil said a fishing pier, but that problem was that it ran from street level to flat out, approximately 10 feet out of the water, and it would have been in the ice and in the current, and it probably would not have lasted. So what they are now going to do, supposedly, is more in keeping with the stone setting as in Vet's Park, with other improvements. He stated that he did not have a picture of it with him.

Shirley _____ asked if there can be fishing there?

Mayor O'Neil stated that there could be.

Shirley _____ asked, with the recent bridge tragedy in Minneapolis, does the Mayor and Council feel comfortable with the DOT building a 73 foot span bridge over top of this bridge that is so unsafe, while the bridge is still open. She feels that if the bridge is so unsafe, it needs to be repaired or closed.

Mayor O'Neil believes that the bridge needs to be replaced.

Shirley _____ asked if he was comfortable with the continued use of the bridge, which is so unsafe, while the new bridge is being constructed.

Mayor O'Neil believed that it can be done.

Donna Callahan - 29 So. Bay Avenue - she questioned the fact that she observed construction workers building a barge under the bridge to catch debris while they were jackhammering the bridge, an unsafe bridge. She stated that she would rather see the bridge closed, if it is so unsafe. She drives over the bridge twice a day, she is appalled that the Borough would take some "back-room" deal. She questioned when the other members were informed of this meeting and the result.

Miss Thomas stated that the DOT brought the proposal to Bruce Hilling at noon, and at 12:30 she went to his office to see what the proposal was.

Mr. Hilling stated that he distributed the proposal to all council members.

Ms. Callahan stated for the record that since Miss Thomas was supposed to be in charge of the bridge project and all the information, she feels that she should have been included in the meeting with the DOT even before the Mayor was asked to attend.

Mr. Urbanski stated that Miss Thomas is free to contact the DOT.

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Mayor O'Neil stated that the point is, Miss Thomas feels the same as Ms. Callahan, and that is why it is an issue.

Miss Thomas said that she was working more towards getting a bridge that was appealing with the area.

Mayor O'Neil said that she was working towards getting an opening drawbridge or the repair of the existing bridge.

Ms. Callahan stated that the bridge is just so unsafe that it should be closed. Let the traffic go through Rumson, she does not mind going out of her way.

Mr. Parla - he stated that the bridge was built for a 75 year life span, ending in 2007 and that it is now at the end of it's life span. He stated that he is disgusted, upset, disappointed and saddened by the process that continues to permeate in the Borough of Highlands. What he means by that is, the Borough of Highlands is involved in a lawsuit with Sea Bright against this bridge, and the Borough of Highlands goes and contacts the DOT directly and they cut a deal. For that reason, he will be filing a petition for a recall tomorrow.

Mr. Nolan stated that he would never vote a certain way just to get someone's vote. What he feels is right is, he feels that the DOT lied to them from the beginning, and -- by the way, for the record, he does not feel that Mr. Urbanski and Mayor O'Neil did anything wrong with regard to their meeting with a DOT representative. He feels that the reason the State is pushing the bridge is because of the expansion at Sandy Hook and that they will probably widen Ocean Avenue.

Mayor O'Neil feels that Mr. Parla is involved in this strictly because of the view, and nothing else. He stated that he has a mandate from the election to do the best for everybody, not the best for a few, and that is what he feels he has done.

Mr. Parla stated that he has had a condo in Mexico, with a spectacular view, this was never about the view, it has always been about living in Highlands, New Jersey --

Mr. Caizza stated that Mr. Parla told his brother in Atlantic Highlands that it was about the view.

Mayor O'Neil told Mr. Parla that he remembers speaking to him the night of the Flashlight Walk and he asked Mr. Parla his opinion, and Mr. Parla had none.

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

The Meeting adjourned at 10:39 P.M.

NINA LIGHT FLANNERY, BOROUGH CLERK