

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

Mr. Nolan, Council President, called the meeting to order at 7:17 p.m.

The Clerk made the following statement: Per 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. All requirements have been met and notice has been posted on the public bulletin board and transmitted to the Asbury Park Press, the Courier and the Two Rivers Times.

Mr. Nolan asked the Clerk to call the roll:

ROLL CALL:

Present: Mr. Nolan, Miss Thomas, Mr. Caizza, Mr. Urbanski
Absent: Mayor O'Neil
Also Present: Nina Light Flannery, Borough Clerk; Bruce Hilling, Borough Administrator; Dominick M. Manco, Esq., Borough Attorney

Mrs. Flannery read the following Resolution for approval:

Mr. Caizza 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:

Litigation: Franklin vs. First Aide Squad
Personnel: D. Tauro, member of Housing Authority; Resignation of Tax Clerk;
Court Administrator position

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:

- 1. Related to pending or anticipated litigation or contract negotiations in which the public body is or may be a party.*
- 2. Falls within the attorney-client privilege and confidentiality is required.*
- 3. Deals with personnel matters of public employees and employee has not requested that the matter be made public.*

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

ROLL CALL:

AYES: ALL IN FAVOR
NAYES: NONE
ABSENT: MAYOR O'NEIL
ABSTAIN: NONE

The Governing Body then entered into Executive Session.

Mr. Nolan calls the Regular Meeting to order at 8:07 p.m.

The Clerk announces that in the absence of the Mayor, Mr. Nolan, Council President will assume the chair.

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

Mr. Nolan asks all to stand for the Pledge of Allegiance.

Mr. Nolan asked the Clerk to call the roll:

ROLL CALL:

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

Absent: Mayor O'Neil

**Also Present: Nina Light Flannery, Borough Clerk; Bruce Hilling, Borough
Administrator; Dominick M. Manco, Esq., Borough Attorney**

Monmouth County Open Space Grant – Public Hearing

The Clerk advises Mr. Nolan that the first item on the agenda is the Public Hearing for the Open Space Project Grant.

Mr. Hill explains the grant hearing process.

Mr. Hill adds that at the last meeting it was decided to work on Beach Improvements at Snug Harbor Beach. Unfortunately, deed restrictions apply on that property and the Borough would be unable to carry those improvements through. Therefore, that project must be shelved and it is thought that a project at Veteran's Park should be considered.

Therefore, a public hearing has been scheduled for Thursday, September 27, 2007 at 6:00 p.m. for a hearing on improvements to Veteran's Park. At this time, the cost of the project is approximately \$529,000.00 with a grant amount of \$250,000. The remainder of the funds would come from the Memoria Project fund, not public dollars.

Tara Ryan

17 Ocean Street – asks for clarification that the grant will be \$250,000 and no funds will be dedicated from the Borough and that \$500,000 will encompass the entire scope of the project.

Maureen Kraemer

200 Portland Road – requests to know where information on the Memoria Project can be obtained. Several respondents tell her to pull up memoriaproject.com on her computer.

Ms. Ryan – asks if complete plans will be available at the time of the meeting. Council tells her that they believe the plans will be here.

Roberta McEntee

55 Fifth Street – requests a status report on the project.

Jim Fox, Vice President of Board of Directors for the Memoria Project

148 Navesink Ave. – is a part of design-development for the Project. He adds that the stones are about to be engraved with the names of those that died on 9 – 11. He adds that there will be a Veteran's Plaza and explains the conceptual plan.

Maureen Kraemer

200 Portland Road – asks if the Doughboy (at the bridge) will be moved to the 9-11 Memoria Project?

Mr. Foxx explains that it will be in the park – temporarily.

Art Gallagher

221 Linden Ave. - Asked if the concept of a boat ramp is in the plan.

Mr. Hill explains that it is not in the plan at this time.

Donald Manrodt

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

268 Bayside Dr. – states that for the record he is against the improvements to the park and wants the Veteran’s name removed.

Pauline Jennings
Ralph Street – Asked about the location of the meeting.

The Clerk, Mrs. Flannery, responds that the meeting will be held at this location (Borough Hall).

This concludes the hearing portion of the meeting regarding the Open Space Grant.

CONSENT AGENDA:

Mrs. Flannery read the titles of the following Resolutions for approval and stated that R-07-171 will be removed from the Consent Agenda because it needs to be an Ordinance and that R-07-175 will be tabled to the next meeting:

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

**R-07-162
RESOLUTION AUTHORIZING BOROUGH ENGINEER
TO CORRECT TAX MAPS REGARDING
BLOCK 1, LOT 19.20**

WHEREAS, the Tax Map of the Borough of Highlands shows a lot 19.20 in Block 1 running between lot 6 in Block 1, to the high water line of the Shrewsbury River; and

WHEREAS, said Lot 19.20, Block 1, is assessed to the Borough of Highlands; and

WHEREAS, both the survey by Thomas P. Santry, dated June 20, 2007, and the title search by Trident Abstract Company show that Lot 6 in Block 1 runs to the high water line of the Shrewsbury River; and

WHEREAS, there are no deeds or other instruments on record in the Monmouth County Clerk’s Office regarding Lot 19.20 in Block 1;

WHEREAS, it appears that a scrivener’s error led to the drawing of Lot 19.20 in Block 1 in the Tax Map.

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

1. The Municipal Assessor is instructed and authorized to remove Lot 19.20 in Block 1, from the Assessment Book of the Borough of Highlands; and
2. The Municipal Engineer is instructed and authorized to remove Lot 19.20 in Block 1, from the Tax Map of the Borough of Highlands, and to revise the Tax Map to show that Lot 6 in Block 1, and the adjoining lots, run to the Shrewsbury River.

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

ROLL CALL:

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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

Mr. Caizza offered the following and moved its adoption:

R-07-169

RESOLUTION PERMITTING PRE-PAYMENT OF CERTAIN ITEMS

WHEREAS, the Governing Body of the Borough of Highlands budgets funds for payment of such items as utilities, payroll, contractual agreements previously approved and authorized by the Governing Body, debt service, governmental fees and other statutory payments, insurance, employer paid employee benefits, and for the advertising, printing and mailing costs of the Borough; and

WHEREAS, the payment of these items frequently arrives out of time for placement on the next available bill list, and in several months of the year the Governing Body meets only once a month, thereby inadvertently placing these bills and mailings in arrears because of the schedule of meetings; and

WHEREAS, the Governing Body wishes to designate one person who may approve claims between meetings of the Governing Body. The Governing Body of the Borough of Highlands wishes to provide for the pre-payment of certain items, so that they may be paid in a timely manner;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the Chief Financial Officer be and is hereby authorized to make pre-payment of the following fixed items prior to the same appearing on the meeting bill list, such funds to be taken from the pre-budgeted amount for each such expense:

1. Utilities (electric, gas, water, sewer, telephone, cellular telephone, gasoline, diesel fuel, internet providers, etc.). The Chief Financial Officer is hereby authorized, if desirable, to establish an electronic payment plan (sometimes referred to as zip check) with the various utilities. This resolution would authorize said utilities to debit the appropriate Borough bank accounts as required.
2. Payroll and various payroll agencies.
3. Contractual agreements previously authorized and approved by the Governing Body.
4. Debt service.
5. Governmental fees and other statutory payments (school, county, special district taxes, regional sewage authority and County of Monmouth Reclamation fees).
6. Insurance.
7. Employer paid employee and retired employee benefits.
8. Bills pertaining to the advertising, printing and mailing costs of the Borough.
9. Bills where vendor discounts are granted for timely payments. Example: 2% discount for payments made within 10 days. Maximum dollar amount allowed is \$10,000.
10. Payment of any other item deemed necessary by the Chief Financial Officer that does not exceed \$10,000.
11. Third Party Tax Lien and Premium Redemptions.

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

ROLL CALL:

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

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

R-07-170

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL AUDITING SERVICES
O'NEILL AND LANG**

WHEREAS, the Borough of Highlands has a need for professional auditing services; and

WHEREAS, such professional auditing services can only be provided by licensed professionals and of the firm of O'Neill and Lang, 528 Rahway Avenue, Woodbridge, N.J. 07095 is so recognized; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$50,400 plus reimbursable expenses for professional auditing services for the Borough of Highlands for the SFY 2008 audit; and

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

WHEREAS, O'Neill and Lang has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 271; and

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

WHEREAS, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands contingent upon adoption of the following SFY 2008 Municipal Budget:

Account # 1030A-3551 \$33,900
 3008-4000 \$16,500

Stephen Pfeffer, Chief Financial Officer

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:1101 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 Governing Body of the Borough of Highlands as follows:

1. The firm of O'Neill and Lang is hereby retained to provide professional auditing services as described above for an amount not to exceed \$50,400.00 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 this Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

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

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

**R-07-172
AUTHORIZING REFUND OF TAX OVERPAYMENT**

WHEREAS, the Tax Collector of the Borough of Highlands has reviewed the rolls and determined that certain monies are due and payable by the Borough of Highlands to certain residents and property owners within the Borough of Highlands, as a result of an overpayment of taxes; and

WHEREAS, the Tax Collector recommends the immediate reimbursement of the excess funds currently collected by the Borough of Highlands to certain enumerated individuals;

NOW, THEREFORE BE IT AND IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of Highlands, in the County of Monmouth, State of New Jersey, that the Tax Collector is authorized to immediately refund and pay the overpayment of taxes to the individuals and property owners of the specific properties listed below, and attached hereto:

<u>BLOCK</u>	<u>LOT</u>	<u>YEAR</u>	<u>AMOUNT</u>	<u>NAME</u>
11.01	8	2007	\$1587.50	Wells Fargo Real Estate Tax Service
1.02	14	2007	\$1289.64	Peter B Grimm Esq Trust Account
100.6	53	2007	\$ 934.90	Stuart Lasher

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

ROLL CALL:

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

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

**R-07-173
RESOLUTION APPOINTING FULL-TIME PERMANENT
CODE ENFORCEMENT OFFICER/LANDLORD REGISTRATION OFFICER**

WHEREAS, on April 6, 2006, Paul Murphy was appointed Provisional Code Enforcement Officer and Landlord Registration Officer (full-time) with said position encompassing Fire Inspection Officer); and

WHEREAS, it has been recommended that Paul Murphy be appointed Code Enforcement Officer and Landlord Registration Officer (full-time) Permanent; and

WHEREAS, the Governing Body agrees with said recommendation and desires to implement same, subject to the laws and regulations of the State of New Jersey, Department of Personnel, as may be applicable;

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

NOW, THEREFORE, BE IT RESOLVED that Paul Murphy is appointed permanent Code Enforcement Officer and Landlord Registration Officer (full-time); and

BE IT FURTHER RESOLVED that said appointment is made pending State of NJ Department of Personnel approval;
Seconded by Mr. Nolan and adopted on the following roll call vote:

ROLL CALL:

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

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

R-07-174

RESOLUTION – APPROPRIATION RESERVE TRANSFERS

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

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

CURRENT FUND -----	FROM -----	TO -----
Sanitation:		
Other Expenses	\$ 6,000	
Borough Administrator:		
Other Expenses	2,000	
Borough Clerk:		
Other Expenses		\$ 2,000
Fire Safety:		
Other Expenses		1,000
Fire Department:		
Other Expenses		2,000
Emergency Management:		
Other Expenses		3,000
	-----	-----
	\$ 8,000	\$ 8,000
	=====	=====

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

ROLL CALL:

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

NOT ADOPTED

offered the following resolution and moved its adoption;

R-07-175

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

**RESOLUTION RESCINDING OPPOSITION TO THE PROPOSED RT 36 BRIDGE
CONSTRUCTION PROJECT**

WHEREAS, the Borough Council of the Borough of Highlands, during the calendar year 2007 adopted resolutions in opposition to the construction the presently contemplated RT 36 Bridge Construction Project connecting the Boroughs of Highlands and Sea Bright and authorized expenditures in furtherance of this cause, including but not limited to the payment of legal fees to special counsel; and

WHEREAS, the Borough of Highlands has reconsidered these actions and now wishes to facilitate the construction of a new fixed span bridge on Route 36, upon terms and conditions to be finalized, and rescind all resolutions heretofore adopted in the calendar year 2007 which are inconsistent herewith;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highlands in the County of Monmouth and State of New Jersey, that all resolutions and/or other actions heretofore adopted and/or taken by the Governing Body of the Borough of Highlands in the calendar year 2007 which are inconsistent with the construction of the aforesaid fixed span bridge be and hereby are rescinded.

Seconded by _____ and adopted on the following roll call vote:

ROLL CALL:

AYES:

NAYES:

ABSENT:

ABSTAIN:

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

R-07-176

**RESOLUTION ACCEPTING DEDICATION OF SEWER EASEMENT AND
AUTHORIZING THE MAYOR AND BOROUGH CLERK TO EXECUTE A
QUITCLAIM DEED REGARDING OF TAX BLOCK 1, LOTS 19.20 IN THE
BOROUGH OF HIGHLANDS, AND AUTHORIZING THE ACCEPTANCE OF AND
DEDICATION OF AN UNDERGROUND SEWER EASEMENT IN BLOCK 1, LOT 6 IN
THE BOROUGH OF HIGHLANDS**

WHEREAS, Lot 19.20 in Block 1 is shown on the Tax Assessment Records and Tax Map of the Borough of Highlands as being owned by the Borough of Highlands and as running between Lot 6 in Block 1 and the high water line of the Shrewsbury River; and

WHEREAS, a title search and survey of the subject premises has been conducted by Trident Abstract Company and a survey prepared by Thomas P. Santry dated June 20, 2007, [respectively], show that lot 6 in Block 1 runs to the high water line of the Shrewsbury River; and

WHEREAS, there are no deeds or other instruments of record in the Monmouth County Clerk's office regarding either the existence or ownership of Lot 19.20 in Block 1 in the Borough of Highlands; and

WHEREAS, the Borough Council has considered the above and concluded that said lot was added to the Tax Assessment Records of the Borough in error, and that it is reasonable and appropriate for the Borough to issue a quitclaim deed to the owner of Lot 6 in Block 1, requiring the merger of Lot 19.20 in Block 1 with Lot 6 in Block 1, to be thereafter known as New Lot 6 in Block 1, thereby correcting the Tax Assessment Records and Map accordingly; and

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

WHEREAS, the OWNER of Lot 6 in Block 1, as consideration for said quitclaim deed will execute and deliver to the Borough of Highlands a deed of easement regarding the existing underground sewer utilities which have serviced properties located on the easterly side of Portland Road, Highlands NJ for many years.

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

1. That the acceptance of the aforesaid sewer easement by the Borough of Highlands be and hereby is authorized.

2. That the Mayor and Borough Clerk be and hereby are authorized to execute, accept and record any and all documents necessary to effectuate the above in a form approved by the Borough Attorney, including but not limited to a quitclaim deed for the premises shown on the Tax Map as Lot 19.20 in Block 1, in a form approved by the Borough Attorney.

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

ROLL CALL:

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

NAYES: None

ABSENT: Mayor O'Neil

ABSTAIN: None

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

**RECAP OF PAYMENT OF BILLS
09/19/07**

CURRENT:		\$	36,506.05
Payroll	(09/15/07)	\$	125,559.00
Manual Checks		\$	21,050.42
Voided Checks		\$	
SEWER ACCOUNT:		\$	66,575.00
Payroll	(09/15/07)	\$	6,057.48
Manual Checks		\$	8.50
Voided Checks		\$	
CAPITAL/GENERAL		\$	4,252.59
CAPITAL-MANUAL CHECKS		\$	
WATER CAPITAL ACCOUNT		\$	
TRUST FUND		\$	4,640.18
Payroll	(09/15/07)	\$	2,020.00
Manual Checks		\$	
Voided Checks		\$	223.25
UNEMPLOYMENT ACCT-MANUALS		\$	
DOG FUND		\$	26.40
GRANT FUND		\$	
Payroll	(09/15/07)	\$	450.36
Manual Checks		\$	
Voided Checks		\$	
DEVELOPER'S TRUST		\$	7,613.11
Manual Checks		\$	
Voided Checks		\$	

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

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

BOROUGH OF HIGHLANDS

Supplemental Bill List for September 19, 2007

EDC Electric Corp.	Valley St. Pump Station Upgrades	\$ 16,880.50
		<hr/>
Total Supplemental Bill List		<u>\$ 16,880.50</u>

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

ROLL CALL:

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

ORDINANCES:

Introduce and Set Public Hearing Dates

O-07-23

Mrs. Flannery read the title of Ordinance O-07-23 for introduction and setting of a public hearing date.

Mr. Urbanski offered the following Ordinance pass introduction and that a public hearing date be set for Wednesday, October 3, 2007:

**O-07-23
STATE FISCAL YEAR 2008
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Governing Body of the Borough of Highlands in the County of Monmouth finds it advisable and necessary to increase its SFY 2008 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of its citizens; and,

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

WHEREAS, the Governing Body hereby determines that a 3.5% increase in the budget for said year, amounting to \$60,834.54 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Governing Body hereby determines that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Governing Body of the Borough of Highlands, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the SFY 2008 budget year, the final appropriations of the Borough of Highlands shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14, be increased by 3.5% amounting to \$212,920.89, and that the SFY 2008 municipal budget for the Borough of Highlands be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of the ordinance upon adoption, with the recorded vote included thereon, be filed with said Director with 5 days after such adoption.

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

ROLL CALL:

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

NAYES: None

ABSENT: Mayor O'Neil

ABSTAIN: None

O-07-24

Mrs. Flannery read the title of Ordinance O-07-24 for introduction and setting of a public hearing date.

Mr. Urbanski offered the following ordinance pass introduction and that a public hearing date be set for Wednesday, October 17, 2007 after publication according to law:

ORDINANCE NOT ADOPTED

O-07-24

AN ORDINANCE OF THE BOROUGH OF HIGHLANDS IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY AUTHORIZING THE CONVEYANCE OF TAX BLOCK 8, LOTS 2 & 2.01 IN THE BOROUGH OF HIGHLANDS, AND AUTHORIZING THE ACCEPTANCE OF AND DEDICATION OF BLOCK 40, LOT 1.01 IN THE BOROUGH OF HIGHLANDS BY THE BOROUGH PURSUANT TO N.J.S.A. 40A:12- 1, ET SEQ. IN CONNECTION WITH THE ROUTE 36 HIGHLANDS BRIDGE CONSTRUCTION PROJECT, AND ALL AGREEMENTS BETWEEN THE STATE OF NEW JERSEY AND THE BOROUGH OF HIGHLANDS IN CONNECTION THEREWITH

WHEREAS, the State of New Jersey and the Borough of Highlands have entered into agreements to facilitate the construction of a new fixed span bridge on Route 36 connecting the

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

Boroughs of Highlands and Sea Bright, which require, among other things, the use of Borough owned property known as Block 8, Lots 2 & 2.01; and

WHEREAS, said premises is encumbered by the NJ DEP Green Acres Program and is subject to a diversion application, which requires, among other things, the replacement of diverted land; and

WHEREAS, the State of New Jersey is the owner of Block 40, Lot 11.01 which is proposed as replacement land, in addition to other significant enhancements to Borough owned park land, as consideration for the conveyance of said land, in whole or part to the State of New Jersey in connection with the aforesaid project; and

WHEREAS, the Borough Council has considered the above and concluded that the dedication of Block 8 Lots 2 & 2.01 to the State of New Jersey, and acquisition of Block 40 Lot 11.01 by the Borough from the State in accordance with the above terms and conditions is in the public interest,

NOW, THEREFORE, BE IT ORDAINED by the Borough Committee of the Borough of Highlands in the County of Monmouth and State of New Jersey, as follows:

1. That the dedication of aforementioned Borough owned premises to the State of New Jersey be and hereby is authorized on behalf of the Borough pursuant to and in accordance with N.J.S.A. 40A:12-1, et seq. NJSA 27:12-4 et seq, inter alia.

2. That the acceptance of the dedication by the State to the Borough of Block 40 Lot 11.01 be and hereby is authorized.

3. That the Mayor and Borough Clerk be and hereby are authorized to execute, accept and record any and all documents necessary to effectuate the above in a form approved by the Borough Attorney, including but not limited to the deeds appended hereto as Exhibits 1,2 & 3.

4. That this Ordinance shall take effect after final and adoption and publication.

Seconded by Mr. Caizza and not approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Urbanski, Mr. Caizza

NAYES: Mr. Nolan, Miss Thomas

ABSENT: Mayor O'Neil

ABSTAIN: None

ORDINANCES:

2nd Reading, Public Hearing, Adoption

Mrs. Flannery stated that Ordinances O-07-11, O-07-12 have been removed from the agenda this evening.

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.

O-07-12

AN ORDINANCE OF THE BOROUGH OF HIGHLANDS ESTABLISHING A NEW CHAPTER XVIII, ENTITLED "WRECKERS AND TOWING", ESTABLISHING LICENSING PROCEDURES, AND REGULATIONS PERTAINING TO OPERATORS

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

**ENGAGED IN THE REMOVAL OF MOTOR VEHICLES, AS AUTHORIZED BY
N.J.S.A. 40:48-2.49**

O-07-13

Mrs. Flannery read the title of Ordinance O-07-13 for second reading and public hearing. The Clerk advises Mr. Nolan that this ordinance was published in its entirety in the September 8, 2007 issue of the Asbury Park Press and may now be open for public hearing:

Mr. Nolan opened the public hearing up for Ordinance O-07-13.

Lori Dibble

Paradise Park – asks why another person on the committee is necessary.

Mr. Manco answers that it is thought to be a good idea so that the members can be more flexible in meetings that could be attended and in obtaining a quorum.

Chris Francy

36 5th Street – Asks if this is a Statutory Committee and about the makeup of the Committee.

Mr. Manco responds that the committee is comprised of the Borough Officials and one Councilperson at this time and explained that the authority to form this committee is in the Statute as to the actual membership of the committee that is discretionary.

Arnie Fuog

50 Valley Street – who is on the Committee?

Miss Thomas explained that the members are in the ordinance which she further explained.

The Governing Body had a brief discussion about the committee with Mr. Manco.

Tara Ryan

17 Ocean St. – with the exception of the town employees she wanted to know if the other members were volunteer positions or a stipend situation.

Mr. Nolan – volunteers

Connor Jennings

27 Ralph Street – asks if the Code Enforcement Officer was on this Commission.

Mr. Manco explained that the Code Enforcement Officer provides the evidence before the board and explained the hearing process for the commission.

Connor Jennings

27 Ralph Street – it seems clear that the process needs to be defined in the ordinance which it is not.

Mr. Manco explained that this ordinance is only one section of the entire section of the ordinance on this matter.

Rosemary Flannery

One Central Avenue – what are the credentials that you are looking for in this volunteer commission.

Mr. Nolan explained that the only volunteers are the borough officials and that all of the other members are paid employee of the borough.

Donald Manrodt

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

268 Bayside Drive – according to law, the Code Enforcement Officer is not a licensed professional in the State of New Jersey, only the Inspectors can condemn a building.

Mr. Manco – that is correct, but this is another process which he further explained.

There being no more questions, Mr. Nolan closes the public hearing.

Mrs. Flannery read the title of Ordinance O-07-13 for the third/final reading and adoption.

Mr. Nolan offered the following Ordinance for adoption and 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.

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

NAYES: None

ABSENT: Mayor O’Neil

ABSTAIN: None

O-07-14

The Clerk reads the title of Ordinance O-07-14 for the second reading and public hearing.

The Clerk advises Mr. Nolan the ordinance was published in its entirety in the August 23, 2007 issue of the Courier and may now be open for public hearing.

Mr. Nolan opened up the public hearing on this ordinance but there being no questions from the public, the public hearing was closed.

Mrs. Flannery read the title of Ordinance O-07-14 for the third/final reading and adoption.

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

Mr. Nolan offered the following Ordinance for adoption after publication according to law:

O-07-14

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

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

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

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

10-9.1 Adoption by Reference.

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

10-9.2 Enforcement.

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

10-9.3 Penalties.

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

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

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

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

ROLL CALL:

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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

O-07-16

Mrs. Flannery read the title of Ordinance of O-07-16 for the second reading and public hearing.

The Clerk advises Mr. Nolan the ordinance was published in its entirety in the August 23, 2007 issue of the Courier and may now be open for public hearing:

Lori Dibble of 32 Paradise Park stated that it is not clear if you are entitled to two collections for your twenty dollars or one collection.

Mr. Urbanski – two with twenty dollars

After discussion of the following ordinance it was offered with an amendment clarifying the payment structure.

Martin Kiely of 39 Shore Drive questioned the intent of the ordinance bypass the stickers you need for disposal of refrigerators.

Mr. Hilling explained that this ordinance is for bulk items such as furniture.

The public portion was closed on this matter.

Mr. Urbanski offered the following ordinance as amended pass introduction and that a public hearing on the amendments be set for Wednesday, October 17, 2007 after publication according to law:

O- 07-16

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

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

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

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

§3-7A.2 Collection of Bulk Garbage

- a. no change
- b. Subsection 2 shall be amended and supplemented in following part only:

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

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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

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

ROLL CALL:

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

O-07-18

The Clerk read the following Ordinance by title:

**O-07-18
AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXII OF THE
REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED
“TREE REMOVAL [ORD. 0-88-20§1]” IN ITS ENTIRETY, AND ESTABLISHING A
NEW CHAPTER XXII ENTITLED, “ENVIRONMENTAL PROTECTION”, AND
MORE PARTICULARLY ESTABLISHING SECTION 22-1 ENTITLED, “TREE
PROTECTION”**

The Clerk advised Mr. Nolan that the ordinance was published in its entirety in the August 23, 2007 issue of the Courier and may now be open for public hearing.

Mr. Manco explained that we put this ordinance in place because we wanted to update our tree removal standards.

Mr. Nolan opened up the public hearing on this ordinance.

Connor Jennings

27 Ralph Street – this is a good start but that he would like to persuade the Council that this should only be considered a start. The ordinance is taken word for word from a Rumson Ordinance and out topography here is different from Rumson's, at least half of our land consists of steep slope or slump blocks so our trees may not be the same as Rumson's. He stated that the ordinance is very hard to read and then stated a list of questions that this ordinance raises. He would like to have an open process for a tree ordinance which involves public hearings that should include tree experts. He then requested a postponement of this ordinance until there is further deliberation on this matter.

Martin Kiely

55 Fifth Street – is there an ordinance in conjunction of this ordinance. He stated that since the trees were removed from Kavookjian Field it always gets water and erosion as a result of the tree removal. He then continued to speak about the hilly topography in the town. He also asked that this ordinance be tabled because it needs to have more thought put into it.

Mr. Urbanski stated that we should be able to have a less complicated ordinance with a better intent.

Miss Thomas – explained Jim Foxx our Shade Tree Commissioner is a tree expert. She also stated that there are a lot of tree removal applications and stated that our ordinance is vague and the penalties are very minimal.

Miss Thomas stated that she will work on another tree ordinance for introduction.

Unidentified Person – can a portion of the ordinance be adopted tonight.

Mr. Manco explained to the council their options and the ability to table the ordinance and amendment. If it is amended tonight then there has to be a public hearing on the amendments.

The council discussed the penalties for cutting down trees without a permit.

Mr. Kiely suggested that this ordinance be tabled.

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

Lillian _____

19 Laurel Drive – spoke about recent tree removal that was not approved.

50 Valley Street – what is happening is people are cutting down the trees on the hillside for views and if they get fined its okay but what is happening is the water won't absorb into the ground and it creates a problem for people down below. Are there ordinances that require that you have to maintain the water onto your own property.

Mr. Urbanski – as a homeowner your liable for your excess runoff.

Michelle Puzzelo

115 Highland Avenue – there are some lots that have houses with trees in the back, are they going to be able to subdivide lots where there are trees in the rear yard and then put in permits to build new homes. Will there be a stop to subdividing and building?

Mr. Manco explained that this is not a land use development ordinance. He stated that anybody can make an application to the Planning Board to subdivide. Tree removal is only part of the development phase and this ordinance would assist the Planning Board for some standards of what can or can't be removed.

There were no further comments from the public.

Mr. Urbanski offered a motion to table this ordinance and return it to the table after amendments have been made:

**NOT ADOPTED
O-07-18**

Mr. Urbanski offered a motion to table this ordinance and return it to the table after amendments have been made:

NOT ADOPTED

O-07-18

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

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

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

22-1.1 Title.

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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

22-1.2 Purpose

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

22-1.3 Definitions and Word Usage.

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

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

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

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

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

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

Ornamental tree. See *Tree, ornamental*.

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

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

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

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

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

Tree shall mean any living deciduous or coniferous (evergreen) tree with a normally anticipated mature height of twenty (20') feet or greater (including, but not limited to: Norway, Red, Silver

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

or Sugar Maple, Sweetgum, London Plane, American Sycamore, White, Red or Pin Oak, American Elm, Yellow or White Poplar, Copper Beech, Cedar, Spruce, Pine, Fir or Hemlock).

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

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

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

22-1.4 Regulated Activity

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

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

22-1.5 Permit Required.

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

22-1.6 Permit Application Procedure.

- a. Application for a tree protection permit shall consist of:
 1. A fully and accurately completed application form provided by the Borough.
 2. A Tree Removal Plan in sufficient detail to identify the nature and limits of all regulated activities including the location, species, diameter and estimated height of all tree removals and the limits of all existing and proposed accessory structures in relations to any removals. All trees described in subsection 22-1.4b,1 or 2 shall be shown on a tree removal plan if construction or any grading activity is proposed within ten (10') feet of the canopy line of such trees. For removals of

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

five (5) or fewer trees on a lot where the principal use is an existing single-family dwelling, the Tree Removal Plan may be provided using a legible sketch, a tax map reproduction, a copy of an existing survey or similar drawing with field measurements and dimensions provided by, the property owner or the owner's agent. For other removals, the Tree Removal Plan shall be prepared by a qualified professional, acceptable to the Tree Conservation Officer.

3. A narrative description of the property owner's reasons for removing the trees, including a description of any alternates considered.
 4. A signed evaluation and recommendation from a tree expert, whose qualifications are acceptable to the Tree Conservation Officer, shall be provided if the reasons for the removal include the removal of dead or diseased trees or a horticulturally advantageous thinning or an overgrown area.
 5. A tree protection permit application fee as set forth herein shall be paid:
 - (a) Ten (\$10.00) dollars for applications proposing removal of five (5) or fewer trees on a lot containing an existing single-family dwelling.
 - (b) One hundred fifty (\$150.00) dollars for other applications proposing removal of five (5) or fewer trees; or
 - (c) One hundred fifty (\$150.00) dollars, plus twenty-five (\$25.00) dollars per tree removed, for all other applications.
 - (d) Fees may be waived or modified by the Borough Council for charitable, public or quasi-public agencies or for eleemosynary institutions or in unusual and exceptional circumstances.
- b. The applicant will place or cause to be placed, in a highly visible manner, a one (1") inch wide yellow ribbon, which may be obtained from the Tree Conservation Officer, around the trunk of each tree to be removed, to aid the Borough in evaluating the proposed removals.
- c. The Tree Conservation Officer may seek the advice of such Borough officials, agencies, committees, boards and commissions, as the Officer may believe necessary in evaluating a permit application.
- d. After evaluation of an application, the Tree Conservation Officer will take one (1) of the following actions within the time set forth:
 1. If the Officer determines that the permit application is incomplete, unclear, inaccurate or otherwise deficient, the Officer shall so advise the applicant and return the permit application within ten (10) days of the date of application. The applicant may revise, supplement and/or resubmit the application, which will then be treated as a new application except no additional fee is required. An applicant may elect not to resubmit a returned application and, in such case, may request refund of fifty (50%) percent and any fee paid.
 2. If the Officer determines that the proposed regulated activity is permitted or prohibited by the standards set forth in subsection 22-1.7 herein below, a permit shall be, respectively, issued or denied within thirty (30) days of the date of application.
 3. If the Officer determines that the proposed regulated activity is restricted by the standards set forth in subsection 22-1.7, the application will be referred to the Planning Board for review and recommendation pursuant to *N.J.S.A. 40:55D-25b(3)* within sixty (60) days of the date of application. The Officer shall issue or deny a permit for a restricted activity within ninety (90) days of the application.
 4. In issuing permits under this section, the Officer may impose reasonable permit conditions necessary to effectuate the purposes of this section.

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

e. Any person aggrieved by any decision taken by the Tree Conservation Officer in the administration and/or enforcement of this section may, within ten (10) days of the date of action of the Officer, appeal to the Planning Board. The Planning Board may establish procedures to hear such appeals and shall render a decision affirming, reversing and/or modifying the decision or action of the Tree Conservation Officer within ninety (90) days of the date of appeal. In hearing such appeals, the Planning Board may seek the opinion of the Shade Tree Committee, the Environmental Commission or any other State, County or municipal agency or official.

22-1.7 Review of Applications.

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

1. Prohibited regulated activities include:

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

2. Permitted regulated activities include:

- (a) Tree removal within a line drawn fifteen (15') feet outside the limits of any existing principal structure or any proposed principal structure for which site plan approval has been granted or a valid building permit or other necessary municipal approval exists.
- (b) Tree removal within a line drawn five (5') feet outside the limit of any existing accessory structure or any proposed accessory structure for which site plan approval has been granted or a valid building permit or other necessary municipal approval exists.
- (c) Any action, including tree removals, required or permitted pursuant to subdivision, site plan and/or variance approval granted by a municipal agency acting under the Municipal Land Use Law and local ordinances.
- (d) Removal of dead, dying or diseased trees or which constitutes a horticulturally advantageous thinning of an existing overgrown area.

3. Restricted regulated activities include:

- (a) All regulated activities, which are neither prohibited nor permitted, are restricted. Applications may propose a combination of prohibited, permitted and restricted activities. In such cases, the Tree Conservation Officer may segregate the activities proposed and take the appropriate action on each type of activity.
- (b) Applications for restricted activities shall be referred to the Planning Board for recommendation to the Tree Conservation Officer.

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

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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

3. Whether the proposed removal would allow soil erosion or increase dust.
4. Whether the proposed removal would constitute a significant change in the screening between existing or proposed buildings on contiguous lots or the aspect of the lot as viewed from the adjacent public road.
5. The overall, effect of removal of such tree(s) on the physical and aesthetic value of the property and the neighborhood.
6. Whether proposed changes to the topography of the area where such tree(s) are located will have a land configuration which shall be deemed injurious to the trees or other trees located nearby so as to require welling, construction of an aerification system, or tree removal or replacement.
7. Whether a mitigation plan is required. The purpose of such a plan shall be the ultimate replacement on the property of the trees being removed, giving due consideration to a reasonable maturity period for new plantings, and the maintenance at all times of at least twenty (20%) percent of the existing trees on a lot in the existing state.
8. Whether alternative plans, which eliminate or reduce undesirable impacts, but provide reasonable use of the property are possible, technically practicable and financially feasible. In particular, the Board will consider if the removal of any specimen trees, which are not significant specimen trees, is unavoidable and whether clear cutting, in excess of twenty (20%) percent of lot area but forty (40%) percent or less of that portion of a lot outside of the limits of removal permitted by subsection 22-1.7a,2 is unavoidable.
9. Whether reasonable application of the standards of this section create a substantial hardship for the applicant, prohibiting reasonable use of the property consistent with the Planning and Development Regulations, and whether, therefore, one (1) or more of the standards should be waived.
10. In appropriate circumstances, an applicant may be required to post performance and maintenance guarantees assuring compliance with the provisions of any tree protection permit and this section and assuring provision of replacement plantings required by any mitigation plan or damaged or removed contrary to the terms of any tree protection permit or this section.

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

22-1.8 Protection of Existing Trees.

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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

activities subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

22-1.9 Emergency Action.

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

22-1-10 Persons Exempt.

This section shall not apply to regulated activities by:

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

22-1.11 Violations and Penalties.

- a. Pursuant to *N.J.S.A. 40:49-5*, any person, firm, association or corporation violating any section of this chapter, shall, upon conviction in the municipal court having jurisdiction, be subject to a fine not exceeding one thousand two hundred fifty dollars (\$1,250.00) or imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding ninety (90) days, or both. Every day of noncompliance with this chapter shall constitute a separate offense and subject to punishment as provided by this section.
- b. Each instance of engaging in a separate regulated activity, including specifically each tree removed, in violation of this section shall be deemed a separate offense.
- c. Furthermore, the Borough may institute civil action for injunctive or other relief to enforce the provisions of this section including requiring the replacement of all trees illegally removed and/or, at the option of the Borough, the payment of a contribution to allow equivalent mitigation on public land. In addition, the remedy provisions of this section shall be cumulative, not exclusive, and the State or any other person shall have the right to proceed under any other legally available remedies, if any.

Seconded by Mr. Nolan and tabled on the following voice vote:

AYES: ALL IN FAVOR
NAYES: NONE

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

ABSENT: MAYOR O'NEIL
ABSTAIN: NONE

O-07-20

Mrs. Flannery read the title of Ordinance O-07-20 for the second reading and public hearing.

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

The Clerk advised Mr. Nolan that this ordinance was published in its entirety on September 8, 2007 in the Asbury Park Press and may be open for public hearing.

Mr. Manco gave a brief description of Ordinance O-07-20.

Mr. Nolan opened up the public hearing for ordinance O-07-20.

Elaine Hoffman

Laurel Drive -requests to know if every residence requires a C of O and expounds on the problems at Shadow Lawn Trailer Park.

Mr. Urbanski explained that there is a list of what has to work for a c/o on the actual c/o application.

Mr. Caizza advised Ms. Hoffman that he will check tomorrow to make sure that C/O's are being issued for the rentals at the Mobile Park.

Unidentified Woman – is the Bed & Breakfast fall under this ordinance.

Mr. Manco – no, this ordinance addresses rooming houses.

The Governing Body had a discussion about this ordinance.

Jim Parla

16 Portland Road – last night the Code Enforcement Officer spoke at our meeting and stated that if you see people living in a space that does not have a c/o people can call him.

Martin Kiely

Shore Drive – requests to know the name of the inspector.

There were no further questions from the public; therefore the public hearing on this ordinance was closed.

Mrs. Flannery read the title of Ordinance O-07-20 for the third/final reading and adoption.

Mr. Urbanski offered the following ordinance for adoption 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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

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.

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.

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

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

NAYES: None

ABSENT: Mayor O'Neil

ABSTAIN: None

O-07-21

The Clerk reads the following Ordinance by title on second reading:

**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
BOROUGH FOR FINANCING PART OF THE
APPROPRIATION**

The Clerk advises Mr. Nolan that this ordinance was published in its entirety in the September 8, 2007 issue of the Asbury Park Press and may now be open for public hearing.

There being no questions regarding this ordinance Mr. Nolan closes public hearing.

Mrs. Flannery read the title of Bond Ordinance O-07-21 for the third/final reading and adoption.

Mr. Nolan offered the following Bond Ordinance for adoption 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
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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

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:

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:

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

**BOROUGH OF HIGHLANDS
MAYOR AND COUNCIL
WEDNESDAY, SEPTEMBER 19, 2007
REGULAR MEETING**

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.

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 therefore 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.

MAYOR AND COUNCIL
BOROUGH OF HIGHLANDS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 19, 2007

SECTION 9:

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. Caizza and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSENT: Mayor O'Neil

ABSTAIN: None

O-07-22

The Clerk read the following Ordinance by title on second reading.

Mr. Nolan opened the ordinance for public hearing.

Brian Cobb

11 Recreation Place – questioned the legal definition of rehab facility.

Ms. Thomas stated that this is a great ordinance but that it should be under the Zoning Ordinance.

Mr. Urbanski – the timing wasn't right, it was the Council's attempt that we don't want to accept a rehab and it should be a Zoning Ordinance but time was of the essence.

Mr. Manco – we can visit it as a Zoning Ordinance as well.

Brian Cobb then made several suggestions for amendments to be made in wording of this ordinance and requested that the borough amend the ordinance or table it.

Martin Kiely

Shore Drive – believes that if the Council changes the wording to meet Mr. Cobb's recommendations it would be against the law for referring to a specific business.

Arthur Gallagher

224 Linden Avenue – urged the Council to put this ordinance through as soon as possible and to make any amendments later.

Jane Horan

MAYOR AND COUNCIL
BOROUGH OF HIGHLANDS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 19, 2007

212 Linden Avenue – other towns list specific businesses and she does not feel that this ordinance is any different than the other towns.

Pauline Jennings

27 Ralph Street – complimented the Governing Body for entertaining this ordinance.

Rosemary Flannery

One Central Avenue – how did this application come to Highlands.

Mr. Nolan stated that he does not believe that it is appropriate for the table to speak about any site specific application.

Brian Cobb

11 Recreation Place – he has no problem with this going through tonight but the town does need to address the usage.

There being no further questions, Mr. Nolan closed public portion.

Mrs. Flannery read the title of Ordinance O-07-22 for the third/final reading and adoption.

Mr. Nolan offered the following ordinance for adoption 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**

a. Location

MAYOR AND COUNCIL
BOROUGH OF HIGHLANDS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 19, 2007

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 than \$500.00 nor more than \$1,000.00, for each day the violation persists.

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

ROLL CALL:

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

OTHER BUSINESS:

Board Engineer Report

Catherine Britell, Borough Engineer gave the engineer's report:

MAYOR AND COUNCIL
BOROUGH OF HIGHLANDS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 19, 2007

Community Center Playground/Sports Courts Improvements: Contract has been awarded. Site construction is underway. Substantially complete by 10/1/07.

NJDEP Stormwater Management Regulations: The Borough is currently working to correct all deficiencies

S. Bay Ave Pump Station: Repairs completed as outlined in proposal dated 5/3/07. This work only resolved a portion of problems. Pumping Services has been requested to submit an additional proposal outlining the necessary work of the control panel.

Valley Avenue Sewer Repair: PMK has been authorized to perform subsurface investigation and develop a recommendation for permanent slope stabilization. The report has been submitted and being reviewed.

Sanitary Sewer Investigation at Waterwitch Avenue and Route 36: The NJDOT has issued a permit for the traffic control plan. Videotaping is being scheduled.

Valley St. Pumpstation Rehab: EDC has been awarded the project. Pump is on-line and operating. Final punch list inspection has been performed and some items require attention.

2006 Road Program: A. Montone has received award. Project is substantially complete.

Washington Avenue Phase II: Survey work is complete. Project is in design.

Basin Eight Sanitary Sewer Rehab: A preconstruction meeting for Proposal B was held on 9/13/07. Other portions of the project are underway.

Basin Two Sanitary Sewer Rehab: Investigation of work associated with this has begun. Draft report has been completed.

FY2008 Community Development Block Grant: Has been completed and submitted. Request is for installation of emergency generators at Waterwitch Pump Station and South Bay Avenue Pump Station.

FY20087 NJDOT Municipal Aid: As requested we have prepared an application for Highland Ave. between Portland and Valley. Also Valley between Highlands and the terminus and Shore Drive between Miller and Waterwitch.

Rural Development Program: formerly FHA Grant Program is possible source of funding for sewer rehab.

PUBLIC PORTION:

Mr. Nolan opens the meeting to the public:

Arnie Foug
50 Valley Street – wanted to know if the Firehouse project was finalized.

Ms. Britell – they do have their C/O but they are involved in litigation.

Mr. Manco stated that this matter is being handled by Special Council with regard to the Fire House.

MAYOR AND COUNCIL
BOROUGH OF HIGHLANDS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 19, 2007

Arnie Foug – when will the punch list be completed for Valley Street.

Ms. Britell – we don't have a set date.

Mr. Urbanski spoke further about the Valley Street project.

Martin Kiely

55 Fifth Street – questioned the borough about the closing out process for borough projects and Ms. Britell explained the process to him. He questioned illegal dumping of soil with regard to the Fire House Project and requested that Ms. Britell fix this problem, Ms. Britell stated that she would look into it. Mr. Kiely also stated that the Borough Engineer should be present to oversee borough projects to make sure things are done correctly.

Donald Manrodt

268 Bayside Drive – questioned the Basin 8 job property owner notification and stated that six houses on Bayside Drive did not receive notices that work was going to be started.

Ms. Britell stated that she will look into this.

Rosemary Flannery

1 Central Avenue – we received notices yesterday stating that the work was going to be postponed till tomorrow for the shutting off of the water. She expressed her frustration that the closing of her street was not mentioned in the work notice.

Martin Kiely

55 Fifth Street – asked the engineer if there is anything planned for energy efficient street lighting. Ms. Britell stated that she is not aware of any such plan.

Arnie Foug

50 Valley Street – with regard to the new man hole covers by Paradise Park, he wanted to know if there was a new sewer line put in. Ms. Britell stated that she would have to check into that but she does not believe that there was any new piping put in.

Martin Kiely – stated that lower Scenic is still closed and wanted to know if that was on the Highlands side.

Mr. Caizza – that is the Atlantic Highlands side which he further explained.

Mrs. Flannery announced that on October 21, 2007 the annual Cancer Walk will be held and there is a request for the Borough to supply the water again. The Governing Body did not object to the supplying of the water.

Roberta McEntee

Fifth Street – wanted to say that employees of the AHHRSA did a terrific job yesterday putting in the new pumps and how they discovered a major leak.

Roberta McEntee – stated that Honey Suckle wants the Council to consider letting one owner to become a voter in Highlands.

Mr. Nolan explained that they would have to be a registered voter in order to vote at an election.

MAYOR AND COUNCIL
BOROUGH OF HIGHLANDS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 19, 2007

Roberta McEntee stated that today she saw the DPW picked up a lot of large bulk items at 22-24 Fifth Street and it really bothered her that the Tax Payers are paying for the removal of all of their items.

Mr. Hilling explained that the position of the town is that we are trying to clean up the town.

Jim Parla

16 Portland Road – questioned Ms. Thomas for voting no on the payment of bills.

Ms. Thomas explained her vote as being because her business was on the payment of bills.

Jim Parla

16 Portland Road – questioned Mr. Urbanski's no vote on the Code Enforcement appointment.

Mr. Urbanski explained that he can't support the individual.

Maureen Kraemer

200 Portland Road – stating that she does not feel safe because individuals are having sex on her dock in the middle of the night; she was advised that there are people living on the beach and in a car. She also is concerned with reports of burglaries. When is someone going to start doing something about these issues?

Mr. Urbanski spoke about the homeless people and the fact that there are ordinances in place to clean up the town and the borough employees need to enforce the laws and ordinances.

Maureen Kraemer

200 Portland Road also questioned the fact that the Convent at OLPH is being removed for parking and she wants to know why. She also wanted to know if she could obtain arrest information from the Police Department.

Mr. Nolan's stated that they will try to have some sort of report at the next meeting.

Arnie Foug

50 Valley Street – there was a letter from the Housing Commission sent to the Governing Body a couple of weeks ago and he wanted to know if the Council has a response.

Mr. Nolan advised Mr. Foug that the Council spoke about this matter in Executive Session this evening and it is being addressed.

Tara Ryan

17 Ocean Street – spoke about the bridge project and the Council supporting a fixed span bridge and stated that she does not want the Council to support the bridge but if they have to can't they ask for a different design because that design is not appropriate for this town.

Lori Dibble

32 Paradise Park – wanted to speak about the fact that both of the property owners of the two Mobile Parks have made it apparent that they want to close the parks. The land owners have been purchasing the homes and depopulating the parks. She wants Council to be aware of this and to protect the residents and wants to see a protective Rent Control Ordinance.

MAYOR AND COUNCIL
BOROUGH OF HIGHLANDS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 19, 2007

Pauline Jennings

Ralph Street – questioned the process for assessing the Mobile Parks.

Martine Kiely questioned the Council about the recent tax appeal decision about the one mobile park.

Mr. Urbanski stated that he was made aware of this about two weeks ago.

Michelle Puzzelo

115 Highland Avenue - wanted to know how a resident could get to know each of the members of the Governing Body.

Mr. Nolan – stated that he has his cell phone and email address available.

Rosemary Flannery

1 Central Avenue – suggested that contact information for the Council should be available on the website.

Martin Kiely

55 Fifth Street – questioned the County Open Space hearing and questioned obtaining a copy of the application.

The Meeting adjourned at 10:30 P.M.

NINA LIGHT FLANNERY, BOROUGH CLERK