

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

This Meeting was held at the Community Center located on Snug Harbor Avenue, Highlands.

Mr. Nolan called the meeting to order at 7:15 P.M.

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

Mrs. Flannery – Mr. Nolan will chair the Meeting until the Mayor arrives.

Roll Call:

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

Absent: Mrs. Burton, Mayor O’Neil

Also Present: Nina Light Flannery, Borough Clerk
Bruce Hilling, Borough Administrator
Dominick Manco, Esq., Borough Attorney
Stephen Pfeffer, CFO

Executive Session Resolution

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:

1.Litigation: RE: Shadow Lawn; Goldman Property; Kovic/Bahrs v. Borough/Mullen

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:

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

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

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

ROLL CALL:

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

NAYES: None

ABSENT: Mrs. Burton, Mayor O’Neil

ABSTAIN: None

The Governing Body then entered into Executive Session.

Mayor O’Neil called the Regular Meeting back to order at 8:17 PM.

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

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Roll Call:

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

Absent: Miss Thomas

Also Present: Nina Light Flannery, Borough Clerk

Public Hearing SFY 2008 Municipal Budget

Mayor O'Neil opened up the public hearing on the SFY 2008 Budget.

Mr. Pfeffer explained that tonight the budget is up for adoption for the fiscal year 2008. This Borough budget runs from July 1st and ends on June 30th. This year the budget is about 3.7% higher than last year. The increases are pretty much across the board. The biggest increases are in our pensions systems which he further explained. Our tax increase on the next billing will be approximately 2.4 cents. Over the course of time that he has been here he would say that over the last five years at least we pretty much stabilized from situations in the past where we have gone up .25 to .30 cents at a time. He then spoke about how we have stabilized the budget and spoke about our tax collection rate and revenues. He stated that the council over the course of time has limited our debt service and being very pro active on paying down our debt service. We are now operating under a new Levy CAP law that came into effect and he stated that we are well under the Levy CAP. At this time he opened up to the public for questions.

A member of the audience speaks about the budget but it was not audible.

Mr. Pfeffer explained that the school taxes are not part of this budget, they are a separate entity and we don't have anything to do with that budget. The schools represent 28% of your tax bill which is listed on the County Tax Certification.

_____ of 1 Scenic Drive – stated that the taxpayers of Highlands have an opportunity to vote on their school budget.

Mayor O'Neil – the school budget is 28% of the budget and it's the lowest turnout for voters and this council has gone through it getting voted through and voted down.

John _____ questioned the miscellaneous revenues in the budget and surplus items.

Mr. Pfeffer explained that the miscellaneous revenues in the budget are things like court fines, interest on investments, permits and fees, licenses fees, interest on delinquent taxes, state aide. Those are the main components of miscellaneous revenues. He explained that the surplus is a combination of many factors. There could be excess revenues which he explained as revenues over and above what we anticipated that we would get an example would be added assessment taxes for new construction.

_____ questioned if the mudslide is driving the budget.

Mr. Pfeffer explained that about five years ago we did have one slide that we had to have a special emergency for and raised that money over five years.

John _____ wanted to know if there was a breakdown of the surplus.

Mr. Pfeffer – yes there is which he further explained. He stated our Municipal Auditor is O'Neill & Lang who were appointed by the Governing Body.

_____ asked if the Auditor Position goes out to bid.

Mayor O'Neil explained that that it doesn't.

Mr. Pfeffer explained the process for awarding professional services contracts.

There were no further questions from the public; therefore Mayor O'Neil closed the public portion.

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Mrs. Flannery stated that on for third and final reading at this time is SFY 2008 Municipal Budget.

Mr. Pfeffer then read the following Resolution for adoption of the SFY 2008 Budget:

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INSERT BUDGET RESOLUTION
HERE

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Consent Agenda Resolutions

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

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

**R-07-201
RESOLUTION REGARDING APPOINTMENT OF
RECREATION DEPARTMENT EMPLOYEES**

WHEREAS, construction and remodeling of the Robert D. Wilson Community Center is concluded; and

WHEREAS, community programs have commenced at the community center; and

WHEREAS, Timothy Hill, Recreation Director has recommended to the Governing Body the staff that he feels is required to operate the programs at the center; and

WHEREAS, the Governing Body is in agreement with Mr. Hill's recommendation;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the following persons be appointed to the positions and salaries set forth below:

Recreation Leader	Bernadette Conte	\$10.00/hr.
Recreation Aide	Amanda Campbell	\$ 8.00/hr.

BE IT FURTHER RESOLVED that all positions are part-time at 20 or less hours per week and that all appointments are effective December 20, 2007.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

**R-07-202
RESOLUTION - COMPESATED ABSENCE-RETIREMENT**

WHEREAS, Elizabeth Searcy has been employed by the Borough of Highlands as Municipal Court Administrator since May 25, 1981; and

WHEREAS, it is anticipated that Elizabeth Searcy will retire on or about December 31, 2007 ; and

WHEREAS, Elizabeth Searcy is entitled to compensated absence benefits for her accrued vacation time of 264 hours equating to \$6,606 and accrued sick time of 613 hours equating to \$15,339 for a total of \$21,945 as of December 15, 2007; and

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

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

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NOW, THEREFORE, BE IT RESOLVED the Governing Body of the Borough of Highlands that subject to the certification of funds availability by the Chief Financial Officer, that Elizabeth Searcy receive the aforementioned compensated absence benefits less any accrued time if utilized before Elizabeth Searcy's retirement.

Certification of Funds: Trust Fund – Reserve for Accumulated Leave and Municipal Court Salaries & Wages

Stephen Pfeffer
Chief Financial Officer

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

ROLL CALL:

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

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

**R-07-203
RESOLUTION
RENEWING 2007-2008 LIQUOR LICENSE
FOR LICENSE NO. 1317-33-005-001
THE CHART HOUSE**

WHEREAS, Liquor License Renewal Application was filed for the year 2007-2008 on time for Liquor License 1317-33-005-001, The Chart House; and

WHEREAS, no objections were filed against the renewal of said liquor license:

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the Chart House Liquor License No. 1317-33-005-001 be renewed for the period of July 1, 2007 to June 30, 2008:

Seconded by Mr. Nolan and adopted on the following Roll Call Vote:

ROLL CALL:

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

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

**R-07-204
RESOLUTION
APPOINTING TEMPORARY PART-TIME
SECURITY ATTENDANT (RECYCLING YARD)**

WHEREAS, due to the resignation of Charles Luke there is a need for a replacement Security Attendant at the Recycling Yard; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that Barry J. McKellar is hereby appointed Temporary Part-Time Security Attendant for the Recycling Yard.

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BE IT FURTHER RESOVLVED that this appointment be effective immediately and compensation shall be as set forth at \$9.00/hour and the hours per week shall not exceed 25.

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

ROLL CALL:

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

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

**RECAP OF PAYMENT OF BILLS
12/19/07**

CURRENT:		\$ 591,755.48
Payroll	(12/15/07)	\$ 125,923.89
Manual Checks		\$ 25,459.16
Voided Checks		\$
SEWER ACCOUNT:		\$ 1,422.77
Payroll	(12/15/07)	\$ 6,057.48
Manual Checks		\$ 752.73
Voided Checks		\$
CAPITAL/GENERAL		\$ 6,535.13
CAPITAL-MANUAL CHECKS		\$
WATER CAPITAL ACCOUNT		\$ 80,550.00
TRUST FUND		\$ 28,796.71
Payroll	(12/15/07)	\$
Manual Checks		\$
Voided Checks		\$
UNEMPLOYMENT ACCT-MANUALS		\$
DOG FUND		\$ 42.60
Voided Checks		\$ - 43.60
GRANT FUND		\$ 717.00
Payroll	(12/15/07)	\$ 829.36
Manual Checks		\$
Voided Checks		\$
DEVELOPER'S TRUST		\$ 34.75
Manual Checks		\$ 2,098.95
Voided Checks		\$

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

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

ROLL CALL:

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

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Ordinances: 2nd Reading, Public Hearing and Adoption

Ordinance O-07-07 Amendment to the Zoning Ordinance

Present: Edward McKenna, Esq. Council for the Borough of Highlands

Mr. McKenna stated that he is an attorney and stated that his purpose in being here this evening is representing the Borough of Highlands as Special Council with regard to this ordinance. He then gave the public a procedural history of this ordinance. This ordinance was originally introduced and a public hearing scheduled for September 5, 2007 unfortunately at the time the public notice was deficient. As a result of that any action taken by the Council at the meeting of September 5, 2007 the Council had no jurisdiction to act on the ordinance because of the notice deficiency. So the purpose of tonight's hearing is to clear that defect to have an appropriate hearing on this ordinance. A law suit was filed against the Borough alleging those facts that the action that took place on September 5th was deficient and that the borough was required to renotice and have a vote on this ordinance. We have engaged to represent the Borough in that law suit. We have a document which is an extension of time to answer it. So the lawsuit has not proceeded at this point, we have an extension of time to answer on behalf of the Borough of Highlands. In the event that the Council acts on this ordinance tonight they may or may not resolve the lawsuit. In addition to that there are several developments that occurred. We have in fact renoticed everyone as required by Statute and that notice has been reviewed as far as the proper property owners by the Borough Engineer and the Borough Tax Assessor and has been certified by both. So any and all of you that received a notice whether you are here or not, you received a new notice as required by New Jersey Law. So the notice that was sent to you was notice that was required for the few of you that didn't receive a notice the first time but have been notice this time is because of the revised list. In addition to that there is a law firm that has been retained by one of the property owners who has taken a legal position that the legal position is that the action of the Council back at Sept. 5th was fourth and final and should be considered as such and he strongly disagrees with that position and it's his position that we are required by law to provide property notice and that now has been done and it's his opinion that any action taken back on September 5th was inappropriate because we did not have jurisdiction to act because we did not provide adequate notice. He continued to discuss his legal opinion as to the actions taken with regard to O-07-07. He stated that the purpose of tonight's hearing is to have the Council act on the ordinance and to cure the legal defects that took place prior to September 5th. Just as the vote shouldn't have counted on September 5th the public hearing likewise should not have closed on Sept. 5th. So it's his legal opinion that the public will be heard this evening. He then went over the ground rules for tonight's hearing. He also spoke about a petition that was previously at the time of the last hearing, that petition was inappropriately calculated and because it was submitted in conjunction with the meeting that was improper that was found to be null and void. However a new petition has been received by the municipality. It was received on Monday and he has had an opportunity to review it and he has spoken to the Borough Engineer and he and I will confirm and certify the validity or non validity of that petition to the Borough Clerk which he further explained. If the petition is deemed to be legitimate that requires a super majority vote of the Council, so if the petition is certified as being proper that will require four affirmative votes for the ordinance to pass under New Jersey Law. In the event the petition is deemed to be not proper and is not certified then the required number of votes is a simple majority which is three votes. He has advised the Council to act this evening one way or the other and vote and in the event that the ordinance is passed by a five/zero vote the petition is irrelevant. If the ordinance is passed by a four/one vote the petition is irrelevant. If the ordinance is passed by a three/two vote the petition is very relevant and that's why we will examine the contents of the petition to determine its validity. Depending on what their vote is that may or may not be the end of this. If the ordinance is voted down then that may or may not be the end of this. If they vote the ordinance down then the petition becomes irrelevant. He then stated that everyone will get one opportunity to speak for three minutes during the public portion. He was contacted by an individual who indicated that they intend to bring a Professional Expert to testify this evening on environmental issues. He has advised the Council that that would be inappropriate for consideration at this stage of the proceedings which he further explained. He then opened up the public portion of the hearing on Ordinance O-07-07.

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Lord _____ of the Borough of Atlantic Highlands stated that he is a Councilman of the Borough of Atlantic Highlands and stated that the Borough of Atlantic Highlands unanimously passed a Resolution a few months ago opposing the development, the change of the ordinance which he then read to the Council.

Elaine Hoffman of Laurel Drive stated that the slump factor is still a factor and it is still going to affect everybody. She stated that she did not receive public notice and spoke against this ordinance.

John _____ of 15 Huddy Avenue – how do we know that this is the final vote on this matter and he described his frustration with this process.

Mr. McKenna explained that the Borough is being sued because of a procedural defect as far as the meeting of September 5th. In order to cure that and avoid enormous legal fees for this municipality then his recommendation to the Council is to cure that defect and to hold tonight's hearing.

Arnold _____ of the law firm of McCuva McCuva in Red Bank, NJ stated that he represents Pauline Jennings of 27 Ralph Street. He is also from the offending law firm that sent a letter respectfully disagreeing with Mr. McKenna's position and some point that may become an issue. He stated that the original petition was filed with the Borough on Highlands on June 18th and the Borough Clerk ruled that the petition was valid. With all due respect to the Council, there was no challenge to that petition of any kind until a complaint was filed on October 22nd. It is my client's positions that this Borough Clerk and this Borough Council certified that petition as valid, that has a presumption of validity and there has been no hearing on why that petition isn't valid. We heard tonight that there may have been forged signatures.

Mr. McKenna – the reason that the petition was invalid was the method of by which the validity of the petition was flawed. He then referred to a Dinky Woods Case Decision which he further explained that owners of 20% of the land that surrounds the property to be rezoned must sign the petition. The law as it is now if you have one property owner that owns 20% of the land that surrounds the property that is being rezoned then that one property owner can file a valid petition. If you had 100 property owners that owned 15% of the land it doesn't matter because they only own 15% of the land therefore that petition would be invalid. The method here is to calculate the petition that 20% of the property owners, not the owners of 20% of the land. So that itself is a deficiency which he further explained.

Arnold _____ - he agrees with the comments of the Dinky Woods Case but his problem is procedurally he doesn't think that anyone had any reason to believe that the first petition was invalid.

Mr. McKenna – this issue was raised by the applicant's attorney well before tonight's hearing.

Arnold _____ stated that there is a new petition which will well exceed the 20% requirement. He then asked that the new petition be looked at clearly. He stated that the ordinance was defeated on Sept 5th and there has only been 12 days notice for this hearing and maybe this wasn't the best time to do this. He stated that he did have a witness that he wanted to call but he does understand McKenna's ruling but does disagree in that this ordinance will allow 180 story towers and he feels that some testimony with respect to geo and soil issues are pertinent.

Louise Davis of 1 Scenic Drive – stated that she wanted the vote to be held tonight and spoke about the petition and stated that she wanted responsible development of all properties. We don't have a steep slope ordinance and it would be germane to her to do this before a steep slope ordinance. She asked the Council to take their time on this and look at other options. There are people in the petition that have said that we don't want this.

Janet Peterson of 55 Portland Road – fiscal impact statement filed by Mr. Gelber and how he is promising the town three million dollars in revenue a year and that is probably a motivation and then she commented on Mr. Gelbers figures and how they overstated the values of the units.

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Chris Francy of 36 Fifth Street stated that this ordinance is moving forward in a manner that does not make any sense since there is time to do it over, your rushing with the petition and trying to get this done before the end of the year and considering the impact of this on the town, that's a small price to get it right. You're not consistent with the Master Plan, there is no concern for the recommendations in our Master Plan. You don't consider that ridge line or the 14 acres for density and we shouldn't consider high density development in general. The Master Plan says don't do this which he further explained. The Planning Board hearing that was held on this is the reality was no discussion on how it was positive. He then asked if the first petition is still valid if the signatures are of 20%.

Mr. McKenna – in his opinion you need a new petition because you need a new hearing which he further explained to Mr. Francy. He also explained that there is a pending lawsuit against the borough and that by having this hearing and taking the vote it will cure the defect in the lawsuit.

In audible name and address – the biggest obstacle for the developer is the rezoning. He expressed his frustration with only receiving 12 days notice and giving them only 12 days to get another petition. He then spoke about property lines.

Don Manrodt of 268 Bayside Drive – I don't like this tonight because I don't know what the vote is going to be. We have a petition here and he wants to know ahead of the vote what the required vote is and requested that the vote be postponed until the petition is certified. The hill is not stable and there is oil and gasoline coming out of the hill and this should be looked into before you even start to think about building up there. This is the first time that the Planning Board did not have a public portion and this vote tonight should be put off.

Chris Garniss of 1122 Route 36, Atlantic Highlands stated that he was one of the people who walked around with the petition and stated that the wording on this petition was “do you disagree with changing the zoning” and he wanted to know if this petition and why this petition wouldn't apply to future zone changes.

Mr. McKenna – the simple answer is unless there is a new rezoning of the property then no you would not. If it's a total new rezoning that qualifies under the law to provide public notice within 200 feet then yes you would have to get another petition which he further explained. A petition has to be hearing specific because people on the petition may change their minds, people may no longer own the surrounding property.

Stacey _____ of 37 Twin Lights Terrace stated that by passing this the Council is sayings that infrastructure of the town and the sewer system can support it but every year we have expenses because our sewer system can't handle capacity now. Does that mean that we have to pay millions of dollars for all of the additional work that is going to have to be done.

Mr. McKenna explained that in an event that the municipality passes an ordinance to permit a use, when the applicant comes before the municipality and the applicants use creates a significant increase on the infrastructure of the town you can charge those additional costs to the applicant which he further explained.

Stacey _____ - questioned the relocation language and wanted to know if that applied to people who own and rent and what is final approval.

Mr. McKenna explained that the State Statute deals with the relocation and this ordinance is stronger than the State Statute and he believes it applies to both owners and tenants which he further explained. Final approval would be final approval by either the Planning or Zoning Board.

Stacey _____ please listen to the residents.

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Connie Stogert of 1 Scenic Drive – she questioned the affordable housing requirements and wanted to know if that has been considered. She then expressed her concerns with the ordinance and believes that this is spot zoning.

Carl _____ of Bayside Drive questioned if the certification of the petition and he believes that before the vote is taken that people like himself who are subject to the condition of the hill are entitled to have a complete report by the EPA and environmental study. It's just breaking up our hill and he spoke about how fragile the hill was.

Jet Chamberlin of 3 Ralph Street – his concern is the Master Plan regarding the hill top and the ridge line.

_____ of Atlantic Highlands – disagrees with Mr. McKenna statement that the environmental testimony has no place in this hearing which she further explained. She then spoke about slump block reports of this area and how heavy weight on top of slope shouldn't be. She asked that the Council to please vote "NO" on this zone change.

Greg Wells of 246 Bayside Drive – questioned the Borough Administrator about environmental testing of the Bayside Drive hill.

Mr. Hilling explained that we had two tests done and we have a copy of that report. He also stated that the Council have not reviewed that report yet.

Greg Wells questioned why the Council would vote on this without reading the soil report.

Mr. McKenna explained that in any event of a zone change that in itself does not mean that something can be built in violation of DEP Regulations or EPA Regulations which he further explained.

Greg Wells – wouldn't it be responsible for us to wait a week or a month to see what the results of the report are.

Mr. McKenna explained that the Council has other business to address tonight so we are going to take two more speakers.

Eve _____ of 53 Cedar Street stated that she relocated here from Los Angeles and in the last 10-years they changed ordinance and increased density and the problem is that the infrastructure just doesn't support it. Right around the area that you are proposing this change there are one way streets and from experience you will end of with traffic jams. She stated that the owner of the Mobile Park is going around to the 20% property owners and attempting to buy them out.

Delores Francy of 36 Fifth Street – the public has been pushed around and stated that this should be postponed. She spoke about the Master Plan and stated that it was adopted in November 2006 and in December 2006 this plan was submitted. She then spoke about the process and procedures being thrown out for one person. She spoke about the slump block and landslides and spoke against this ordinance.

Mr. McKenna explained that we had a hearing tonight for one and a half hours.

The public wanted one more speaker to be allowed to speak for the public.

Connor Jennings of 27 Ralph Street – spoke about the ground rules for this hearing and stated that McKenna never mentioned a cut off limit. He spoke about the insinuations of forged signatures and asked if Mr. McKenna ever verified this with any of the witnesses. The petition was recalculated in access of the 20% of the area. He spoke about the notice being deficient for the Sept. 5th meeting. He wanted to introduce an aerial photograph of the proposed site and the superimposed on the photo

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are the slump blocks which he further explained and asked if they really wanted two high rise buildings on a slump block. He asked the council to think again.

Mayor O'Neil closed the public portion.

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

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

O- 07-07

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

Additions noted by underline. Deletions noted by strikeover.

NOW, THEREFORE, BE IT ORDAINED THAT SECTION 21 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS BE AND HEREBY IS AMENDED IN FOLLOWING PART ONLY:

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

1. Permitted Uses:

Mobile Homes, in a mobile home park only.

2. Permitted Accessory Uses"

Utility Buildings incidental to residential use

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

Tennis courts

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

3. Conditional Uses.

Satellite Dish Antennas

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

4. Relocation Rights and Non-severability

Any approval for development in the MH Mobile Home Residence District Zone, which results in the retirement of the Mobile Home Park or the removal of any residents of the Mobile Home Park shall contain a condition that the applicant shall provide proof, to the satisfaction of the Board of Original Jurisdiction, that adequate private residential

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

Section 21-97 Conditional Uses

Add new Subsection to existing text:

I. Multi-Family developments in the MH Zone

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

1. Density shall not exceed 20 dwelling units per acre.
2. Minimum lot size: 10 acres
3. Minimum front yard: 100 feet to a principal building
4. Minimum side yard: 60 feet to a principal building
5. Minimum rear yard: 60 feet to a principal building
6. Minimum Buffer area along any property line: 25 feet. Driveways and sidewalks shall be permitted to cross buffer areas to provide access to streets and adjacent properties. Pedestrian paths shall be permitted within buffer areas. Development identification signs and gatehouses shall be permitted in buffer areas within 75 feet of driveway entrances providing access to a public street.
7. maximum building coverage: 25 per cent.
8. Maximum lot coverage: 50 per cent.
9. Maximum FAR: 1.50
10. Maximum Height:
 - a. Residential buildings: 180 feet, not including the height of attached parking structures. The height of residential buildings shall be measured from the floor of the building lobby or the first level that contains dwellings, whichever is lower. Elevator shaft may exceed this limitation by no more than 15 feet.
 - b. Structured parking: 45 feet. Parking structures may be located underneath and /or adjacent to residential buildings.
 - c. Recreational facilities and other accessory structures: 25 feet.
11. Accessory Structures:
 - a. Recreational facilities. Recreational facilities shall be provided for the use of residents of the multi-family development. Such facilities shall be setback a minimum of 50 feet from any property line.

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b. Signs. Development identification signs shall be permitted adjacent to the main entrance of a multi-family development. Such signs shall either consist of a monument sign or be mounted on a freestanding wall. The maximum number of signs shall be two faces on a monument sign or two wall-mounted signs. The maximum area per sign face shall not exceed 100 square feet. A development identification sign shall be setback a minimum of 5 feet from any property line.

c. A gatehouse or similar structure shall be permitted within 75 feet of driveway entrances providing access to a public street. Notwithstanding anything contained herein to the contrary, all ordinances inconsistent herewith are expressly repealed to the extent of such inconsistency.

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

ROLL CALL:

AYES: Mr. Nolan, Mrs. Burton (She gave a Statement), Mayor O'Neil
NAYES: Mr. Caizza, Mr. Urbanski (With an Explanation)
ABSENT: None
ABSTAIN: None

Mr. McKenna explained that he and Mr. Bucco, the Borough Engineer will review the petition and that it is not something that is going to drag on for a long period of time but they are going to do it right. He then advised the public that they may receive a call for a copy of their deed and asked for the public to cooperate.

Elaine Hoffman questioned the petition requirements.

Mr. McKenna explained the law regarding petitions. He stated that he and the Borough Engineer will do the examination of the petition and then reach a conclusion and then ask the Borough Clerk to either certify it as valid or not valid. He believes that this process should take about 30-days.

_____ - asked if there will be a public format of the conclusion of the petition.

Mr. McKenna – I will make that determination.

The Governing Body took a brief recess at 10:03 P.M.

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Mayor O'Neil called the Regular Meeting back to order at 10:14 P.M.

Roll Call:

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

=====
Other Business

Borough Engineer Status Report

Catherine Britell, P.E. of T & M Associates gave the following status report:

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Re: Engineer's Status Report

December 14, 2007

General

1. **Community Center Playground/Sports Courts Improvements:** A contract was awarded by the Governing Body to Whirl Construction for the base bid and alternate bids 1-3. The final punchlist items have been addressed but require additional attention. Therefore, the project will remain open until the outstanding items are attended to.
2. **NJDEP Stormwater Management Regulations:** As previously stated, we have responded to a violation notice submitted by the NJDEP pertaining to stormwater compliance via discussions and correspondence. The Borough is currently working to correct all deficiencies including the erection of a salt storage facility.
3. **South Bay Avenue Pumpstation:** The remaining pump failed October 26, 2007. As such, Pumping Services removed both pumps to further evaluate and repair them. In the interim, they have installed a temporary system to keep the station operational. The Borough has since contracted with Pumping Services to supply and install the replacement pumps for this facility. Further, as requested, we are researching prior projects and evaluating the current condition of the pumpstation in an effort to develop a complete rehabilitation project for the same.
4. **Sanitary Sewer Investigation at Waterwitch Avenue and Route 36:** We have prepared a traffic control plan for consideration by the NJDOT for a Utility Opening Permit. Once the permit is obtained, we intend to perform two small spot repairs to the sanitary sewer main as a part of the Basin 8 rehabilitation project.

Capital Improvement Projects

1. **Valley Street Pumpstation Rehabilitation Project:** The project has been awarded to EDC Electrical Contractors. The pump is currently on-line and has been operating as necessary. We have performed a final punchlist inspection and found that the outstanding items have been satisfactorily addressed. As such, we are currently completing the final project closeout documentation. In the interim, we have been informed by the Borough that the floats may still require additional adjustment. As such, we are investigating this matter and will respond accordingly.
2. **2006 Road Program:** The project has been awarded to A. Montone Construction. The project has been substantially completed and the final punchlist items are currently being addressed. Final NJDOT project walkthrough has been held on Washington Avenue Phase I and has been approved as constructed. The Contractor was onsite on December 14, 2007 to address the final punchlist items on Miller Street.
3. **Washington Avenue Phase II:** The Contract was awarded to F&P Construction, South Amboy, NJ. Although we intended to construct the project this year, recent inclement weather has not provided an opportunity to do so. As such, the project will be constructed in the spring of 2008.
4. **Basin Eight Sanitary Sewer Rehabilitation Project:** The majority of the project has been completed for all three portions. The Contractor for Proposal "A" has completed their portion of the project and the Contractors for Proposals "B" and "C" are currently completing final punchlist items.
5. **Basin Two Sanitary Sewer Rehabilitation Project:** The report has been finalized and sent to the Borough for review. As requested, we have submitted a proposal for consideration by the governing body to design a project to implement the

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recommended improvements outlined in the report and provide contract administration services for the same.

Grants and Loans

1. **FY2008 Community Development Block Grant:** We have completed and submitted the grant application for the above program. The grant request is for the installation of emergency generators at the Waterwitch Avenue and South Bay Avenue pump stations and at the Robert D. Wilson Community Center. As such, we have presented the application to the County CDBG Committee on August 22, 2007 for funding consideration. It is our understanding that the County CDBG Committee is recommending partial funding of this project to the Board of Chosen Freeholders.
2. **FY2008 NJDOT Municipal Aid:** As requested, we have prepared an NJDOT application for Highland Avenue between Portland Road and Valley Avenue. Additionally, as directed, we have also submitted applications for Valley Avenue between Highland Avenue and the southern terminus and for Shore Drive between Miller Street and Waterwitch Avenue.
3. **Rural Development Program:** This program is formerly known as the Farmers Home Administration (FHA) Grant Program and is a possible source of funding for sanitary sewer rehabilitation work associated with Physical Investigation of Basin Two. Funding is for infrastructure projects for qualified communities. Based on our knowledge of the program, it may be more advantageous for the Borough to consider a larger project to gain the maximum benefit. We have met with the prior Borough Administrator and a representative from this program to explore funding opportunities for various sanitary sewer infrastructure improvements.

Lori Dibble of Paradise Park - does T & M have access to a GIS data base?

Ms. Britell – yes

Lori Dibble – with that GIS you can calculate lot area?

Ms. Britell – I understand where you are getting at and I believe Mr. McKenna addressed this before. We will be working with his office to address this.

HBP Calendar of Events for 2008

Mr. Nolan offered a motion and moved on the approval of the following 2008 HBP Events Calendar:

**Highlands Business Partnership
2008 Events Calendar**

Saturday	March 29	St. Patrick's Day Parade Bay Avenue 2PM
Saturday	April 19	Pride in Highlands Earth Day 2008
Sunday	May 25	Seaport Craft Show Huddy Park 10AM-5PM
Saturdays	June 28-Nov 1	Farmer's Market 9AM Huddy Park
Thurs-Sun	July 31 – Aug 3	Clamfest Huddy Park

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Thursday 6-11PM
Friday 6-11PM
Saturday 12-11PM
Sunday 12-8PM

Sunday	September 28	Twin Lights Bike Ride 7AM Huddy Park-Shore Drive
Saturday	October 4	Oktoberfest 2-10PM
Sunday	October 5	Rain date- Veteran's Park
Sunday	October 19	Highlands Cares Breast Cancer Walk Community Center
Friday	December 5	Tree Lighting 6PM Sharp
Saturday	December 6	Rain date- Huddy Park

Seconded by Miss Burton and adopted on the following roll call vote:

ROLL CALL:

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

AHHRSA Letter RE: Budget and I & I Reduction

Mrs. Flannery stated that the Borough received a letter from the Sewerage Authority dated December 7, 2007 regarding their budget and I & I Reduction. Mr. Hilling spoke to Mr. Palamara of the AHHRSA and its going to increase by 9%.

Mayor O'Neil – I will get an explanation of what this is about tomorrow.

Resolution R-07-205

Mr. Manco stated that in Executive Session the Council discussed the litigation and we have a Resolution R-07-205 and that would be a Resolution authorizing payment of legal bills to Peter Mullen for his defense. He then read the following Resolution for approval:

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

R-07-205

RESOLUTION AUTHORIZING REIMBURSEMENT OF EXPENSES

WHEREAS, a lawsuit entitled “Kovics & Bahrs v. Borough of Highlands and Peter Mullen” was filed challenging the action of the Borough Council in appointing Peter Mullen to the Planning & Zoning Boards of the Borough of Highlands at the January 2007 reorganization meeting, requiring Mr. Mullen to seek independent legal representation; and

WHEREAS, in the course of this representation, Mr. Mullen incurred substantial legal expenses in defending this action successfully and retaining his position on both boards; and

WHEREAS, it is in the best interests of the Borough of Highlands to safeguard the integrity of its appointments to its respective boards, and to continue to attract talented individuals to serve on a volunteer basis, and therefore wishes to authorize the payment of all reasonable expenses incurred in said defense by Mr. Mullen.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Highlands, that payment of a sum not to exceed \$15,291, be authorized for the aforesaid legal expense, to be paid to Attorney Michael Steib or reimbursed to Peter Mullen in connection with the defense of this matter, subject to review and approval by the Borough Attorney and Chief Financial Officer.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

Public Portion:

Don Manrodt of 268 Bayside Drive spoke about cutting back the access to Bayside Drive because there are cracks there and someone will get hurt. He stated that we are going up 9% this year for sewer and 9% for next year. The Council if they can they should start the increase by July and get the rate back up to \$100.00.

Lori Dibble of 32 Paradise Park – she read today that the State DEP has issued a set of rules and regulations on interpreting and administering the Open public Access to bay front and ocean front properties. At the last planning board meeting there were discussions about an open space plan. She stated that we are going to need to have a Public Access Plan in place to be eligible for certain kinds of planning agenda's with the State which she further explained. We should ask Mr. Ricci to include the public access plan in the Open Space Plan so that we don't have to pay for another document.

Mr. Bucco – I will have to check on this.

Roberta McEntee of Fifth Street and member of the AHHRSA stated that if they didn't raise the rates then they wouldn't be able to build a reserve which she further explained.

There was discussion between the Mayor and Mr. Manrodt and Mrs. McEntee regarding the sewerage increase.

Maureen Kraemer of 200 Portland Road – stated that she is getting conflicting information about the bridge project. She is now being told by Patel that the Stymies property was a private transaction and she is not entitled to that information. She wants to know where is the \$800,000 in value on this property that they told me that it was worth. They also eluted to the traffic on Highland Avenue and that is conflicting information. She is getting tired of waiting for the information that she has requested from the DOT.

Mayor O'Neil – we have asked the DOT to send people down.

Mr. Hilling – they stated that they would be willing to do that after the contract award.

Maureen Kraemer – I don't understand this nonsense of why we are not privy to what we are getting and she stated that she wants to see the bridge drawings to scale. She continued to express her frustration with the State for not providing the information and the final plans.

Mayor McKenna spoke about Mayor O'Neil serving the town as Mayor.

Mayor O'Neil spoke about the amount of time that he and the Council volunteer to sit here.

Ms. McEntee – I think that we have to face the truth and pay you guys for your time. She feels that the Governing Body should be a fulltime paid job.

Mayor O'Neil moved to adjourn the meeting, second by Miss Thomas and all were in favor.

The Meeting adjourned at 10:41 PM.

CAROLYN CUMMINS, DEPUTY CLERK

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