

**BOROUGH OF HIGHLANDS  
MAYOR AND COUNCIL  
REGULAR MEETING  
FEBRUARY 6, 2008**

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

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

**Roll Call:**

**Present:** Mrs. Burton, Mr. Caizza, Mr. Urbanski, Mr. Nolan, Mayor Little

**Absent:** None

**Also Present:** Carolyn Cummins Deputy Clerk

**Bruce Hilling, Borough Administrator, Robert Bucco, Borough Engineer  
Catherine Britell, P.E., Edward McKenna, Esq., Joseph Oxley, Esq.,  
Borough Attorney**

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**Executive Session Resolution**

Mrs. Cummins read the following Resolution for approval:

Mr. Nolan 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: Firehouse Arbitration -  
Citizens for Rational Coastal Dev - Mr. Manco  
RE: Shadow Lawn- Mr. McKenna**
- 2. Personnel: Police Department personnel changes**

**BE IT FURTHER RESOLVED** that it is anticipated that the matters to be considered in private may be disclosed to the public at a later date when the need for privacy no longer exists; and

**BE IT FURTHER RESOLVED** that no portion of this meeting shall be electronically recorded unless otherwise stated; and

**BE IT FURTHER RESOLVED** that the private consideration is deemed required and is permitted because of the following noted exceptions set forth in the Act:

4. Deals with collective bargaining, including negotiation positions.

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

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

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

**ROLL CALL:**

**AYES: All**  
**NAYES: None**  
**ABSTAIN: None**

The Governing Body then entered into Executive Session.

Mayor Little called the Regular Meeting back to order at 8:37 p.m.

Joseph Oxley, leads the Pledge of Allegiance.

**Roll Call:**

**Present: Mrs. Burton, Mr. Caizza, Mr. Urbanski, Mr. Nolan, Mayor Little**  
**Absent: None**  
**Also Present: Carolyn Cummins, Deputy Clerk**  
**Bruce Hilling, Borough Administrator, Robert Bucco, P.E., Borough**  
**Engineer, Catherine Britell, P.E., Edward McKenna, Esq., Joseph Oxley,**  
**Esq., Borough Attorney**

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**Appointment of Borough Attorney**

Mayor Little Reads press release Scarinci & Hollenbeck announcing Partnership Joseph W. Oxley to the firm. Also presents resume of Joseph W. Oxley (applause)

Councilman questioned if the salary would be the same.

Mayor Little, exactly the same as Dominic Manco and Bob Thaler's was before.

Mr. Caizza, in fairness submitted resume a week ago. He expressed his frustration with the untimely submission of the resume. (applause).

Mr. Oxley, honored and privileged to be considered. (applause)

Mayor Little offered the following Resolution and moved on its adoption:

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RESOLUTION APPOINTING  
BOROUGH ATTORNEY**

**WHEREAS**, there exists the need for professional legal services in the Borough of Highlands, and funds are or will be available for this purpose; and

**WHEREAS**, the Mayor has offered the name of **Joseph W. Oxley, Esq.** for appointment to the position of Borough Attorney for calendar year 2008; and

**WHEREAS**, the Local Public Contract Law, (N.J.S.A. 40A:11-5 [1] [a] requires that the resolution awarding the contract state the supporting reasons and be printed in a newspaper of general circulation not more than ten days after passage of the resolution;

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that Joseph W. Oxley, Esq. is hereby appointed Borough Attorney effective February 6, 2008 through December 31, 2008, such person being appointed is a member of a recognized profession; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be published in an official newspaper of the Borough within ten days of its passage.

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

**ROLL CALL:**

**AYES:** Mrs. Burton, Mr. Nolan, Mayor Little

**NAYES:** Mr. Caizza, Mr. Urbanski

**ABSENT:** None

**ABSTAIN:** None

Joseph Oxley sworn in as Borough Attorney

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**Public Participation on Agenda items**

Mayor Little, item #1 consent agenda resolutions, Introduces attorney Ed McKenna to explain the action that will be taken by the Council tonight with regard to that resolution and to read the resolution.

Mr. McKenna, Ordinance O-07-07 amendment of zoning on Lot 1, Block 107 and Lot 18.01, Block 110. Mr. McKenna goes over history of ordinance change. Notice was deficient therefore Governing body was without jurisdiction to act in September 2007. Law suit followed. Mr. McKenna retained, everyone was renoticed, and council revoted, petition was filed. Subsequently announce the results of review, Mr. McKenna has submitted to governing body.

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Today, act on recommendation of special counsel Lawsuit is still pending, one of adjoining property owners has intervened in that lawsuit, and seeking its own relief. Lawsuit is before Judge Lawson in Superior Court.

Prior action filed on behalf of that same property owner which action was dismissed by Judge Lawson, however he did allow intervention.

Mr. McKenna reads report into the record.

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**Insert McKenna's Report**

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HGPB-R0640

January 23, 2008

Bruce Hilling, Borough Administrator  
Borough of Highlands  
171 Bay Avenue  
Highlands, New Jersey 07732-1405

**Re: Shadow Lawn Trailer Park  
Proposed Re-Zoning  
Lot Certification Request**

Dear Mr. Hilling:

On January 22, 2008, I met with Mr. Edward McKenna, Jr., the Borough's Special Counsel for the above referenced matter. As a result of said meeting, I was issued a packet by Mr. McKenna for my review. That packet consisted of the following:

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- A document entitled “ Report of Special Counsel” prepared by Edward J. McKenna, Jr. (undated)
- A document entitled “Summary of Protest Petitions” (undated)
- A map entitled “200’ Radius Map for Highlander Associates”, prepared by Maser Consulting, P.A. and dated January 18, 2008 – referenced by Mr. McKenna as “Exhibit A”.
- A list of all properties and signatories on the protest petition received by the Borough on December 17, 2007 – referenced by Mr. McKenna as “Exhibit B”.
- A list of all properties and signatories on the protest petition received by the Borough in June 2007 – referenced by Mr. McKenna as “Exhibit C”.
- A copy of petitions filed with the Borough in June 2007 and December 17, 2007.

Upon review of the above listed documentation, we find that the properties and respective areas depicted in Mr. McKenna’s reports are consistent with those found on the referenced 200’ radius map. Therefore, I do not take exceptions and find them acceptable from an engineering standpoint as to the calculations and conclusions drawn in the “Report of Special Counsel” prepared by Edward J. McKenna, Jr.

If you have any questions or require any additional information, please do not hesitate to contact this office.

Very truly yours,

T&M ASSOCIATES

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ROBERT W. BUCCO, JR., P.E., C.M.E.  
BOROUGH OF HIGHLANDS ENGINEER

Mayor Little, Mr. Bucco have anything to add?

Mayor Little, has Mr. McKenna described your activity accurately?

Mr. Bucco, yes, it's accurate.

Mayor Little opens the discussion to the public on this item only. Mayor Little explains 5 minute cap on remarks.

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**Armond McOmber, Esq.**, McOmber & McOmber Red Bank New Jersey, represent Pauline Jennings of 27 Ralph Street and we are the intervener against the ordinance, reasons in the complaint and at meeting December 19 meeting of Borough Council. Report was thorough, detailed, avoid protracted litigation with developer. Council proposes to accept the report and reject both petitions, without giving public an opportunity to examine findings. Feels the entire process has been tainted from day one. Want to examine and submit response prior to action. Requests a 30 day postponement prior to Council vote.

Second issue, "opportunity to cure" extremely technical legal reasons for disallowing many signatures on petition. Will Council allow an opportunity to cure petition (Applause)

Elaine Hoffman, Live in Shadow Lawn, moved there 25 years ago. (inaudible) the police that are here can vouch for that, addresses former Sheriff Oxley. Mentions fragile area, slope steep, what's the difference between eminent domain and what you are trying to do here.

Mr. McKenna, eminent domain is the taking of an individual's property, rezoning of a piece of property has nothing to do with eminent domain.

John J. Chamberlin, 3 Ralph Street, live at Sea Crest (inaudible) question as to how many signatures were counted

Mr. McKenna, technically, not but I did count it in, in both petitions, both SeaCrest and Mount Mitchell. Town clerk gave information

Ed McKenna, Town clerk was given improper information as to what the proper standard was. Subsequently we corrected and that's why we renoticed everybody, to give them an opportunity with what the law required.

Mr. Chamberlin, Re: Dr. Gelber, take name off petition.

Mr. McKenna, doesn't care what the property owner wanted or the opposition wanted or anybody else, is really irrelevant.

Julie Rogers, 1 Seacrest Ralph Street, most people are lay people, not attorneys, engineers, professionals, request the opportunity to correct errors

Margaret Howard 260 Bayside Drive, my son owns house. Bottom of hill, slide just missed me one day. To build on property above us, will be worse. Also contamination issue. Moved in three years ago, health issues swamp grass, skunk, rotting vegetation.

Mayor Little responds, Council is aware of DEP activity, communication with Exxon and owner.

Michael Kennedy, 254 Bayside Drive spoke about the instability of the hill and the 1998 landslide, Schor DePalma stated that unstable due to underground springs etc... contamination oil in soil, muck, health issues, prisoner in my own home, smells bad in hot humid weather. Also have pictures of mudslides.



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Maureen Krammer, 200 Portland Rd extensive investigation to validate signatures, is your fee still \$2,000 Mr. McKenna.

Mr. McKenna, if you recall I did cap my fee at \$2,000, for the review and I am staying by my word. Lawsuit filed by Ms. Jennings is separate.

Ms. Krammer, Mr. Gelber cost this Borough a lot of money, property value dropped 800,000 brings in less tax money, don't understand a Council people/residents are sick. Gelber gets his way, will construction take place at the same time that the bridge is being reconstructed.

Mayor Little tonight is the acceptance of attorney's report on a zoning change that has already been approved by a previous administration. Once the zoning change is approved application can be made by a property owner to the planning board.

Constance Stober, Eastpointe. Well noted previous problems regarding this slump block Ordinance in December disregards Master Plan, allow development not at same density. Despite all factors why Council feels it's a good idea to go ahead with this.

Mayor Little we won't poll the Council at this time. You can discuss with Council members after the meeting.

Constance Stober, Council should be on the record.

Mayor Little it's up to each individual Council member what they choose to place on the record or not.

Constance Stober, Realist, accepting report is going to be 3 to 2. 74 members signed our petitions, brings in rough est. of \$445,000 in taxes, billing is close to \$1 million. Perhaps Atlantic Highlands might want us.

Henry Stober, East Pointe, understand technicality waive our petition, don't think it's right, 74 lives are impacted. Council is supposed to look after your taxpaying citizens, you are looking after someone who wants to develop. Geological surveys of that area are needed, is not stable.

Nona. Mullen 11 Marine Place, notification about proposed building and petition started, were the condo associations notified separately. Disqualification because Association did not sign, were they notified as the association.

Mr. McKenna, didn't bring list of notification, all property owners were noticed, 2) if anyone as a condo owner, it is common knowledge when provided with master deed and your condo assoc., bylaws that the condo association is the spokesperson for the condo assoc owners.

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Donald H. Manrodt Sr 268 Bayside Dr., you should allow 30 days to cure. All got the report on the slump block area.

Carol Culovich, Bayside Dr., I was shut out of that Dec 19th public portion of meeting. Ask for 30 days to cure.

Chris Francy, 36 Fifth St., Borough Clerk still has to certify petition.

Mr. McKenna, incorrect, look at the Dinky Woods case, supposed to be reviewed and certified by the Borough Engineer, Borough Eng, certify as far as the property owners, Borough Clerk will certify as to the validity of the ordinance, and certify the ordinance has passed. Slightly different than ordinary situation as far Borough Clerk's responsibilities go.

Mr. Francy, Judge Lawson will have the final say as to whether your findings -- he's agreed to your findings?

Mr. McKenna, Absolutely, sure.

Mr. Francy, Ms. Flannery can't certify until after Judge Lawson.

Mr. McKenna, disagree, Ms. Flannery is under obligation to certify, however there is an action pending questioning a number of issues; prior action of Council, notice incorrect, action improper, 1st petition was proper, actions of Council was proper, etc., Judge Lawson will decide all the different aspects of the case.

Mr. Francy, Mayor you have the opportunity to do the right thing. Ordinance crafted by Gelber, introduced by Nolan, very pro developer, Planning Board review. P.B. make some judgments. At P.B. hearing negatives comments by Mullen, positive by Colbick (phonetic) -- Council needs to consider other uses.

Mr. Nolan, needs to respond. Co-sponsored by myself and ex-Mayor O'Neil it was voted 8 to 1 planning board. Just because it didn't work out in your favor, you can't say it was a flawed process.

Dolores Francy, 36 Fifth St., no particular interest -- P.B. did not have a public hearing, allowed no public comments.

Mr. Nolan, yes they did.

Mrs. Francy, remarks about petition. Borough Eng and Clerk incorrect information. Rely on Borough personnel for requirements, feel like we are being tricked.

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Lori Dibble, 32 Paradise Park. Hand up through Dec 19th meeting, Board Member of NJ (inaudible) Homeowners Association, specific questions. Did you change any land acreage amounts from the amounts that were given to us by T&M.

Mr. McKenna, No, -- land acreage amounts. Each property, we were specific, i.e. .123 acres,

Ms. Dibble, where did you get your, same acreage amounts that were given to the petitions.

Mr. McKenna, I would assume yes, we reviewed the same acreage amounts that T&M had.

Ms. Dibble, make any changes on that.

Mr. McKenna, the only thing that we may have done is, added some -- we tried to give everybody the benefit of the doubt. What we did was, pull deeds to make sure that the acreage matched what was on the chart as far as the declared acreage. In each instance they matched.

Ms. Dibble, notified within 200 feet, condo assoc be notified. If not notified does that not invalidate this whole process, just like the previous petition was invalidated.

Mr. McKenna, Rezoning standard has a specific statute that deals with who is supposed to be supplied --

Ms. Dibble cuts off Mr. McKenna,

Mr. McKenna, read the statute verbatim before "lots or lands extending in all directions therefore inclusive of street space whether within or without the municipalities", the owners of the lots or land extending 200 feet in all directions therefrom, inclusive of street space" Judge Lawson will review that.

Michele Pezzullo, 115 Highland Ave., define multi family with condition use.

Mr. McKenna, implies that you are dealing with, as opposed to single family detached home, it could mean anything from apartments, townhomes, condominiums, - more than one residence that are attached. Often the Municipal Ordinance defines multiple family.

Ms. Pezzullo, increase in traffic downtown, our streets can't handle increase in population,

Connor Jennings 27 Ralph St., Ciculators of the petition, both. Good faith signatures given in good faith. No one told us husbands and wives should sign, condo associations would be the only valid signatures, no one co - tenants both had to sign. Outrage to disqualify. Herculean efforts to disqualify. When was report submitted?

Mr. McKenna, last Council meeting.

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Mayor Little, report received during executive session, within rights to vote, but Mayor wanted public participation prior to decision/vote to accept report.

Mr. Jennings, Cox on Land Use makes no mention of co signatures by husbands/wives, co tenants or condo associations. Flawed process, tainted and fatally flawed. Please table this.

Mr. McKenna, states property owner submitted a brief in support of their position, mentioned to Mr. McOmber Mrs. Jenning's attorney. Regardless did what I thought was in the best interest of the Borough of Highlands. Seven weeks in processing report, to give the petition the proper review.

Mr. Jennings, Award a 30 day grace period, such disqualifications be cured.

Steve Cassidy, 7 Kay Street, what's the hurry wait 7 weeks, hear what you have to say, very thorough and now the rush to vote tonight, Why? Why don't we give McOmber and everybody a chance to digest, maybe we can cure some of the problems.

Phil Selmer, 4 Ralph Street. Seacrest 4, did confirm Condo Assoc did not receive, it was the four individual homeowners. Am I the unmarried co tenant that's listed in -- I would be the only one who qualified, 2 widows and Mr. Chamberlin is married, and I've been married since 2004.

Mr. McKenna, Married no way of knowing, is owner. Pulled Deeds for Seacrest, list the owners as tenant in common.

Mayor Little, any additional questions can be sent directly by note or email to administrator.

Mr. Selmer, we look forward to seeing full report.

Kerry Callinan, 193/195 Bay Ave. Ask that issue be voted down, disenfranchisement of homeowners, close enough to the 3.5 percentage. Also some talk if there were towers that people could be tossed out by eminent domain for development. Wrong direction for Highlands, 5 percent of town, town would be empty in 20 years. Hill due to contamination (oil) can go down at record speed.

Richard O'Neil, 224 Navesink Ave., What did Mr. McOmber ask for?

Mr. McKenna, opportunity to cure.

Mr. O'Neil, what's that, like a do over.

Mr. McKenna, exactly right.

Mr. O'Neil, like if Tom Brady had two more minutes, the Giant wouldn't be world Champions. I'm the only guy for it. Bringing to the table is not true. P.B. public session. The negativity from some people tonight. Everything that doesn't work out for you, isn't because it was done

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behind closed curtains, etc. Change in Master Plan, tonight the question is the vote on Mr. McKenna's papers, it's not about whether it can go or can't, we've voted that. Tonight your duty is to vote whether you want to accept that report, which everybody in this room says is a fine report or not. Oil and Gas from Exxon, the EPA with the Borough is taking care of it. Slump block, could, might, maybe, if Gelber goes to build then a proper engineer's report.

Louise Davis, 1 Scenic Eastpointe President of Condo Associate, we did not receive notification, only unit owners, as the individual tax payers on 1st or 2nd petition. Need opportunity for public to review report. Fairness, regarding Hill, invited Gelber and geo technical people to Eastpointe

meetings. Well attended. Oppose another high rise on the hill, do believe sincerely, Council adopting its own ordinance on steep slope. We've been there over 30 years, hope that the building won't slide and hope that Town will examine what the hill can sustain. Allow public to remedy petitions.

Mr. McKenna, point of fact, here is the notice green card that was signed for by the Eastpointe Condo Assoc, on December 7th, 2007. Signed by Jackie Oker it looks like.

Ms. Davis, she works for Wentworth Management, it never came to us.

Mr. McKenna, obligated by law to send it to the address which was 1 Scenic Drive Eastpointe Condo Assoc., Highlands NJ and it was signed for by a representative of your condo association. Whether it was your management company or anyone else, it's the responsibility of the management company to deal with the condo association.

Mayor Little close public portion on this issue. Re: Opportunity to cure, notification of condo association, do you stand by your report.

Mr. McKenna, stand by report. Go into Executive Session dealing with my legal opinion on the request to cure, or in open session, but I do have a strong opinion on that request from a legal standpoint.

Mayor Little asks Council need an executive session. Response, No

Mrs. Burton, it was one of my questions.

Mr. McKenna, submit in my legal opinion you cannot and have no right to offer an opportunity to cure. And let me explain why. If petition adequate, no one can change their mind after date of filing. If anyone wants to alter for or against, no legal right after the night of the public hearing and vote to change their position. Re: pending litigation as to the propriety of the petition and the notices in the past. To allow to cure, committing an error, Borough to substantial damages, and I would not recommend that you allow an opportunity to cure. Lastly, 32 years experience in land use, despite that fact, I did consult with preeminent experts in the State in the areas of land use.

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Mayor Little, motion to remove #1 from Consent Agenda Resolution from the consent agenda, so it can be acted upon separately at this time.

Mr. Nolan seconds.

Discussion:

Mr. Urbanski, 30 days might be too much. I've had it for 14 days I'm not qualified to pull deeds check names, nor do I have the time to do that. Given to the people two weeks ago. They should have the opportunity to review Mr. McKenna's report.

Mrs. Burton, Thank Mayor for public portion. Question agree with the zone change, opportunities to develop this area, can improve Highlands in some ways. Accept or deny report of special counsel. After reading report numerous times, T&M and Mr. McKenna, are consistent, thorough and very understandable, easy to understand. After McOmber and public comments, I feel that ask our new attorney about opportunities to cure, as well as notification to associations. Feel that the signs that have been put out, by your organization Mr. Jennings were misleading for what action we are going to take this evening.

Mayor Little calls for vote.

**ROLL CALL:**

**AYES: Mrs. Burton, Mr. Caizza, Mr. Urbanski, Mr. Nolan, Mayor Little**

**NAYES: None**

**ABSENT: None**

**ABSTAIN: None**

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**Resolution R-08-34**

Mr. Nolan offers Resolution 08-34 for adoption, Seconded by Mrs. Burton

DISCUSSION: COUNCIL

Mr. Nolan, give the 30 days to review I have no problem , just like you said, change signatures --

Mr. Caizza, to review his findings, check his signatures to deeds and do mathematical calculation of square footage. Give them an opportunity to review what we had two weeks. I'll offer that Mayor.

Mrs. Burton, After Mr. McOmber were to review this report, and come back to the table, we go through with this resolution, amended, but I feel in this case, as in the last, letting Mr. McOmber review.

Mayor Little, I haven't said much about this, because I wanted to hear from public and was not present at December 19th meeting. All concerns from public are compelling. Rely upon advice

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of land use attorneys. Mr. McOmber is going to have a fair opportunity to respond, regardless of 30 days or no 30 days, his opinion will be different from yours, that goes before a Judge.

Mr. McKenna, additional advice on options. My assignment to determine whether protest petitions is valid and render a legal opinion. Whatever action you indicate either you accept report or you find it improper. Attorney for property owner, their position is far different than my, they took a very strong legal position that many more signatures should be disqualified. Mr. McOmber representing his client is going to take opposite position and try to get every single signature in, and you are exactly Mayor, this is going to end up being decided in a court of law. We have the property owner, we have a representative of the protest petition group and we have the Borough of Highlands in court now. Only proper action that would be proper, if you wanted to give additional time would be to table the resolution and reconsider it at whatever date you deem to be appropriate. Litigation has heated up you are incurring some real litigation costs. And by that I mean I have now been forced into a position of filing an answer on behalf of the Borough both to Mr. McOmber's complaint and to Mr. Weiss' complaint.

Mrs. Burton, opinion of Mr. McKenna and Mr. Bucco notification of association.

Mr. McKenna responds. Very first one we checked, clearly was notified. Reiterates earlier comments about notification. Only 8 properties that weren't included small as a 1000th of an acre, list of property, .21 acres, .113 acres, .035 acres, these are properties that were accepted, with the exception of Eastpointe which clearly did receive notice, -- knock out Eastpoint, petition fails. Even if all in petition probably still fail. Quick legal opinion that Eastpointe would be disqualified we still went through whole painstaking process of pulling deeds, looking at properties and giving the benefit of the doubt to every single signator on that petition.

Mrs. Burton, more comments, future steps that may happen. No reason for a super majority. Allow attorney to review report; don't believe there will be any changes, it still would not need a super majority, the resolution would pass with the 3 to 2 vote, that happened on December 17, at that point Judge Lawson, the Judge would hear and look over petition, opportunity to cure would be appropriate, or if the association notification was not properly done.

Mr. McKenna, I don't think it makes a darn bit of difference. I anticipate, Protest attorney position everybody should count, that's for Judge Lawson to decide. Judge Lawson, petitioners are correct, he may find that the property owners are correct and we were wrong and that the percent is 12%. He may find that they are correct and the percentage is 22%. I did the best that I could with the facts that were given to me. I think the likelihood is more names could be knocked out as opposed to more names added. But again, that is Judge Lawson's decision. We required property owner to post escrow for all new notices that went out were actually going to be paid by property owner. That gravy train is over, aware regardless of what happens tonight, Mr. McOmber, Mr. Weiss, very able attorneys.

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

**R-08-34**

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**RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF  
HIGHLANDS ACCEPTING THE REPORT OF SPECIAL COUNSEL**

**WHEREAS**, on May 7<sup>th</sup> 2007, the Borough Council introduced proposed Borough Ordinance “O-07-07” (“Ordinance”) to change the zoning on Lot 1 Block 107 and Lot 18.01 Block 110 so as to permit multi-family developments as a conditional use; and

**WHEREAS**, the public hearing was originally scheduled for July 18<sup>th</sup> and was carried, first to August 3<sup>rd</sup> 2007, and then rescheduled to September 5<sup>th</sup> 2007; and

**WHEREAS**, the notice pursuant to NJSA 40:55(d)-62.1 *et. seq.* for the public hearing on the ordinance was deficient; and

**WHEREAS**, at the meeting of September 5, 2007, the Council moved to defeat the ordinance due to deficient notice, which motion passed unanimously; and

**WHEREAS**, on October 22, 2007, the owner of the subject premises, Highlander Development Group, LLC, filed a Complaint in Lieu of Prerogative Writ seeking to declare the lack of jurisdiction to vote on proposed ordinance resulted in the vote defeating the ordinance to be a nullity and invalid; and

**WHEREAS**, the Council retained the services of Edward J. McKenna, Jr. as special counsel to handle the litigation, review of the protest petitions and the re-noticing and hearing on the proposed ordinance; and

**WHEREAS**, new public notices advising of a public hearing to be held December 19, 2007 were then served upon all the requisite property owners pursuant to the statute; and

**WHEREAS**, protest petitions were filed by affected property owners prior to both public hearing dates; and

**WHEREAS**, a public hearing on the ordinance was held December 19, 2007 and the ordinance was moved, seconded and a vote taken, with 3 votes for and 2 votes against the passage of the ordinance; and

**WHEREAS**, special counsel has reviewed both protest petitions and issued a special report on same; and

**WHEREAS**, the Council has reviewed the report and wishes to accept same;

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the Borough of Highlands that it does hereby accept the report of special counsel, Edward J. McKenna, Jr., a copy of which is on file in the Borough Clerk’s office.



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**BE IT FURTHER RESOLVED** that the governing body hereby determines and finds that both protest petitions are deficient and do not contain the signatures of the owners of 20% of the land within 200 ' of the subject premises.

**BE IT FURTHER RESOLVED** that the governing body hereby certifies the passage of Ordinance O-07-07.

**BE IT FURTHER RESOLVED** that the Borough Clerk provides a certified copy of this Resolution to the Borough Attorney, Special Counsel, the owner of the subject premises, the attorney for the protest petitioners and all interested parties.

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

**ROLL CALL:**

**AYES:** Mrs. Burton, Mr. Urbanski, Mr. Nolan, Mayor Little  
**NAYES:** Mr. Caizza  
**ABSENT:** None  
**ABSTAIN:** None

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Mayor Little gives public a chance to exit before continuing

**WORKSHOP MEETING**

**1. Communication from Resident RE: Neighborhood appearance.**

Mr. Hilling reports. Mr. Murphy is aware, we are trying to rectify.

Mrs. Burton, new attorney to review ordinances, fines should be increased as to clean up.

Mr. Urbanski, somebody must of cleaned up, it didn't look as bad as depicted.

Chief Blewett, in reference to mini bus it's not commercially registered.

**2. HBP Budget,**

Mayor Little representative here from HBP

Mrs. Brazwell representative

Mr. Nolan questioned if budget is frozen and if it's the same amount.

Mrs. Brazwell, 90,000 and then increase to 95,000 in 2006 so it's still the same.

**3. Request to purchase vehicles.**

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Mr. Urbanski, comment, can't dispute police department getting new vehicles. OEM Durango, worst vehicle on gas, second part time employee, who makes a pretty decent amount of money, new vehicle is not necessary plenty emergency vehicles in this town.

Mrs. Burton, what does he drive.

UNIDENTIFIED: table this and have him present his case for the vehicle.

Mr. Nolan, can myself and \_\_\_\_\_ have two weeks to look into either you know alternate vehicles --

UNIDENTIFIED: other items lease program, MCIM program.

Mayor Little no problem.

Council, none

UNIDENTIFIED: SUV going forward, Mason dump,

Mr. Urbanski, need one, back hoe and (inaudible) we bought. Point of discussion on lease,

UNIDENTIFIED: Green light for the Durango and the police crown vic

Mr. Nolan offered make a motion to table discussion to next council meeting. OEM vehicle only and mason dump.

Mr. Caizza seconds,

**ROLL CALL:**

**AYES: Mrs. Burton, Mr. Caizza, Mr. Urbanski, Mr. Nolan, Mayor Little**

**NAYES:**

**ABSENT: None**

**ABSTAIN: None**

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**COMMITTEE REPORTS**

**FINANCE:**

No report available

**PUBLIC SAFETY:**

Mr. Nolan Canine Unit because of drugs,

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Chief Blewett, Neighborhood watch will be hosting a presentation about domestic violence on Thursday 21<sup>st</sup>, at 7:30 p.m. in the community center.

Last meeting, I looked into the coastal evacuation routes, in reference to a CAT 3 storm everything East of the parkway will be evacuated, that's nothing to do with the bridge or Sea Bright, - to Red Bank Regional OEM coordinator, Dave Parker, an alternate route, the original route does plan on going over the bridge into Rumson.

Radio Room, working with Mr. Hilling, ordered the equipment, bullet resistant transaction window, February 9<sup>th</sup> construction meeting.

Calls for Service, February 2<sup>nd</sup>, we executed a search warrant (inaudible) you may have read we arrested one fugitive on three counts of attempted murder in Red Bank, 2 individuals arrested CDS and possession. January 2<sup>nd</sup>, we also executed a search warrant on a (inaudible) Drive residence resulting in the arrest of two individuals for possession of CDS, possession with the intent to distribute.

We had 581 calls for service, arrested 40 adults, 19 possession of CDS, 15 juveniles.

Canine Unit, I was asked to make a presentation in two weeks.

Mr. Nolan, how many times did we use this year.

Chief Blewett, executed 16 search warrants on individuals residences as well as 20 other investigations and we've used the dog every time we can get our hands on one. Last year 2007.

### **PUBLIC WORKS**

Mr. Urbanski I'll forego my report until (inaudible)

### **BUILDING AND HOUSING**

Mr. Nolan, No report.

### **PARKS & RECREATION**

Mrs. Burton, pretty lengthy report at the last meeting with the current events offered from the recreation department. Copies of the calendar are available. Working on program for elementary school and also for the Earth Day celebration, Kingdom of Clean, [www.kingdomofclean.com](http://www.kingdomofclean.com) if you like to find out more information. Memorial project, working hard to make improvements.

### **HIGHLANDS BUSINESS PARTNERSHIP**

Carla Cefalo Braswell, HBP stated that the St. Patrick's Day Parade is on March 29<sup>th</sup> and that the Grand Marshall will be Jim Philip of Doris and Ed's and that there would be 11 pipe bands.

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Mr. Nolan stated that the parade will start at 2p.m.at Huddy Park.

**Consent Agenda**

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

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

**R-08-35  
RESOLUTION APPROVING ONE-TIME STIPEND  
FOR ACTING DPW SUPERINTENDENT  
FOR THE PERIOD OF  
JANUARY 1, 2008 THROUGH DECEMBER 31, 2008**

**WHEREAS**, Edward O’Neil of the DPW has been asked to perform additional Supervisory duties from January 1, 2008; and

**WHEREAS**, the Borough has a genuine need for Edward O’Neil to continue with the duties of DPW Superintendent through December 31, 2008.

**NOW, THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of Highlands that Edward O’Neil be paid immediately a one-time stipend in the amount of \$2,500 (non-pensionable, one-time only) for his services as DPW Superintendent for the period of January 1, 2008 through December 31, 2008.

Seconded by Mrs. Burton and adopted on the following Roll Call Vote:

**ROLL CALL:**

**AYES:** Mrs. Burton, Mr. Caizza, Mr. Urbanski, Mr. Nolan, Mayor Little  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

Mr. Nolan offered the following Payment of Bills and moved on its adoption:

**RECAP OF PAYMENT OF BILLS  
02/06/08**

<b>CURRENT:</b>		\$	23,163.56
Payroll	(01/30/08)	\$	120,497.27
Manual Checks		\$	116,525.02
Voided Checks		\$	
<b>SEWER ACCOUNT:</b>		\$	1,979.27

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Payroll	(01/30/08)	\$	6,057.48
Manual Checks		\$	3,484.22
Voided Checks		\$	
<b>CAPITAL/GENERAL</b>		\$	11,770.92
<b>CAPITAL-MANUAL CHECKS</b>		\$	
<b>WATER CAPITAL ACCOUNT</b>		\$	1,327.00
<b>TRUST FUND</b>		\$	9,290.83
Payroll	(01/30/08)	\$	6,535.43
Manual Checks		\$	
Voided Checks		\$	
<b>UNEMPLOYMENT ACCT-MANUALS</b>		\$	
<b>DOG FUND</b>		\$	
Voided Checks		\$	
<b>GRANT FUND</b>		\$	58,400.73
Payroll	(01/30/08)	\$	
Manual Checks		\$	420.10
Voided Checks		\$	-679.58
<b>DEVELOPER'S TRUST</b>		\$	
Manual Checks		\$	
Voided Checks		\$	

**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 February 6, 2008**

Schibell Mennie & Kantos	Legal Services 11/07-12/07	\$	2,231.25
T & M Associates	Storm Line Failure-100 Portland Rd.		265.50
Peter Mullen	Reimbursement of Legal Fees		15,291.00
Gerald Massell, Esq.	Municipal Court Prosecutor		1,083.33
Total Supplemental Bill List			\$ 18,871.08

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Seconded by Mrs. Burton and approved for payment on the following roll call vote:

**ROLL CALL:**

**AYES:** Mrs. Burton, Mr. Caizza, Mr. Urbanski, Mr. Nolan, Mayor Little

**NAYES:** None

**ABSENT:** None

**ABSTAIN:** None

**PUBLIC PORTION**

Maureen Kramer, 200 Portland Road Dominic Manco status of the deed for the property up (inaudible) --

Mayor Little, He did look into that and he assured me it was owned by the State and it was being conveyed to us. Apparently there was a misreading of the tax map, with regard that.

Ms. Kramer wants to view the deed.

Mr. Hilling, I'll see what I can do.

Ms. Kramer spoke about the DOT letter, lot 20 block 2 and she wondered what happened to block 20 lot 1. It turns out that according to this Off the Hook sold their property to the DOT on June 18<sup>th</sup> of '07, loss of over \$13,000 in tax revenue. I called the owner of property where Careless Navigator - no he did not sell their property.

Mayor Little, procedure is negotiation for exchange of land are between the private property owner and the DOT. I don't know that we have jurisdiction to deal with the issue, but we can certainly ask an attorney who is briefed, what he thinks about that.

Ms. Kramer, Ray Cosworth (phonetic) Barhs Landing was given \$75,000 grant by DOT -- transient master plan is. Where to view it.

Mayor Little, never heard -- Transit Master Plan.

Ms. Kramer, Transit Master Plan, something to do with the Borough.

Mayor Little, we don't know. I know Mr. Cosgrove has certain damage that he'll be sustaining individually as a result of any activity regarding the Route 36 bridge.

Ms. Kramer feels that it is very negligent of the Borough that no one knows what is going on when it comes to the Department of Transportation and the nonsense that goes on.

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Mayor Little, I am not sure your question relates to anything to do with the DOT. There are construction master plans for lots that are privately owned. I don't know we are going to look into it. I've said that twice.

Mr. Caizza, we don't have a transient master plan, I know that.

Pauline Jennings, 57 Ralph Street. Just to thank you, Mayor Little for allowing the people who did sign up to speak. It's a huge improvement in Council, unlike the last administration.

Michele Pezzullo, open government, our communication on the website we have is not updated. It still has the council and the mayor being a man and we have a woman, in our town. No environmental commission. Why are we not embracing our green efforts, tax rebates.

Mr. Hilling, I'll work on that.

Mr. O'Neil questioned what was going on with Bahrs Restaurant and that other place.

COUNCILMAN, me and Bruce talked with the man today, there is a rental agreement between the property owner and the company. The property owner --

Mr. O'Neil. Don't you think the Borough first in on that.

COUNCILMAN, really mad about this, -- unimproved property.

Mr. O'Neil, Parking?

COUNCILMAN Three years on the main road in town. Not right.

Mrs. Burton, I'm appalled.

UNIDENTIFIED, I can call DOT tomorrow say this is unacceptable.

Mayor Little, why don't we start with that.

Mr. O'Neil Ms. Kramer was speaking about was transient for boat slips, like Mr. (inaudible) qualified for.

COUNCILMAN: (inaudible) got a grants. Pump out stations.

UNIDENTIFIED: Jay Cosgrove on our Board of Directions, he mentioned trailer never did we know about, -- about to spend 10,000 on a parade.

UNIDENTIFIED: Right next door to these trailers. They are 35 feet long entire length of the lot. 18 feet tall, 8 foot fence, I'm not going to be able see anything for three years. Never

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thought Jay would allow this to happen. Why our town is not benefiting from this bridge, why are they next to my building.

COUNCILMAN and UNIDENTIFIED have colloquy talking over each other.

Mayor Little, Mr. Administrator will look into this.

Mr. Hilling I will call the DOT tomorrow and say it's not acceptable.

**MOTION TO ADJOURN**

Offered by Mayor Little, seconded by Mrs. Burton,

**ROLL CALL:**

**AYES:** Mrs. Burton, Mr. Caizza, Mr. Urbanski, Mr. Nolan, Mayor Little  
**NAYES:** None  
**ABSENT:** None  
**ABSTAIN:** None

The Meeting adjourned at 11:48

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