

**Mayor and Council
Regular Meeting
March 18, 2009**

Mayor Little called the meeting to order at 6:55 p.m.

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

ROLL CALL:

Present: Mr. Francy, Ms. Kane, Mayor Little

Late Arrival: Mr. Caizza, Mr. Urbanski

Absent: None

**Also Present: Nina Light Flannery, Borough Clerk
Scott Arnette, Esq., Borough Attorney
Stephen Pfeffer, CFO
Bruce Hilling, Borough Administrator**

Executive Session Resolution:

Mrs. Flannery read the following Resolution for approval:

Mr. Francy 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: Guinta vs. Borough**
- 2.Contract Negotiations: Union Contracts, State Health Benefit Plan**
- 3.Real Estate: Depuration Plant Lease, Dan-Rob Lease, Connor's, Borough Hall**
- 4. Personnel Matters: B. Hilling, B. Reed, E. O'Neil, D. Alvator – All Riced**
- 5.**

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. Rendered confidential by Federal law or that if disclosed would impair receipt of Federal funds.
2. Rendered confidential by State Statute or Court Rule.
3. Would constitute an unwarranted invasion of individual privacy.
- 4. Deals with collective bargaining, including negotiation positions.**
- 5. Deals with purchase, lease or acquisition of real property with public funds.**
6. Related to setting of bank rates or the investment of public funds and disclosure could adversely affect the public interest.

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7. Related to tactics and techniques utilized in protecting the safety and property of the public disclosure may adversely affect the public interest.
8. Related to investigation of violations or possible violations of the law.
9. **Related to pending or anticipated litigation or contract negotiations in which the public body is or may be a party.**
10. **Falls within the attorney-client privilege and confidentiality is required.**
11. **Deals with personnel matters of public employees and employee has not requested that the matter be made public.**
12. Quasi-judicial deliberation after public hearing that may result in imposition of a civil penalty or suspension or loss of a license or permit.

Seconded by Ms. Kane and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mayor Little

NAYES: None

ABSENT: Mr. Caizza, Mr. Urbanski

ABSTAIN: None

The Governing Body entered into Executive Session.

Mayor Little called the Regular Meeting back to order at 8:31p.m.

Mayor Little asked all to stand for the Pledge of Allegiance.

ROLL CALL:

Present: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

Absent: None

Also Present: Nina Light Flannery, Borough Clerk
Bruce Hilling, Borough Administrator
Stephen Pfeffer, CFO
Scott C. Arnette, Esq., Borough Attorney

State Fiscal Issues Discussion:

Mayor Little stated that the Budget Review Committee will have their first meeting on April 30th at 7:00 P.M. here at the Council Chambers and Mr. Pfeffer and she will be attending that. She then directed the Borough Clerk to contact the members of that Committee about the meeting date.

Mr. Pfeffer spoke about State Fiscal Issues. He stated that the State Aide Figures for SFY 2010. This year we only lost \$11,847 as compared to what happened last year. So we are only going into the year down \$11,847 for State Aide. The Governor has just signed the Pension Payment Deferral Option Legislation which has changed dramatically from what was first proposed. It has become much stricter for towns to utilize it. In our case in the SFY 2009 Budget we have the full pension payment budgeted. He further spoke about the Pension Payment Deferral Option. He then spoke about Green Acres Funding – Borough has been recommended to receive \$378,267 from Green Acres as a Planning Incentive Grant.

BID Budget – P.H. and Possible Adoption:

Mayor Little opened up the public hearing on the following proposed BID Budget:

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**Highlands Business Improvement District
District Management Corporation
Highlands Business Partnership, Inc.
January 1, 2009–December 31, 2009
(12 Months)**

2009 District Program Budget

Visual Improvement.....\$13,000

- Street Banner Project

2009 Special Events Calendar.....\$15,000

(Approved by Governing Body 12/ /08)

Marketing & Communications.....\$25,000

- Ad campaigns/Sponsorship Sales
- Public Relations/Image Building
- Create and Publish Visitor Guide
- Maintain /Expand Website
- Videos/Commercials

Economic Development.....\$5,000

- Smart Growth - Business Recruitment/Retention
(Supporting Monmouth County Bayshore Strategic Plan)

Administration

- **DMC Administration\$30,000**
- **Legal, Certified Audit, Insurance
Phone/Fax.....\$15,000**
- **Outstanding Payable.....\$9,112**

Total 2009 Program Budget.....	\$112,112.
Total 2009 Anticipated Cash Income.....	\$ 55,000.
(Vendor Fees, Sponsorship Income)	
Total 2009 Anticipated Barter Goods & Services.....	\$ 12,000.
Total 2009 Assessment Income Required to Operate.....	\$ 57,000.

Carl West of 78 Bay Avenue stated that there is no itemization of the proposed budget.

Carol Custer of Central Avenue - she does not have a question on this budget.

Roberta McEntee of 55-B Fifth Street – no question on the budget.

Donald Manrodt of 268 Bayside Drive – no question on the budget.

John Bentham of 30 Washington Avenue – spoke favorably about the Highlands Business Partnership.

Mayor Little – we are going to note for the record that there is enthusiasm in the room for Mr. Bentham’s comments.

Michelle O’Reilly of 20 Barberie Avenue – no comments at this time.

Don Manrodt of 268 Bayside Drive requested to comment at this time. He stated that he agrees with Mr. West and stated that the BID Books should be open and kept at the Borough Hall.

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Roberta McEntee of 55-B Fifth Street – spoke about the history of past town parades and original clam fest. Spoke about how the Chamber of Commerce used to raise donations to fund the parades and stated that she is against the BID for all of the money that they spend. Let's go back to the people getting involved in the town.

Carol Custer of Central Avenue questioned the total of the proposed budget.

Mayor Little – there is a number that is assessed on the proposed budget.

Carol Custer of Central Avenue read from some literature that was distributed by the HBID regarding this budget hearing. She then stated that the Borough pays for the security of the events and is not paid for by the BID. She enjoys the events but the way the economy is now we need to think about the money and how much the events cost the Borough tax payers.

Ms. Kane – overtime is \$8,000 for the four days.

Jay Cosgrove of 2 Bay Avenue spoke favorably about the BID.

Jim Filip of Doris & Ed's Restaurant on Shore Drive spoke favorably about the BID and supports the work that the BID does.

Skip Shute of 62 Fifth Street stated that the BID program doesn't do anything for the businesses except for restaurants. He does not support the BID and wants it to be done away with completely.

Christine Bolte, Keyport Councilmember stated that Keyport has the same problems as Highlands and she spoke in support of a BID.

Commissioner Ida Tkoch – wants to talk about the Library and Mayor Little informed her that she can speak about that later on in the meeting.

Nancy Burton - No comment

Lynda Rose spoke in support of the BID.

Jim Bollerman of Sandy Hook Bay Marina and Board Member of HBP spoke in support of the BID.

Joseph Natale of Stewarts Root Beer on Highway 36 spoke in support of the BID.

Mike Cummins – was not present.

Anthony Natale – was not present.

Doug Lentz of the Inlet Café supports the BID.

Steve Cassidy – was not present.

Dick Walker of 128 Bay spoke in support of the BID.

A.J. Solomon of 102 Marina Bay Court and 15 Bay Avenue stated that the BID books are open and she suggested that people attend the BID meetings. She spoke in support of the BID and its accomplishments.

Jim Parla of 16 Portland Road – spoke about the Atlantic Highlands events and its sponsored by the Fire Dept and not a mandatory tax.

Kathryn Lustig of 132 Bay Ave and 9 Washington Ave spoke in support of the BID.

There were no further questions or comments from the public.

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Mayor Little closed the public hearing on the HBP 2009 Budget.

Mr. Urbanski spoke about how the BID came to exist. He said that events are great and nobody wants to see them disappear but there really hasn't been a lot of improvement in the Business District. Now it's time to make a decision and he suggests that we put the bid to a test and give them \$40,000 to get through this year and that on November 1st we stop taxing based on a Ordinance that will be adopted, that way the BID will have to be self sufficient.

Mr. Caizza spoke about how the Tax Payers pay for a lot of stuff for the BID. We pay for all of the cops and sanitation and public works for the Clam Fest, which he further explained. The events are great but Bay Avenue is a shame as a Business District.

Ms. Kane stated that as Mr. Urbanski mentioned that the BID has been in existence for 10 years and it was supposed to become a self sustained program and it hasn't been proven that way. With the economy we cannot continue to allow this to continue. We have more empty buildings, more "For Rent" signs and the streetscape is not changing. Our street looks great do to the effort of our Garden Club that is funded through HBP, which was cut out of their budget this year. She continued to speak about the BID and agrees with Mr. Urbanski's proposal for a \$40,000 budget and she would like to work with them to move forward with the Business Partnership in transitioning over whatever they need to do.

Mr. Francy stated that at this point there is a reality of Mr. Urbanski's recommendation. He thinks that the BID needs to maximize the income that they get from the events. He thinks that it's time to move on. The events will continue to be as good as they have been.

Mayor Little – stated that she respectfully disagrees with the all of the Council Members. She stated that her position on this matter was stated at the last meeting and is available on her website. Highlands needs to have an economic engine to create an economy in town. She further spoke about the HBP being the correct vehicle to take Highlands from where we are now to where we would like to be, she feels that the HBP is a success. She feels that it's a mistake for the Governing Body to disestablish this.

Mr. Urbanski offered a motion to approve a \$40,000 HBP 2009 Budget and to authorize the Borough Attorney to prepare Ordinance to stop collecting BID taxes effective November 1st. Seconded by Mr. Caizza and approved on the following roll call vote:

ROLL CALL

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little (yes to \$40,000)

NAYES: Mayor Little – No to the November 1st Deadline and the authorization of the Borough Attorney to prepare and ordinance to disestablish this organization.

ABSTAIN: None

Public Portion of Agenda Items:

No member of the public signed up for this public portion.

Consent Agenda:

Mrs. Flannery asked if the Borough Attorney was prepared to move forward this evening with Resolution R-09-65 and R-09-66.

Mr. Arnette- yes, but please remove R-09-65 from the Consent Agenda.

Mr. Pfeffer – on Resolution R-09-64 he has gone through and reviewed all of the paper work and documentations with regard to this LOSAP. He has asked that the First Aide Squad prepare a one paragraph memo clarifying something in the documents that he felt we needed to have for the file.

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Mr. Arnette – this item should be removed from the Consent Agenda and then make a change to it.

Mrs. Flannery then read Resolution R-09-66 because there were some blanks that needed to be filled in.

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

**R-09-59
RESOLUTION ADOPTING THE HAZARD MITIGATION PLAN AND
DESIGNATING HIGHLANDS OFFICE
OF EMERGENCY MANAGEMENT AS COORDINATOR
OF THE HAZARD MITIGATION PLAN**

WHEREAS, the Borough of Highlands NJ, has experienced natural hazards that result in public safety hazards and damage to private and public property;

WHEREAS, the hazard mitigation planning process set forth by the State of New Jersey and the Federal Emergency Management Agency offers the opportunity to consider natural hazards and risks, and to identify mitigation actions to reduce future risk;

WHEREAS, the New Jersey Office of Emergency Management provided federal mitigation funds to support development of the Monmouth County Multi-jurisdictional All Natural Hazards Pre-Disaster Mitigation Plan;

WHEREAS, this *Hazard Mitigation Plan* has been developed by the Mitigation Planning Committee;

WHEREAS, this *Hazard Mitigation Plan* includes a prioritized list of mitigation actions including activities that, over time, will help minimize and reduce safety threats and damage to private and public property, and

WHEREAS, two public meetings were held on, July 17th 2007 and April 28th 2008, to introduce the planning concept and to solicit questions and comment; and to present the Plan and request comments, as required by law,

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

1. The *Hazard Mitigation Plan* is hereby adopted as an official plan of the Borough of Highlands; minor revisions recommended by the Federal Emergency Management Agency and/or the New Jersey Office of Emergency Management may be incorporated without further action.
2. The Highlands Office of Emergency Management and the various Municipal Departments identified in the Plan are hereby encouraged to pursue implementation of the recommended high priority activities that are applicable to their departments.
3. Any action proposed by the Plan shall be subject to and contingent upon budget approval, if required, which shall be at the discretion of the Borough of Highlands, Mayor and Council, and this resolution shall not be interpreted so as to mandate any such appropriations.
4. The Highlands Office of Emergency Management is designated to coordinate with other offices and shall periodically report on the activities, accomplishments, and progress, and shall prepare an annual progress report to be submitted to the Monmouth County Office of Emergency Management. The status reports shall be submitted by September 15th of each year.

Seconded by Ms. Kane and adopted on the following roll call vote:

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ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little
NAYES: None
ABSENT: None
ABSTAIN: None

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

**R-09-60
RESOLUTION APPOINTING MEMBER OF
HIGHLANDS ENVIRONMENTAL COMMISSION**

WHEREAS, David Dowds has resigned his position on the Environmental Commission;
and

WHEREAS, Mr. Dowds' term was to expire December 31, 2009; and

WHEREAS, it is important that the Borough of Highlands maintain full membership of
its Environmental Commission; and

WHEREAS, Rosemary Ryan has volunteered her services to the Environmental
Commission;

NOW, THEREFORE, BE IT RESOLVED that effective immediately, Rosemary
Ryan, 117 Highland Avenue, Highlands, NJ be and hereby is appointed to the unexpired term of
David Dowds on the Highlands Environmental Commission.

Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little
NAYES: None
ABSENT: None
ABSTAIN: None

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

**R-09-61
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>
14	2.014	2008	\$250.00	HUHN, JOHN & MONACO, A
26	5	2008	\$2432.19	HAMMOND, JOSEPH & K. SAN

Seconded by Ms. Kane and adopted on the following roll call vote:

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ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little
NAYES: None
ABSENT: None
ABSTAIN: None

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

**R-09-62
RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO
EXECUTE AN AGREEMENT FOR MUNICIPAL ALLIANCE FUNDING**

WHEREAS, for funding of the 2009 Municipal Drug Alliance Program, it is necessary to make application to the Monmouth County Board of Alcohol and Drug Abuse Services; and

WHEREAS, the Borough of Highlands has formed a joint Alliance with the Borough of Atlantic Highlands; and

WHEREAS, the Municipal Alliance is requesting \$27,281.00 in the Grant Application; and

WHEREAS, the Joint Alliance is requesting \$8,656.00 in funding from the Borough of Highlands, \$4,410.00 Highlands Cash Match and \$4,246.00 additional funding from the Borough of Highlands; and

WHEREAS, the Borough of Highlands can and hereby does commit the sum of \$8,656.00 as their Municipal share in support of the program;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the Mayor and Clerk be and hereby are authorized to execute said agreement on behalf of the Borough of Highlands.

Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little
NAYES: None
ABSENT: None
ABSTAIN: None

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

**R-09-63
RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO
EXECUTE CONTRACT AGREEMENT WITH THE BOARD OF CHOSEN
FREEHOLDERS, COUNTY OF MONMOUTH FOR SENIOR AREA TRANSPORT
(SCAT) SERVICES**

WHEREAS, annually the Borough of Highlands contracts for Senior Area Transport Services (SCAT) for senior residents of the Borough of Highlands; and

WHEREAS, the Board of Chosen Freeholders, County of Monmouth has supplied the Borough of Highlands with a quotation for this service for the year 2009;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the Mayor and Municipal Clerk be and hereby are authorized to execute the 2009 contract agreement with the Board of Chosen Freeholders, County of Monmouth for SCAT services at the rate of one half day per week at \$132.00 per half day.

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Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: None

ABSTAIN: None

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

**R-09-66
RESOLUTION
AWARDING CONTRACT FOR THE BOROUGH OF HIGHLANDS
FIRE HOUSE APRON**

WHEREAS, the Borough of Highlands has advertised for bids for the Fire House Apron Project in accordance with the Local Public Contracts Law; and

WHEREAS, number (8) bids were received and reviewed by the Borough Engineer and the Borough Attorney; and

WHEREAS, the lowest responsible bid appears to be from Jads Construction Co. P.O. Box 513, South River, NJ 08882 , in the sum of \$47,450.00; and

WHEREAS, funds are available in the following account:

Bond Ord. O-98-11 \$47,450

Stephen Pfeffer, CFO

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the contract is hereby awarded to Jads Construction, P.O. Box 513, South River, NJ 08882 in the sum of \$47,450;

Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: None

ABSTAIN: None

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

Form SA-96(11/08)

**R-09-67
2009**

**New Jersey Department of Transportation
Resolution, Application, and Agreement for
State Aid to Counties and Municipalities**

Name of Sponsor: **Borough of Highlands**

Mailing Address: **171 Bay Avenue**

Highlands, NJ 07732

E-mail Address **Bruce Hilling, Borough Administrator**
dbh45@yahoo.com

Federal Tax Identification Number **21-60007-20**
(Must be inserted by Sponsor)

Program (only check one): _____ County Aid
 Local Aid Infrastructure Fund
(Discretionary Aid)

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	Municipal Aid	
	Bikeway	
	Centers of Place	
	Safe Streets to Schools	
	Other (Specify)	
	Bridge Bond Act	

Sponsor Priority No. 1 (Prioritized by Program) Total Center Line Municipal Road Mileage
20 Miles

BE IT RESOLVED, that application is hereby made to the Commissioner of Transportation for an allotment of aid for the improvement of:

The Reconstruction of Portland Road
(Project Name)

From: **Highland Avenue**

To: **The Monmouth County Jurisdiction**

in the Municipality of **Highlands Borough** County of **Monmouth**

State of New Jersey for a distance of **0.50** miles or such portion thereof as may be approved by the Commissioner of Transportation. The total cost estimate for this improvement is **\$1,208,007.15**. The Sponsor requests **\$1,208,007.15** in State funds and anticipates contributing **the design costs**, AND BE IT RESOLVED that any aid received as a result of this application will only be used for eligible costs for the project.

Type of Improvement (Check only major type of work)

_____ Resurfacing	_____
_____ Culvert (Less than 20 foot span)	_____
<input checked="" type="checkbox"/> _____ Roadway Reconstruction	_____
_____ Bridge (20 foot span or greater)	_____
_____ Surface Treatment	_____
_____ Safety Improvement	
_____ Traffic Signal Installation	
_____ Intersection Improvement	_____ Safe Streets to Schools
_____ Bikeway	_____ Other (Describe Below)

Scope of Work (Provide a detailed written description of the project - use additional sheets if necessary)

See Attached

[SUBMIT 3 ORIGINALS OF THIS FORM ALONG WITH 3 LOCATION MAPS AND FOR CENTERS OF PLACE
 SUBMIT 6 ORIGINALS OF THIS FORM ALONG WITH 6 LOCATION MAPS TO THE DIVISION OF LOCAL AID
 AND ECONOMIC DEVELOPMENT]

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Total Estimated Cost of Improvement (Attach a detailed cost estimate)

Construction Cost (From attached estimate)	
Design Engineering (List only if eligible for Urban Aid or as a Depressed Rural Center)	
Right-of-Way (List only if eligible for Urban Aid or as a Depressed Rural Center)	
Construction Inspection and Material Testing if requesting (15% of the final allowable construction cost maximum)	
Total Estimated Cost	

Project Information

Is utility work planned within the project limits over the next five (5) years? – Yes _____

No

Is the purchase of right-of-way required before the start of project construction? – Yes _____

No

Does the project intersect a State Highway? – Yes _____ No If yes, which highway?

_____ If Yes, is the intersection signalized? – Yes _____ No _____

Is there a railroad crossing within the project limits? – Yes _____ No

Is there a railroad crossing 100 feet outside of the project limits? - Yes _____ No

Will the construction impact traffic across a railroad crossing outside the project limits? – Yes _____

No

ADDITIONAL FORMS OR DOCUMENTS REQUIRED - ATTACH ONLY THOSE FORMS APPLICABLE TO THE PROJECT

Traffic Signal and/or Channelization - Attach a copy of the "Authorization to Design or Install"

Roadway Project – Attach a copy of "Appendix RD"

Bridge Project – Attach a copy of "Appendix BR" and Appendix RD"

Bikeway Project – Attach a copy of "Appendix BW"

Safe Streets to Schools Project – Attach a copy of "Appendix SS"

Location map - 8 1/2" x 11" only, showing project limits (all information must be clear and legible with street names labeled)

NOTE For projects located within right-of-way or on property owned by other jurisdictions, proof of permission to construct this project must be attached to this form or the project will not be considered for possible funding.

AND BE IT FURTHER RESOLVED that if this application is approved and accepted by the New Jersey Department of Transportation ("the Department"), the Sponsor agrees that:

- a. It shall arrange for financing of the total cost of the project provided for in this Agreement.
- b. It recognizes and agrees that continuation of funding under this Agreement is expressly dependent upon the availability to the Department of funds appropriated by the State Legislature from State revenues or such other funding sources as may be applicable. The Department shall not be held liable for any breach of this Agreement because of the absence of available appropriation.
- c. In the event that the Department approves funds in an amount less than requested, the Sponsor, at its option, 1) may either rescind this Agreement or 2) continue with the project and assume the entire difference between the total cost of the project and the allotment of State funds or 3) reevaluate the project limits or scope and submit a letter of justification to the Department for approval. In the event the Sponsor rescinds the Agreement, the allotted funds shall revert to the source of the funding.
- d. The Sponsor must notify the Department of its rescission of this Agreement within thirty (30) days of the expiration of the agreement or subsequent extensions. Not meeting this requirement will result in future grants being provided on a reimbursement basis until such time as the municipality demonstrates satisfactory performance in awarding construction contracts. This does not apply to the County Aid Program.
- e. Any purported transfer or assignment of the written obligations of the Sponsor contained herein without prior approval of the Department shall be void.

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- f. New Jersey Office of Management and Budget, Circular Letter 05-12, Grant Agreements – Agency Contracts and any supplemental compliance statements by the Department, must be complied with by the Sponsor.
- g. The work to be performed by the Sponsor under this Agreement shall include but not be limited to the following:
 - 1. Preparation of contract drawings and supplementary specifications.
 - 2. The acquisition of all necessary right-of-way, easements, slope rights and permits.
 - 3. Construction of the above referenced improvement.
 - 4. Monitoring and supervising compliance with all provisions of this Agreement.
- h. It shall defend, indemnify, protect and save harmless the State and its officers, agents, servants, and employees from and against any and all suits, claims, demands or damages of whatsoever kind and nature arising out of, or claimed to arise out of, any act, error or omission of the Sponsor, its consultants, contractors, agents, servants and employees in the performance of the work of the project including, but not limited to, expenditures for and costs of investigations, hiring of expert witnesses, court cost, counsel fees, settlements, and judgments.
- i. It shall engage a Professional Engineer, registered in the State of New Jersey, for design services on the project. In its agreement for professional services, the Sponsor shall require the provision of professional liability insurance or errors and omissions insurance sufficient to protect against liabilities arising out of the professional obligations performed pursuant to the agreements.
- j. In its agreements for professional and non-professional services, the Sponsor shall require the provisions of public liability insurance and every such policy shall include the Sponsor and State as additional named insureds.
- k. All design work shall conform to the applicable American Association of State Highway and Transportation Officials (AASHTO) design criteria and the Department's Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines. The design of traffic barriers and drainage systems shall conform to the Department's Roadway Design Manual. No deviation shall be allowed without the knowledge of the Department. If there is deviation from those standards, the Sponsor shall accept any and all responsibility for any injury or damage by such deviation to any person or property and shall indemnify the State as outlined in this Agreement. All design shall also conform to the current "Manual on Uniform Traffic Control Devices" published by Federal Highway Administration. Design Exception reports will be prepared for all controlling substandard design elements in accordance with the Department's Design Exception Manual. Design Exception reports shall be certified by a New Jersey licensed professional engineer.
- l. It shall provide maps, reports, detailed plans, supplementary specification and contract documents required by the Department.
- m. All workmanship and materials shall conform to current "New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction" as amended for State Aid.
- n. It is the responsible authority, without recourse to the State, regarding the settlement and satisfaction of all contractual and administrative issues arising out of the procurement entered in support of this funding.
- o. Prior to advertising for bids, the Sponsor shall notify the Department if it intends to substantially change the scope of the project proposed in the Resolution, Application, and Agreement. No substantial change shall be included in the project unless it has been approved by the Department.
- p. Any changes in work after the award of contract shall be documented with a Department approved change order.
- q. Fifteen (15) calendar days prior to advertisement, the Sponsor shall submit the following to the Division of Local Aid and Economic Development:
 - 1. One (1) copy of the contract plans, specifications, engineer's estimate, and engineer's design certification.
 - 2. Other documents as required.
- r. It shall advertise and award the contract in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40 A:11-1 et. seq.
- s. It shall comply with all applicable Federal, State and Local laws, rules, ordinances and regulations.
- t. Within thirty (30) calendar days of construction bids, unless the Department grants an extension of this time, the Sponsor shall submit the following to the Division of Local Aid and Economic Development:
 - 1. Two (2) copies of the summary of construction bids.
 - 2. A resolution awarding the contract to the lowest responsible bidder submitting a responsive bid, subject to the approval of the Department.
- u. For municipal grants, the municipality shall award a construction contract for the grant project within eighteen (18) months of approval of this Resolution, Application, and Agreement by the Department. The Department in its sole discretion may provide one six (6) month extension after receiving an adopted resolution and justification from the Sponsor at least thirty (30) days prior to the expiration of the grant agreement. The Department in its sole discretion may provide a second six (6) month extension under extraordinary circumstances as defined by NJAC 16:20B1.3 after receiving an adopted resolution and justification from the Sponsor at least thirty (30) days prior to the expiration of the first six month extension. The Department may cancel the grant agreement if the Sponsor does not award the construction contract by the specified

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- time or if an extension is not requested at least thirty (30) days prior to the expiration of the grant agreement or subsequent extensions; or if an extension of time is not granted.
- v. Cancellation of the grant agreement because a construction contract was not awarded within the time requirements or because an extension of time was not properly requested thirty (30) days prior to grant agreement expiration or subsequent extensions will result in future grant funds being provided on a reimbursement basis until such time as the Sponsor demonstrates it can award a construction contract within the specified timeframes.
 - w. Sponsors may voluntarily cancel the grant agreement with written notice thirty (30) days prior to the expiration of the grant agreement or subsequent extensions. Voluntarily canceling the grant agreement with proper notification will result in no penalties on future grants.
 - x. Upon prior approval of the Department, it may elect to undertake the work through the use of its own forces when it is deemed applicable and appropriate.
 - y. Neither design costs, the costs for acquisition of all necessary right-of-way, easements, slope rights, and permits nor utility costs shall be considered costs of the project for purposes of computation of the allotment of State Aid funds under this Agreement except in special cases approved by the Department.
 - z. State participation in the cost of the project shall not exceed the lesser of either 100 percent of the cost of the completed construction work including eligible construction supervision, inspection and material testing, or the original allotment. State participation in inspection and material testing costs combined shall be limited to 15 percent of the eligible construction work cost. The State shall not participate in costs that the Department determines to be beyond the scope of the purposes of the allotment, excessive or otherwise unallowable. The Sponsor shall be afforded an opportunity to challenge this determination at an informal hearing.
 - aa. At the discretion of the Commissioner of Transportation, payment of the allotted funds may be made to the project Sponsor in the form of a grant. Grant payments shall be made as follows:
 - 1. For programs administered by the Division of Local Aid and Economic Development, a specified percentage, of the lesser of the eligible award amount or allotment amount shall be paid at the time of concurrence in the award of contract by the Department or the full amount of the allotment shall be paid upon approval of this agreement as determined by the Commissioner. The remaining percentage or balance of funds shall be paid upon submission of a final voucher with supporting information as required by the Department. The final voucher must be submitted to the Department within six (6) months of project acceptance. The Department reserves the right to inspect the work associated with the grant as per N.J.A.C 16:20B-3.2.
 - 2. For County Aid and the Local Bridge Bond Act, the full amount of the annual allotment amount shall be paid upon approval of the Annual Transportation Plan (ATP) and the execution of this Agreement unless the County has demonstrated unsatisfactory performance, whereby funds will be provided similar to municipal grants.
 - 3. If the Sponsor requests, progress payments shall be on a reimbursement basis. It shall request reimbursement from the Department by submitting vouchers supplied by the Department with supporting information as required by the Department. Progress payments of not less than \$50,000 may be made.
 - bb. The Sponsor hereby certifies that all allotted funds shall only be spent on eligible costs for the approved project(s) as described in this Agreement.
 - cc. In the event allotted funds remain after completion of the work, the remaining funds shall revert to the source of the funding and shall be reallocated by the Department in a manner determined solely by the Commissioner of Transportation.
 - dd. In the event that the Department determines that it has reimbursed the Sponsor in an amount in excess of the funds actually due under this Agreement, the Sponsor shall, upon notice from the Department, make timely repayments to the State. Upon failure of the Sponsor to timely repay such funds, the State is hereby authorized by this Agreement to deduct those funds from any monies due the Sponsor under the terms of any agreement between the State, its Departments and Agencies and the Sponsor or to gain reimbursement through any other remedies available at law or equity.
 - ee. It shall provide cost certification and maintain financial records relating to all costs for the project in accordance with N.J.A.C. 16:20A or 16:20B, as applicable, and comply with State of New Jersey audit requirements specified therein.
 - ff. It shall maintain complete documentation of the project for a period of three (3) years after receiving final reimbursement or payment by the State.
 - gg. It shall maintain the completed project in a manner satisfactory to the Department.
 - hh. It will comply with Title VI of the 1964 Civil Rights Act.
 - ii. Failure to comply with all provisions contained in this Resolution, Application and Agreement may result in the suspension and/or termination of funding.
 - jj. Approval as to Form by Certification Process.

AND BE IT FURTHER RESOLVED that the **Mayor** and Clerk are hereby authorized to execute and attest this Resolution, Application and Agreement.

FOR THE SPONSOR

ATTEST and AFFIX SEAL _____

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(Clerk)

(Presiding

Officer)

FOR THE DEPARTMENT OF TRANSPORTATION

Fiscal Year/Funds: _____

Job Number: _____

Account: _____

State Funds: _____

FA0 Number _____

Certification of Funds _____

By _____ Date _____ Director, Division of Accounting
and Auditing

APPROVED: _____ Date _____
Michael Russo, Director, Division of Local Aid and Economic Development

It is hereby certified that the foregoing allocation of funds and this Agreement were approved by the Commissioner of Transportation or Designee on _____ .

Secretary, Department of Transportation

Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little
NAYES: None
ABSENT: None
ABSTAIN: None

**PROJECT NARRATIVE
BOROUGH OF HIGHLANDS
THE RECONSTRUCTION OF PORTLAND ROAD
FROM HIGHLAND AVENUE TO THE MONMOUTH COUNTY
JURISDICTIONAL LIMITS**

The Borough of Highlands is submitting an application for 2009 Local Aid Discretionary funding for the Reconstruction of Portland Road from Highland Avenue to the Monmouth County Jurisdictional Limits.

The Borough is proposing to reconstruct the entire roadway and regrade portions to assist in properly draining the roadway. Concrete curbing will be replaced along with various portions of sidewalk. Extensive drainage improvements will be included along the northern half of the project as the system is undersized and partially failing which is also causing minor settlement in portions of the roadway.

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"Appendix RD"
Roadway Data Sheet

Project – The Reconstruction of Portland Road

From: - Highland Avenue To: - The Monmouth County Jurisdiction

Municipality – Borough of Highlands County - Monmouth

Existing Road Conditions

Current ADT - 1000 % Truck Traffic over 5 Tons - <1% Legal Speed Limit – 25MPH

Commuter Bus Route - Yes _____ No X

Right of Way Width – 33'

Pavement Width – 22' and varies Type - Bit Base Depth - Unknown Surface Depth - Unknown

Shoulder Width – N/A Type - _____ Depth - _____
(If different for each side or varying, provide minimum width for each side)

Curbing - One Side – X - Portions Both Sides – X - Portions

Sidewalk - One Side – X - Portions Both Sides – X - Portions

Parking Restrictions – Limited to one side of the street

Existing Bridge being replaced or repaired - Yes _____ No X
If Yes, and is part of project, complete Appendix BR

Proposed Improvements

Right of Way Width – 33'

Pavement Width – 22' Type - Bituminous Base Depth - 4" Surface Depth – 2"

Shoulder Width – N/A Type - _____ Depth - _____
(If different for each side or varying, provide minimum width for each side)

Curbing - One Side - X - Portions Both Sides - X - Portions

Sidewalk - One Side - X - Portions Both Sides - X - Portions

Parking Restrictions - Limited to one side of the street

Will the project meet AASHTO standards? – Yes X No _____ If No, list Design Exceptions below

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THE RECONSTRUCTION OF PORTLAND ROAD
FROM HIGHLAND AVENUE TO COUNTY JURISDICTION
ESTIMATE OF QUANTITIES
BOROUGH OF HIGHLANDS

DESCRIPTION	QUANTITY	UNIT	UNIT
	=	=	=
PREPARE SITE	1.00	LS	
EROSION & SEDIMENT CONTROL	1.00	LS	
LAND SITE STABILIZATION			
FINISH AND PROTECTION OF TRAFFIC	1.00	LS	
PAVING, 6" THICK	7,500.00	SY	
GRADED AGGREGATE BASE COURSE, 6" THICK	1,250.00	CY	
PAVING HOT MIX ASPHALT 19M64 BASE COURSE, 4" THICK	1,800.00	TON	
PAVING HOT MIX ASPHALT 9.5M64 SURFACE COURSE, 2" THICK AND	1,200.00	TON	
CONCRETE CURB, TYPE 1	3,100.00	LF	
GRANITE BLOCK CURB	52.00	LF	
PAVING CONC. DRIVEWAY, REINFORCED, 6" THICK	20.00	SY	
CONCRETE DRIVEWAY, REINFORCED, 6" THICK	315.00	SY	
PAVING CONCRETE DRIVEWAY, 4" THICK	380.00	SY	
CONCRETE SIDEWALK, 4" THICK	11,060.00	SF	
TYPE B	13.00	UNIT	
CASTING	15.00	UNIT	
STORM DRAINAGE IMPROVEMENTS	1.00	LS	
PLUMBING SANITARY SEWER REPAIRS	1.00	LS	
RETAINING WALLS (VARIOUS)	1.00	LS	
INSTALL GUIDERAIL	150.00	LF	
PAVING CURB, 4" THICK	500.00	SY	
PAVING & SEEDING, TYPE "A-3"	500.00	SY	
PAVING MULCHING	500.00	SY	
PAVING SIDEWALK CURB RAMP DELINEATION	1.50	SF	
PAVING CONCRETE STRIPES, THERMOPLASTIC	500.00	LF	
PAVING REFLECTORIZED, 4" WIDE	=	=	=
			CON
			CON

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

**RECAP OF PAYMENT OF BILLS
03/18/09**

CURRENT:		\$ 24,627.79
Payroll	(03/15/09)	\$ 133,717.89
Manual Checks		\$ 155,008.30
<hr/>		
Voided Checks		\$ - 689.29
<hr/>		
SEWER ACCOUNT:		\$ 1,708.54
Payroll	(03/15/09)	\$ 6,147.18
Manual Checks		\$ 3,688.04
Voided Checks		\$
CAPITAL/GENERAL		\$
CAPITAL-MANUAL CHECKS		\$
WATER CAPITAL ACCOUNT		\$
TRUST FUND		\$ 16,400.80
Payroll	(03/15/09)	\$ 2,600.00
Manual Checks		\$
Voided Checks		\$
UNEMPLOYMENT ACCT-MANUALS		\$
DOG FUND		\$ 88.80
GRANT FUND		\$
Payroll	(03/15/09)	\$ 450.94
Manual Checks		\$
Voided Checks		\$
DEVELOPER'S TRUST		\$
Manual Checks		\$
Voided Checks		\$

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

Seconded by Ms. Kane and approved for payment on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little
NAYES: None
ABSENT: None
ABSTAIN: None

OTHER RESOLUTIONS:

Resolution R-09-65

Mr. Arnette stated that he has a question with regard to the insurance requirements contained within the bid documents. There is only \$500,000 per occurrence, per individual and he is not sure if it was a million dollars that the Borough asked for. He did not review the bid specs but he reviewed the information and this bid complies with all of the state statutes. If it does not comply then you can contact them to increase it. If the Borough does not include it we should require that the Borough be named as an additional insured.

Mayor Little directed Mr. Hilling to look into this.

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Mrs. Flannery then read Resolution R-09-65 and filled in the blanks that were in the Resolution.

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

**R-09-65
RESOLUTION
AWARDING CONTRACT FOR THE BOROUGH OF HIGHLANDS
SHORE DRIVE PROJECT**

WHEREAS, the Borough of Highlands has advertised for bids for the Shore Drive Resurfacing Project and 2008 Capital Improvement Program in accordance with the Local Public Contracts Law; and

WHEREAS, number (6) bids were received and reviewed by the Borough Engineer and the Borough Attorney; and

WHEREAS, the lowest responsible bid appears to be from S. Brothers, Inc., P.O. Box 317, South River, NJ in the sum of \$316,533.58; and

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

Bond Ordinance	
O-08-05	\$170,454.75
O-08-11	\$146,078.83

Stephen Pfeffer, CFO

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the contract is hereby awarded to S. Brothers, Inc., P.O. Box 317, South River, NJ in the sum of \$316,533.58;

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

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: None

ABSTAIN: None

Resolution R-09-68

Mr. Urbanski stated that he wanted to add this resolution to the agenda for approval.

Mr. Pfeffer – the funds for this is from the Bond Ordinance that is on for adoption tonight. So we should adopt the Bond Ordinance first, then adopt this resolution.

Resolution R-09-46

Mrs. Flannery read the title of Resolution R-09-46 for approval:

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

BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

**R-09-46
RESOLUTION AUTHORIZING THE AWARD OF CONTRACT FOR PROFESSIONAL
ENGINEERING SERVICES
PRELIMINARY ASSESSMENT – 2 PRIVATE ROAD
LGA ENGINEERING, INC.**

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WHEREAS, the Borough of Highlands has a need for professional engineering services for a preliminary assessment of 2 Private Road in accordance with the requirements of the New Jersey Department of Environmental Protection; and

WHEREAS, such professional engineering services can only be provided by licensed professionals and the firm of LGA Engineering, Inc., 750 Vasser Avenue, Lakewood, N.J. 08701; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$3,750 plus reimbursable expenses for Professional Engineering Services provided to the Borough of Highlands per LGA Engineering Inc.'s proposal dated January 30, 2009 (Preliminary Assessment only) for a one year period; and

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

I hereby certify funds are available as follows:

Current Fund:
Capital Improvements – Acquisition of Property
and
General Engineering

Stephen Pfeffer, Chief Financial Officer

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

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

1. LGA Engineering, Inc. is hereby retained to provide professional engineering services as described above for an amount not to exceed \$3,750 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. The Mayor and Borough Clerk are hereby authorized to execute the contract.
3. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mayor Little

NAYES: Mr. Urbanski

ABSENT: None

ABSTAIN: None

Ordinances: Introduce, Set Public Hearing Date for April 15, 2009

Ordinance O-09-06

Mrs. Flannery read the title of the following ordinance for introduction and setting of a public hearing date.

Mr. Caizza offered the following Ordinance on introduction and set a Public Hearing Date for Wednesday, April 15, 2009 at 8:00 P.M. and authorized its publication according to law:

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**O-09-06
AN ORDINANCE AMENDING CHAPTER IX TO INCLUDE:
SEWER MAINTENANCE WITHIN THE
CODE OF THE BOROUGH OF HIGHLANDS**

BE IT ORDAINED by the Mayor and Council of the Borough of Highlands the Chapter IX, Water and Sewer is hereby amended to include the following:

Chapter IX:

9-8.10 SEWER MAINTENANCE

9-8.11 Ownership and Maintenance

a. Municipal.

The Borough shall have ownership and be responsible for the maintenance of all sanitary sewer (public sanitary sewer system) mains, manholes, clean-outs and laterals within its right-of-way or within the right-of-way of governmental agencies. Any breaks, leaks or blockages in the right-of-way shall be the responsibility of the Borough.

b. Non-municipal.

The local property owner shall have ownership and be responsible for all sanitary sewer mains, manholes, clean-outs and laterals within private property (nonpublic sanitary sewer system or building lateral) and any breaks, leaks, or blockages on private property shall be the responsibility of the property owner.

c. Municipal maintenance responsibility.

The Borough shall maintain its sanitary sewer system, as defined herein, in good working order. In no event shall the Borough provide any labor or material to clear or remove obstructions from a blocked non-municipal sanitary sewer system, as defined herein, and said work shall be the sole and exclusive responsibility of the property owner with the dividing line of responsibility being the property line between the public right-of-way and the private property. When the municipality is called upon by a private property owner or the tenant agent or representative of the private property owner to investigate a maintenance issue within the system, the Borough will respond. If a problem is discovered in that portion of the system that falls under the municipal maintenance responsibility, it shall be corrected. However, if it is determined that the problem is in the non-municipal portion of the system, the private property owner, tenant, agent or representative shall be responsible to repair and correct the problem. The Borough will also assess a charge of ****\$170.00 for the call out and inspection that lead to the discovery of the problem in the non-municipal portion of the system.

d. Developer obligation.

Nothing contained herein shall alleviate the obligation and responsibility of the property owner or applicant for a sanitary sewer line as part of a new development during the performance bond and/or maintenance bond period.

This Ordinance Shall take effect immediately upon publication.

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

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little
NAYES: None
ABSENT: None
ABSTAIN: None

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Ordinance O-09-07

Mrs. Flannery read the title of Ordinance O-09-07 for introduction and setting of a public hearing date for April 15, 2009.

Ms. Kane offered the following ordinance pass introduction and set a public hearing date for Wednesday, April 15, 2009 at 8:00 P.M. after publication according to law:

**O-09-07
ORDINANCE ESTABLISHING AN OPEN SPACE COMMITTEE FOR THE
BOROUGH OF HIGHLANDS**

BE IT ORDAINED, by the Borough Council of the Borough of Highlands, County of Monmouth, State of New Jersey as follows:

OPEN SPACE COMMITTEE

1. ESTABLISHMENT

There is hereby established an Open Space Committee, which shall consist of seven (7) members, whose terms and powers are hereinafter set forth.

2. MEMBERSHIP

The Open Space Committee shall be comprised of the following persons:

A. One (1) member of the Borough Council of the Borough of Highlands appointed by the Mayor and Borough Council.

B. Six (6) citizens of the Borough appointed by the Mayor and Borough Council.

3. TERMS

A. The member of the Borough Council appointed to the Open Space Committee shall have a term of one (1) year.

B. The terms of the citizen members shall be for three (3) years. However, when the committee is first constituted, two (2) committee members shall be appointed to and serve a one (1) year term initially, two (2) committee members shall be appointed to and serve a two (2) year term initially and two (2) committee members shall be appointed to and serve a full three (3) year term. This will provide for two (2) committee members being appointed each year to a full three (3) year term after the initial creation of the Committee.

4. POWERS AND DUTIES

A. The Open Space Committee shall initially prepare a report recommending which parcels of land should be acquired in fee and/or those parcels of land from which the Borough should acquire development rights only.

B. The Open Space Committee shall submit to the Borough Council a prioritized list of properties which it recommends that the Borough acquire and/or properties from which it recommends that development rights should be acquired.

C. The Borough Council is to determine the properties or development rights to be acquired by gift, purchase or by eminent domain proceedings, pursuant to N.J.S.A. 20:3-1 et seq., within the financial constraints it establishes for such acquisition.

5. PUBLIC MEETINGS

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The Open Space Committee shall hold public meetings, which public meetings shall be held in accordance with the Open Public Meetings Act and the Borough Council shall give appropriate notification of said meetings.

6. OFFICERS

The Open Space Committee shall select from among its members a Chairman, and a Vice-Chairman to serve as the Presiding officer in the absence of the Chairman. The Committee shall also appoint a Secretary whose function shall be to maintain minutes of the Committee's meeting and records of the proceedings of the Committee.

7. INITIAL ORGANIZATION MEETING

The Open Space Committee shall hold its initial organization meeting shortly after this chapter takes effect.

8. SALE OF PROPERTY

No property acquired with the funds from the reserve for open space acquisition shall be leased or sold, until the sale or lease of the same has been authorized by the Borough Council in the manner prescribed by law.

9. REVIEWS AND REPORTS

In the event that no property is acquired under this chapter for a period of five (5) consecutive years, then the Borough Council shall review the activities of the Open Space Committee and issue a report with recommendations and conclusions concerning the reserve for open space acquisition.

This Ordinance Shall take effect immediately upon its enactment.

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

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: Mr. Caizza – left the meeting table

ABSTAIN: None

Ordinance O-09-08

Mrs. Flannery read the title of Ordinance O-09-08 for introduction and setting of a public hearing date:

Mr. Francy offered the following ordinance pass introduction and set a public hearing date for Wednesday, April 15, 2009 at 8:00 P.M. after publication according to law:

**O-09-08
AN ORDINANCE AMENDING CHAPTER VII TRAFFIC OF THE
REVISED GENERAL ORDINANCE OF THE
BOROUGH OF HIGHLANDS**

{additions shown in underline, deletions shown by ~~strikeouts~~}

WHEREAS, there exists a need to amend paragraph 7-11A weight limitation on certain Borough Streets.

THEREFORE BE IT ORDAINED by the Governing Body of the Borough of Highlands that Chapter VIIA, Traffic of the Revised General Ordinance of the Borough of

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Highlands is hereby amended as follows:

7-11A WEIGHT LIMITATION ON CERTAIN BOROUGH STREETS

No vehicle with a weight of seven tons or more shall be permitted the use of streets or parts of streets described in Schedule VIIA except for approved municipal purposes and passenger bus transport to and from Twin Light Towers State Park and school bus transportation to and from the Henry Hudson Regional High School. Schedule VIIA is attached to and made part of this chapter.

Seconded by Ms. Kane and introduced on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: Mr. Caizza – left the meeting table

ABSTAIN: None

Ordinances: 2nd Reading, Public Hearing and Adoption

Ordinance O-09-02

Mrs. Flannery read the title of Ordinance O-09-02 for the second reading and public hearing.

Mayor Little opened up the public hearing on Ordinance O-09-02.

There were no questions or comments from the public; therefore Mayor Little closed the public hearing on Ordinance O-09-02.

Mrs. Flannery read the title of Ordinance O-09-02 for the final reading and adoption.

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

**O-09-02
AN ORDINANCE AMENDING CHAPTER 3-2 NOISE,
OF THE CODE OF THE BOROUGH OF HIGHLANDS**

BE IT ORDAINED by the Mayor and Council of the Borough of Highlands that the following shall replace the current Noise Ordinance in Chapter 3-2 and 3-2A:

Section 3-2.1. Exceptions.

The within prohibitions shall not apply to any public works projects for construction deemed to be in the public's welfare, safety and for the public good and only with prior approval from the Mayor and Council.

Schools; Courts; Churches; Hospitals. The creation of excessive noise on a street adjacent to a school, institution of learning, church or court while in use or adjacent to a hospital, which unreasonably interferes with the working of the institution or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such a street indicating that it is a school, hospital or court street.

Nothing herein contained shall be construed to apply to:

- A. The use of bells, chimes or sound amplifiers by churches engaged in church activities.

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- B. Activities of municipal departments in the performance of their duties, drills or public demonstrations.
- C. Activities in public parks, playgrounds or public buildings under permission or authority of borough officials.
- D. The playing by a band or orchestra in a hall or building or in the open air, where duly authorized.

Section 3-2.2. Prohibited Noise.

A. The making, creation or permitting of any unreasonable, disturbing or unnecessary noise in the Borough of Highlands is hereby prohibited.

No person shall permit any noise to emanate from any speaker, vehicle or instrument, whether natural or artificial, or use amplification or sound system equipment inside or outside a fully enclosed principal dwelling on a property in the Borough of Highlands such that the noise created thereby is plainly audible at a distance of 100 feet from the boundary line of such property.

When an officer can hear plainly audible music or other noise 100 feet beyond the property line of the noise-generating property, or any unreasonably, disturbing or unnecessary noise, there is a violation of this chapter.

The following activities, among others, are declared unreasonably loud, disturbing and unnecessary noise in violation of this chapter, but said enumeration shall not be deemed to exclude those not included herein:

- (1) The sounding of a horn or signaling device on an automobile, motorcycle or other motorized vehicle, except as a warning of danger, and then only for such period of time as is reasonably necessary for giving such warning.
- (2) The playing, using, operating or permitting to be played, used or operated of any electronic receiving set, musical instrument, phonograph or machine or device for the production or reproduction of sound with louder amplified volume than is necessary for the normal sensitive hearing of the person so playing, using or operating such instrument or device and such persons who are voluntary listeners thereto or in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants.
- (3) The use, operation or playing of any loudspeakers, amplifiers or other machines or devices for the producing of sound which is cast upon a public street for the purpose of commercial advertising or attracting the attention of the public.
- (4) The keeping of any animal or bird which by causing frequent or long-continued noise, such as barking or jabbering, shall disturb the peace, quiet and comfort of neighboring inhabitants.
- (5) Creating an audible noise by landscape and erection, excavation, demolition, alteration or repair of any building other than between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 6:00 p.m. on Saturday and Sunday, except in the case of urgent matters and the interest of public safety and health.
- (6) The making, creation or permitting of any unreasonable, disturbing or unnecessary noise in the Borough of Highlands is hereby prohibited, especially between the hours of 8:00 p.m. and 8:00 a.m. on Sunday Monday, Tuesday, Wednesday and Thursday, and 10:00 p.m. and 8:00 a.m. on Friday and Saturday. Consequently, no person shall permit any noise to emanate from any source or instrument whether natural or artificial, or use equipment

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outside a fully enclosed principal dwelling on a property in the Borough of Highlands such that the noise created thereby is plainly audible, as defined in section "B" hereinafter, at a distance of 100 feet from the property line.

B. "Plainly audible" shall mean any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is live entertainment or a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic base component of the music is sufficient to verify plainly audible sound. The law enforcement officer need not determine the title, specific words or the artist performing the song.

Section 3-2.3. Enumeration of noises.

The following are declared to be loud, disturbing and unnecessary noise in violation of this section, but said enumeration shall not be deemed to be exclusive:

A. The playing of any radio, phonograph or any musical instrument or instruments or singing or talking in such a manner or in such volume as to annoy or disturb the quiet, comfort, repose, peace or tranquility of persons in any dwelling, hotel or other type residence or structure.

B. The playing of music outdoors, either live or recorded, after 8:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday, and after 10:00 p.m. on Friday and Saturday is hereby prohibited.

C. The keeping of any animal or bird which has been causing or causes frequent or long continued noise which disturbs the comfort and repose of any person within the vicinity.

D. The shouting of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

E. The sound of any horn or signal device on any automobile or other vehicle, while not in motion or occupied, as well as any structure, for any unnecessary or unreasonable period of time, except as a danger signal.

Section 3-2.4. Violations and Penalties.

A. Any person found guilty of violating any of the foregoing provisions concerning unnecessary noise shall be subject to a fine not to exceed \$100 for an initial violation. For a second violation, the fine shall not exceed \$250. For a third violation, the fine shall not exceed \$350. For a fourth violation, the fine shall be \$350, but not to exceed \$500. For a fifth violation, the fine shall be \$500 but not to exceed \$1,000. For a sixth violation, the fine shall be \$5,000 as well as for any violation thereafter. Additionally, when an offender is found to be a repetitious offender, the offender shall be subject to not more than 30 days imprisonment in the county jail for each subsequent offense. A repeat offender shall be defined by an individual who has violated the statute more than three times within a two-week period of time.

B. Each day that this chapter is violated shall constitute a separate offense.

Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: None

ABSTAIN: None

Ordinance O-09-03

**Mayor and Council
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Mrs. Flannery read the title of Ordinance O-09-03 for the second reading and public hearing.

Mayor Little opened up the public hearing on Ordinance O-09-03.

There were no question or comments from the public; therefore Mayor Little closed the public hearing on this ordinance.

Mrs. Flannery read the title of Ordinance O-09-03 for the third and final reading and adoption.

Mr. Caizza offered the following Bond Ordinance and moved on its adoption and authorized its publication according to law:

**O-09-03
BOND ORDINANCE PROVIDING AN APPROPRIATION
OF \$86,500 FOR REHABILITATION OF STORM SEWER
ON VALLEY AVENUE FOR AND BY THE BOROUGH
OF HIGHLANDS IN THE COUNTY OF MONMOUTH,
NEW JERSEY AND, AUTHORIZING THE ISSUANCE
OF \$82,000 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 the amount of \$86,500, such sum includes the sum of \$4,500 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 not covered by the application of the Down Payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$82,000 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 \$82,000 pursuant to the provisions of the Local Bond Law (the "Bond Anticipation Notes" or "Notes").

SECTION 3:

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

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Improvements	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or Notes	Period of Usefulness
Rehabilitation of storm sewer on Valley Avenue between Route 36 and Shore Drive, which includes storm sewer cleaning, manhole rehabilitation and lining the storm sewers, 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.	\$86,500	\$82,000	15 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 \$82,000.

(c) The estimated cost of the Improvements is \$86,500 which amount represents the initial appropriation made by the Borough. The excess of the appropriations made for the Improvements over the capital outlay and the estimated maximum amount of Bonds or Notes authorized to be issued therefor as stated above is the amount of the Down Payment.

SECTION 4:

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

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SECTION 5:

The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Borough Clerk and is available for public inspection.

SECTION 6:

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

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

(b) The period of usefulness of the Improvements, within the limitations of the Local Bond Law, and according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 15 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 \$82,000 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$26,500 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

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

SECTION 8:

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

SECTION 9:

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 \$82,000.

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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. Urbanski and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Mr. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: None

ABSTAIN: None

Ordinance O-09-04

Mrs. Flannery stated that Ordinance O-09-04 was miss advertised in the Two River Times.

Mayor Little – we need a motion to carry this and to readvertise this for the next meeting and advertise the Workshop Meeting as a Regular Meeting for this purpose.

Mayor Little offered the following ordinance public hearing be carried to the April 1, 2009 Meeting after publication according the law:

O-09-04

**AN ORDINANCE OF THE BOROUGH OF HIGHLANDS,
COUNTY OF MONMOUTH AND STATE OF NEW JERSEY,
AUTHORIZING AND ESTABLISHING OPEN SPACE TRUST FUND ORDINANCE**

BE IT ORDAINED by the Mayor and Council of the Borough of Highlands as follows:

WHEREAS, the voters of the Borough of Highlands, County of Monmouth, State of New Jersey, November 3, 2008, expressed their support to the Borough Council of the Borough of Highlands to establish an Open Space Trust Fund and to create the mechanism for collection of a dedicated .005 tax on each \$100 of assessed real property in the Borough of Highlands; and

WHEREAS, the Borough Council of the Borough of Highlands deems it necessary and convenient to establish such mechanism to begin collections during 2009; and

WHEREAS, the Borough Council of the Borough of Highlands agrees that the collection of such funds, creation of such trust fund mechanism and the acquisition of open spaces for perpetual preservation are in the best interests of the citizens of the Borough of Highlands.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Highlands as follows:

1. There is hereby authorized and established a specific and dedicated tax assessment of .005 (one half cent) per one hundred dollars of the assessed property valuation, to be assessed and paid on all taxable property in the Borough commencing with the tax year 2009 and continuing thereafter. The monies collected pursuant to such specific and dedicated tax will be used specifically and solely to acquire, preserve and improve lands for open space, conservation, recreation and parklands by the Borough of Highlands.

2. There is hereby created the Open Space Trust Fund to be administered by the Department of Finance of the Borough of Highlands subject to the provisions of the within Ordinance, which Trust Fund shall have deposited in it the special assessment of .005 per \$100 of assessed property valuation.

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3. The Borough's Chief Finance Officer shall establish such Trust in a manner perpetually to keep separate and apart from all other Borough budgeted items all costs in connection therewith and all funds collected pursuant hereto.

4. The Borough's Chief Finance Officer, together with the Tax Assessor and tax collection, shall operate as necessary and convenient for the administration of the said Trust Fund including but not limited to creation of a separate line item on the municipal tax bills forwarded to all Highlands taxpayers, identifying the Trust Fund as follows: "Municipal Open Space Tax" and inserting opposite such separate line item the amount to be collected for such Fund as calculated pursuant to the said .005 per \$100 of assessed valuation as provided by the voters of Highlands at the said referendum conducted on November 3, 2008.

5. In the event the Borough of Highlands shall become the beneficiary, by way of gift, federal or state grant or other funding sources of any lands or unrestricted funds, such lands and/or funds may, at the discretion of the Borough Council be deposited in the Trust Fund, in the case of monies, or placed upon the Trust Funds' register of open lands, as the case may be.

6. It is the intention of this Ordinance to comply with all applicable state and federal programs governing the acquisition of open space for active or passive recreational, and the like, purposes.

7. All lands acquired through the program herein authorized shall be set aside and dedicated for such open space purposes and all deeds and other applicable documents shall so indicate.

8. All decisions respecting the acquisition and purchase of such lands shall be the determination of the Borough Council, subject to the applicable state and federal regulations.

9. If any clause of the within Ordinance be deemed by a Court of competent jurisdiction to be unlawful, the remaining provisions of the within Ordinance shall remain in full force and effect.

This Ordinance Shall take effect immediately upon publication.

Seconded by Ms. Kane and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: None

ABSTAIN: None

Ordinance O-09-05

Mrs. Flanner read the title of Bond Ordinance O-09-05 for the second reading and public hearing.

Mayor Little opened up the public hearing on Ordinance O-09-05.

Don Manrodt of 268 Bayside Drive – questioned if the demolition of the old sewer tanks would take care of the two lines. One that goes down to the river and the one that comes from the water plant.

Mr. Urbanski – this ordinance is to get the funding for this project.

There were no further questions or comments from the public; therefore Mayor Little closed the public hearing on Bond Ordinance O-09-05.

Mrs. Flannery read the title of Ordinance O-09-05 for the third and final reading and adoption and stated that this ordinance was advertised in the February 27th issue of the Two River Times.

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

**O-09-05
BOND ORDINANCE PROVIDING AN APPROPRIATION
OF \$235,000 FOR DEMOLITION OF THE
WASTEWATER TREATMENT PLANT FOR AND BY
THE BOROUGH OF HIGHLANDS IN THE COUNTY OF
MONMOUTH, NEW JERSEY AND, AUTHORIZING
THE ISSUANCE OF \$223,250 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 the amount of \$235,000, such sum includes the sum of \$11,750 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 not covered by the application of the Down Payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$223,250 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 \$223,250 pursuant to the provisions of the Local Bond Law (the "Bond Anticipation Notes" or "Notes").

SECTION 3:

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

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Improvements	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or Notes	Period of Usefulness
Demolition of the Wastewater Treatment Plant, including all work or materials necessary therefor or incidental thereto.	\$235,000	\$223,250	15 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 \$223,250.

(c) The estimated cost of the Improvements is \$235,000 which amount represents the initial appropriation made by the Borough. The excess of the appropriations made for the Improvements over the capital outlay and the estimated maximum amount of Bonds or Notes authorized to be issued therefor as stated above is the amount of the Down Payment.

SECTION 4:

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

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.

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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 15 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 \$223,250 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$60,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

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

SECTION 8:

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

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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 \$223,250.

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. Francy and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: Ms. Kane

ABSTAIN: None

OTHER RESOLUTION:

Resolution R-09-68

Mrs. Flannery read the following Resolution in its entirety for approval:

Mrs. Flannery stated that she did not receive the Financial Disclosure Forms for CMX, Inc.

Mr. Pfeffer stated that the Zoning Board Secretary has certified to him that the CMX, Inc. Financial Disclosure Forms are on file with the Board Secretary.

Mr. Arnette – based on Mr. Pfeffer’s comments that the forms are on file with the Borough Hall we can proceed.

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

**R-09-68
RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
SHORE DRIVE TREATMENT PLANT WET WELL DEMOLITION
CMX**

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

WHEREAS, such professional engineering services can only be provided by licensed professionals and the firm of CMX, Inc., 200 State Highway 9, P.O. Box 900, Manalapan, NJ 07726-0900 is so recognized; and

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

WHEREAS, this contract is to be awarded for an amount not to exceed \$16,050 plus reimbursable expenses per CMX proposal dated March 13, 2009 for Professional Engineering Services for the Shore Drive Treatment Plan Wet Well Demolition provided to the Borough of Highlands for the period of one year; and

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

WHEREAS, CMX has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 2711; and

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

I hereby certify funds are available from Bond Ordinance O9-05 subject to the successful completion of the 20-day estoppels period.

Stephen Pfeffer, Chief Financial Officer

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

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

1. CMX are hereby retained to provide professional engineering services as described above for an amount not to exceed \$16,050 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 person authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to sign the contract.
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. Francy and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little

NAYES: None

ABSENT: None

ABSTAIN: None

OTHER BUSINESS:

Garden Club Request for Borough Support

Mrs. Flannery stated that the Garden Club submitted a written request for financial support by the Borough as follows:

\$2,000 for the Spring plantings in parks and street side containers.

\$ 500 for the Autumn parks

\$ 500 for the Winter Greens and Willow Sticks

\$3,000 Total

The Governing Body had a discussion on this request.

Dodie Bower, President of the Garden Club was present and spoke about the \$3,000 request.

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Mr. Caizza offered a motion to approve a \$3,000 payment to the Garden Club, seconded by Mr. Urbanski and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little
NAYES: None
ABSENT: None
ABSTAIN: None

Downtown Drainage and Cost Analysis

Mayor Little – we spoke about needing \$100,000 to try to get that drainage work done, and that was just the down payment.

Mr. Pfeffer – correct.

Mayor Little –we would still have to finalize plans for a proposal. She feels that the flooding is very important and she is hoping that we can take the \$50,000 that we do have and make that part of the SFY 09 budget and then when we get to the SFY10 budget find \$50,000 and that the drainage get done. She would like to get whatever money is necessary to follow through on the proposal that was made on her request last year.

Mr. Pfeffer – I have not seen the proposal. I thought that they were going to make a proposal tonight. I will accommodate the Mayor with a better answer once I see what they have as a number.

Engineer's Report

Robert Keady, P.E. of T & M Associates reviewed the following report with the Council:

HGHL-G0901

March 4, 2009

Via Facsimile (732) 872-0670 and First Class Mail

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

Re: Engineer's Status Report

Dear Mr. Hilling:

The following is the status of various projects in which we are involved as Borough Engineer:

General

1. **Community Center Playground/Sports Courts Improvements:** We are currently negotiating the completion date with the Contractor so that the Maintenance Bond may be submitted. A meeting with the Contractor is scheduled for March 5, 2009.

Mr. Keady stated that today we received the Maintenance Bond on this project so we can close this project out.

Dale Leubner – the ramp to the Community Center is not ADA Accessible for voting purposes. The ramp was part of the overall Community Center Project. We forwarded the documents on the ramp to the Borough and it remains to be seen who will fix the ramp.

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Mayor Little – Mr. Pfeffer, we cannot continue to use the Community Center for voting if we don't fix the ramp so you need to prepare for this.

Mr. Pfeffer – I believe that the bond ordinance for the Community Center is still open but we need an estimate. He will look into this.

2. **Valley Avenue Drainage Repairs:** As requested by the Mayor, we have submitted a Discretionary Aid application to the NJDOT for the cost of the repairs. In the interim, it is our understanding that the Mayor and Council will complete this work through a Bond Ordinance and then seek reimbursement from the NJDOT.
3. **Master Plan:** T&M Associates has met with the Planning Board to discuss Master Plan changes as recommended by members of Council. As authorized by Mayor and Council, T&M Associates has started preparing a Master Plan Reexamination Report. T&M Associates discussed the recommendations with the Planning Board on November 13, 2008 and provided copies of the draft report to the Board members. The Planning Board provided comments at the January 8, 2009 Board meeting. Additionally, they have formed a sub-committee for this issue and will be setting up a meeting to further discuss in the near future. As a result, we submitted a letter to the Borough Administrator on February 27, 2009 identifying the additional scope and associated fee.

Capital Improvement Projects

1. **Basin Eight Sanitary Sewer Rehabilitation Project:** The contract portions of the project for all three proposals have been completed. Proposals "B" and "C" have been closed out and T&M Associates is in the process of closing out Proposal "A". As a requirement of the AHHRSA grant for this project, T&M Associates has been authorized by the Governing Body to provide metering services within the project area in an effort to identify the overall reduction of I/I. The metering has depicted that the I/I portion of the flow has been significantly reduced. A report outlining the metering and I/I reductions was provided to the Governing Body at the February 18, 2009 Council Meeting. T&M will be submitting a revised report to provide clarification to the original report.

Mr. Keady discussed the amount of flow that has been reduced due to the project. We received 277 credits for this reduction of flow.

Dale Leubner – we did forward a copy of the flow report to the Sewer Authority.

2. **Basin Two Sanitary Sewer Rehabilitation Project:** T&M Associates has prepared a design to implement the recommended improvements outlined in the initial investigation report. The design of this project is complete and has been sent to the Borough for signature and authorization to bid. This project is on hold due to funding.
3. **Emergency Generators Project:** As authorized, we are currently under design of the three emergency generators partially funded by CDBG. The three locations are the South Bay Avenue and Waterwitch Avenue pumpstations, as well as the Community Center. It is our understanding that the Borough is updating the Bond Ordinance already in place for this project to include an additional generator at Borough Hall. Once authorized to proceed, we will design this portion of the work and bid it as an add-alternate with the base contract. We held a meeting on February 5, 2009 with a Committee previously established by Mayor and Council to discuss potential locations and aesthetics. It should be noted that developing matters since the meeting may result in a potential alternate location for the generator at the South Bay Avenue Pumpstation. It is our understanding that the Borough is investigating possibly installing the generator beneath the Route 36 bridge and that the Borough Administrator was drafting a letter to the NJDOT requesting to occupy the State right-of-way. We have also submitted a letter to the Borough Administrator on February 24, 2009 requesting the material selection for stairs, landing and handrails at the Waterwitch Pumpstation.
4. **Roadway Improvement Program (South Linden Avenue area):** As authorized, we have completed the design of the improvements of the roadways within this

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project. They include Waddell Street, Rodgers Street and South Linden Avenue. The sanitary sewer mains within the project area have been televised and appropriate repairs of the mains have been included on the plans. These roadways have been combined with the Shore Drive Improvements (FY 2008 NJDOT Municipal Aid). Bids for the project will be received on March 13, 2009.

5. **Highlands Firehouse Apron Replacement:** We have completed the Addendum for the replacement of the apparatus room apron at the firehouse and have advertised the project for bidding. A pre-bidder's meeting is scheduled to be held at 1:00 p.m. on March 10, 2009. Bids for this project will be received on March 17, 2009.

Grants and Loans

1. **FY 2009 NJDOT Municipal Aid – Waterwitch Avenue:** The Borough was recently notified that they received funding for this project in the amount of \$192,000.00.
2. **NJDOT Discretionary Aid - Highland Avenue:** The Borough has received funding in the amount of \$1,184,000.00 from NJDOT for the reconstruction of Highland Avenue. This project also includes the reconstruction of portions of Valley Avenue and Miller Street, between Route 36 and Highland Avenue. As requested, we are currently preparing a cost proposal for the design and contract administration of this project.

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

Very truly yours,

T&M ASSOCIATES

ROBERT R. KEADY, JR. P.E., C.M.E.
HIGHLANDS BOROUGH ENGINEER

Mr. Keady stated that the DOT will be accepting applications so the Borough should keep that in mind for submission.

Downtown Drainage & Cost Analysis

Mr. Keady – last year Mr. Leubner took on the task of reviewing existing outfall conditions and providing some recommendations as far as what outfalls could use valve replacements or new valve installations and he broke that into faces. Their recommendation at that time was to see if some of the work could be performed by Public Works. After that we followed up with some general construction cost estimates for a few projects. One being the North Street Pump Station Replacement, second would be the replacement rehab of piping to the Valley Street Pump Station, third would be the Snug Harbor area replacement of piping and catch basin and some valves. In addition we looked into putting in a pump station in the Snug Harbor Area Jones Creek.

Mayor Little asked for a ball park figure which will be amended once the plans are done.

Mr. Keady – we had provided a letter with some estimates. North Street Pump Station estimated construction without engineering was \$550,000, Valley Street Pump Station \$325,000 for the replacement of pipes, Snug Harbor Avenue \$125,000 for piping and catch basin and valve replacement. The pump station for the Snug Harbor Area he does not have a figure. He would need more information for this cost.

Mayor Little – we need to authorize you to provide more information and we are going to need to pay you to do that. We are going to need the bond to pay you so you need to scope me out a number.

Mayor Little –we to do the work in one shot and not in pieces.

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Mr. Pfeffer – assuming that we are not going to bond any other projects for the rest of the year we have enough down payment to do a bond ordinance for approximately \$900,000 which all of the soft cost could come out of. His recommendation is that we really need a comprehensive list of what the council wants to do on the capital side so we know what we are talking about for down payment money for SFY 2010.

Mayor Little – we started that list at the last Work Shop Meeting and she thinks that we need to finalize that at the next Work Shop Meeting. She then asked the Council for authorization to prepare a bond ordinance for introduction at the April 15th meeting so that we can get this drainage going.

The Governing Body had a discussion about preparing a bond ordinance for drainage projects.

Mr. Francy - we need to consider engineer expenses as part of the project and at this point we need to see if there is another alternative to T & M Associates with regard to engineering costs. Stated that we don't have a comprehensive plan about what they are going to do.

Mr. Pfeffer – explained that we don't have the funds in the engineering budget to authorize a professional service contract to get the comprehensive plan.

Mayor Little expressed her support for the drainage project and the need for a bond ordinance.

Mr. Urbanski – what would the soft costs be?

Mr. Keady – we can put together a proposal for North Street but the other end is more complicated.

Mayor Little – we can't do this project in pieces.

Discussions continued.

Mr. Keady suggested that he prepare a cost for him to scope out the work for each item.

Conner's – Improve Parking Lot for Additional Uses

Mayor Little – due to the late hour we can table this item to the next meeting.

Borough Hall – Conceptual Plans

This item was also tabled for discussion to the next meeting.

Bid Budget Payment

Mayor Little requested that the BID receive a check for what portion of taxes that the borough has received approximately \$20,000 so that they can settle debts.

Mr. Pfeffer – it's up to the Council

The Governing body did not object to the CFO distributing a check as soon as possible.

Master Plan

Mayor Little – The Planning Board wants to save the Council Money by not having to go through a General Master Plan Reexamination after going through a Master Plan Reevaluation which she further explained that the Board wants an amendment to the Resolution that authorized the Master Plan Examination so that the work that they are doing right now could be considered a General Reexamination.

Mr. Arnette – I will speak with Mr. Serpico about this.

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Drainage

Mr. Keady stated that he is not clear on what the Council wants him to do with regard to drainage.

Mr. Francy explained that he wants a comprehensive plan for drainage for the town.

Mr. Caizza offered a motion to adjourn the meeting, seconded by Mr. Urbanski but there was no vote on an adjournment.

Mayor Little – we need to have a public portion.

Mr. Caizza then left the meeting.

Authorize Borough Attorney to Prepare Title Search on Three Properties

Ms. Kane offered a motion to authorize the Borough Attorney to prepare three property title searches, seconded by Mr. Francy and all were in favor except. Mr. Caizza who was absent.

APPROVAL OF MINUTES:

Ms. Kane offered a motion to approve the February 4, 2009, February 18, 2009 and the March 4, 2009, seconded by Mr. Francy and all were in favor.

PUBLIC PORTION:

Don Manrodt of 268 Bayside Drive requested that the ditch on Bayside Drive be dug out.

Mr. Francy – I will take a look at it.

Don Manrodt – asked that the Shade Tree come and visit Bayside to see all of the trees that are down.

Mr. Francy stated that he will take a look at it.

Tina & Elizabeth Kaemmer of 164 Linden Ave #3 were not present to speak.

Jim Parla of 16 Portland Road announced that Quizno's Corporation has recognized Rebecca Kane as a Home Town hero.

Maureen Kraemer of 200 Portland Road said that she would send a memo to the Borough Administrator about Portland Road.

Carol Custer of Central Avenue stated that there are many areas on the Bay Avenue sidewalk that have been uprooted by trees and she wants to know who will fix this.

Mayor Little – The County says that it's the Borough's responsibility and we say that it's the County's responsibility and that would be a capital project if we decided to do it. She then directed the Borough Administrator to look into this.

Mr. Pfeffer advised the Governing Body that with regard to the ramp at the Community Center there is enough money available in the bond. He would need to read the bond ordinance description to see if the repair fits and if it doesn't then we will need to amend the description.

Roberta McEntee of Fifth Street was not present to speak.

Ids Koch of 215 Shore Drive was not present to speak.

Bernadine Harford of 168 Highland Avenue – spoke about Community Aide. She then suggested that Mayor Little get a tighter rein on the amount of time that she allows people to

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make comments because it's not fair. She suggested that people only be given five minutes to speak rather than 20 minutes.

Mayor Little – the problem is that she does not like to cut the public off.

Jim Parla agreed with Ms. Harford request for a time limit for the public to speak.

Mayor Little – I will make an effort.

There were no further questions or comments from the public.

Mr. Urbanski offered a motion to adjourn the meeting, seconded by Ms. Kane and all were in favor.

The Meeting adjourned at 11:30 P.M.

CAROLYN CUMMINS, DEPUTY CLERK

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