

**Mayor and Council  
Regular Meeting  
October 22, 2009[**

Mayor Little called the meeting to order at 7:23 p.m.

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

**ROLL CALL:**

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

**Absent: None**

**Also Present: Carolyn Cummins, Borough Clerk  
Bruce Hilling, Borough Administrator  
Scott Arnette, Esq., Borough Attorney  
Stephen Pfeffer, CFO**

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**Executive Session Resolution:**

Mrs. Cummins read the following Resolution for approval:

Mr. Urbanski 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:**

**2.Contract:**

**3.Real Estate: Bay & Waterwitch Ave Property, 2 Private Rd**

**4. Personnel Matters: Administrative Positions**

**Debby Dailey – Riced**

**Dawn Horniacek - Riced**

**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 Mr. Caizza 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**

The Governing Body then entered into Executive Session.

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Mayor Little called the Regular Meeting back to order at 8:16 p.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: Carolyn Cummins, Borough Clerk  
Bruce Hilling, Borough Administrator  
Scott Arnette, Esq., Borough Attorney  
Stephen Pfeffer, CFO**

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**Public Participation on Agenda Items:**

Carol Bucco of 330 Shore Drive questioned Resolution R-09-181 authorizing an advance of expenses to Borough Officials, she is very happy to see that the Resolution requires the Officials have to submit receipts.

Claudette DiAryo of 12 Seadrift Avenue requested to speak on the Regular Public Portion.

Lori Dibble of 32 Paradise Park questioned Resolution R-09-185 awarding engineering contract to T & M Associates for the EIT Report for \$17,500.

Robert Keady, P.E. , Borough Engineer explained to Ms. Dibble that this is a requirement by the Environmental Trust program, which he further explained that this is an initiation of program for the storm water management.

Tara Ryan of 17 Ocean Street questioned R-09-195 renewing the Seastreak Ferry Licenses.

Mayor Little explained that it's a license to operate a ferry in the Borough.

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Tara Ryan then questioned Resolution R-09-196 appointing p/t recycling attendant. She asked why we were hiring when we just had layoffs.

Mr. Urbanski explained that there have been retirements so there is an opening.

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**Consent Agenda Resolutions:**

Mrs. Cummins informed the Governing Body that we have an amendment to R-09-193 under the second whereas we are going to be adding a third paragraph adding language that this is subject to NJDOT concurrence.

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

**R-09-180  
RESOLUTION APPOINTING FIRE POLICE**

**WHEREAS**, Andrew Daino of the Highlands Fire Police is no longer an active member;  
and

**WHEREAS**, it is the recommendation of the Chief of the Borough of Highlands Fire Department that Howard Paronto be appointed a member of the Fire Police.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the Howard Paronto is hereby appointed Fire Police Officer for the year remainder of the calendar year 2009:

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

**ROLL CALL:**

**AYES:** Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little  
**NAYES:** NONE  
**ABSENT:** NONE  
**ABSTAIN:** NONE

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

**R-09-181  
RESOLUTION AUTHORIZING ADVANCE  
FOR EXPENSES FOR BOROUGH OFFICIALS**

**WHEREAS**, NJSA 40A:5-16.1 provides for the lawful advancement of funds to officials and employees of the Borough for their expenses for authorized travel and incidents thereto; and

**WHEREAS**, the following officials of the Borough of Highlands will be traveling to the New Jersey League of Municipalities Convention during the third week in November 2009..

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that the following officials be given an advance in the amount (\$100 a day) set forth next to their names and positions **and said officials are required to submit their receipts for expenses and/or return any unused moneys:**

Chris Francy – Councilman	\$400.00
Rebecca Kane – Councilwoman	\$400.00
Anna Little – Mayor	\$400.00

**BE IT FURTHER RESOLVED** that other Borough Official and Employees will be reimbursed for such expenses up to \$100.00 a day with a maximum of 4 –days \$400.00 for the convention upon submission of receipts to the Borough.

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

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**ROLL CALL:**

**AYES:** Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little  
**NAYES:** NONE  
**ABSENT:** NONE  
**ABSTAIN:** NONE

Mr. Francy offered the following and moved its adoption:

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH**

**R-09-182**

**TEMPORARY CAPITAL BUDGET**

**WHEREAS**, the Borough of Highlands desires to constitute the SFY 2010 Temporary Capital Budget of the Borough of Highlands by inserting therein various capital projects,

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

Section 1. The SFY 2010 Temporary Capital Budget of the Borough of Highlands is hereby constituted by the adoption of a schedule to read as follows:

Temporary Capital Budget Borough of Highlands County of Monmouth, New Jersey				
Projects Scheduled for SFY 2010				
Project	Estimated Costs	Improvement Fund	Other Funds	Debt Authorized
Improvements to Waterwitch Avenue Project # R-10-01	\$300,000	\$ 5,500	\$192,000	\$ 102,500
Design & Permitting for Various Projects Project #R-10-02	\$446,000	\$22,300		\$ 423,700

Section 2. The Borough Clerk be and is authorized and directed to file a certified copy of this resolution with the Division of Local Government Services, within three days after the adoption of these projects for the SFY 2010 Temporary Capital Budget, to be included in the SFY 2010 Permanent Capital Budget as adopted.

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

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

**R-09-183  
RESOLUTION  
URGING THE NEW JERSEY BOAT REGULATION COMMISSION TO  
AUTHORIZE A "SLOW SPEED/NO WAKE" Zone**

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**WHEREAS**, the Borough of Highlands has been plagued by issues by excessive vessel wakes and increased danger to persons or property from vessels being operated at high speeds in the entire area of the Shrewsbury River; and

**WHEREAS**, there is also an increased environmental impact to estuaries and nature sanctuaries in this area; and

**WHEREAS**, area residents have expressed their concerns to the Governing Body about how they have exhausted considerable time and resources in trying to stop erosion that has occurred along their river beaches; and

**WHEREAS**, as a result of the issues and concerns the Governing Body is requesting a “Slow Speed/No Wake “ zone along the entire area of the Shrewsbury River, from Plum Island on Sandy Hook to Sedge Island in Sea Bright.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Highlands urges the New Jersey Boat Regulation Commission to authorize a “Slow Speed/No Wake” zone along the entire area of the Shrewsbury River and that this proposal be a cooperative effort between New Jersey State Police-Marine Services Bureau by strict enforcement of the zone, the Borough of Highlands and the Borough of Sea Bright.

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the New Jersey Boat Regulation Commission.

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

**ROLL CALL:**

**AYES:** Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little  
**NAYES:** NONE  
**ABSENT:** NONE  
**ABSTAIN:** NONE

**Resolution R-09-184 – Removed from Agenda**

Mr. Francy offered the following and moved its adoption:

BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

R-09-185

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN  
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES  
PREPARATION OF PLANNING DOCUMENT FOR SUBMISSION TO N.J.  
ENVIRONMENTAL INFRASTRUCTURE TRUST  
T & M ASSOCIATES**

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

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

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

**WHEREAS**, this contract is to be awarded for an amount not to exceed \$20,000 plus reimbursable expenses for Professional Engineering Services provided to the Borough of Highlands for a period of one year; and

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

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

**WHEREAS**, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands as follows:  
I hereby certify funds are available as follows:

Capital Fund: Subject to adoption of Bond Ordinance 09-28 and/or  
Current Fund: General Engineering contingent upon the adoption of the SFY 2010 municipal budget

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Stephen Pfeffer, Chief Financial Officer

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

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

1. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$20,000 plus reimbursable expenses.
2. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to sign said 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 Mr. Urbanski and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little

**NAYES:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

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**INSERT RESOLUTION R-09-186 here**

HIGHLANDSNJ.COM

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Mr. Francy introduced and offered for adoption the following resolution:

**RESOLUTION R-09-187  
BOROUGH OF HIGHLANDS**

**RESOLUTION FOR THE ATLANTIC HIGHLANDS-HIGHLANDS  
REGIONAL SEWERAGE AUTHORITY'S CLAIM FOR  
REIMBURSEMENT FOR ELECTRICAL SERVICE RELOCATION  
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**WHEREAS**, the Atlantic Highlands-Highlands Regional Sewerage Authority (hereinafter AHHRSA) and the Borough of Highlands (hereinafter Highlands) have been engaged in discussions over a disputed reimbursement of electrical relocation costs; and

**WHEREAS**, the electrical service was relocated for, and on behalf of, the AHHRSA at its expense; and

**WHEREAS**, the AHHRSA has asserted that the relocation expenses total \$32,364.40; and

**WHEREAS**, the AHHRSA have asserted that Highlands is responsible to reimburse it for the full cost of the relocation of the electrical service; and

**WHEREAS**, a breakdown of this bill identifies \$6,559.02 for materials and \$17,963.31 for installation, totaling \$24,522.33; and

**WHEREAS**, there is also an engineering component to the bill in the amount of \$6,726.07 from T&M Associates and an "Administrative Charge" from AHHRSA in the amount of \$1,116.00 for a total engineering/administrative fee of \$7,847.07; and

**WHEREAS**, the Borough of Highlands contends that it is responsible for only one half of the breakdown of the materials and installation charge that totals \$24,522.33, and is not responsible for any of the engineering and administrative fees that AHHRSA had included in the bill.

**NOW THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Highlands hereby tender a check in the amount of \$12,261.17 to AHHRSA representing Highlands full and final payment for any and all charges associated with the relocation of electric service; and,

**BE IT FURTHER RESOLVED**, that the check to be delivered to AHHRSA in the amount of \$12,261.17 shall state directly on the check that the payment represents full and final payment for the disputed amount.

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

**ROLL CALL:**

**AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little**

**NAYES: NONE**

**ABSENT: NONE**

**ABSTAIN: NONE**

Mr. Francy introduced and offered for adoption the following resolution:

**RESOLUTION NO. R-09-188  
BOROUGH OF HIGHLANDS**

**RESOLUTION FOR THE BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH, STATE OF NEW JERSEY  
APPROVING SETTLEMENT OF THE MATTER OF**



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**GOLEMAN V. BOROUGH OF HIGHLANDS**

**WHEREAS**, Mildred Goleman had demanded the removal of a drainage pipe from her property and/or repayment for the services rendered by a contractor for the removal of the drainage pipe; and

**WHEREAS**, Highlands had agreed to the reimbursement to Goleman for the expense of the removal of the drainage pipe asserted to be part of the Highlands municipal storm water system that was no longer in use; and

**WHEREAS**, the pipe has been removed, a request for reimbursement made and, in order to avoid the costs of litigation and the inconvenience of pursuing and defending a lawsuit, Goleman and Highlands have agreed to amicably resolve this dispute; and

**WHEREAS**, the Attorneys for the parties have drafted a Settlement and Release Agreement reflecting the agreement between the parties, and the Agreement has been signed by Goleman;

**NOW THEREFORE BE RESOLVED**, that the Governing Body of the Borough of Highlands hereby authorizes and directs the Mayor to sign the Settlement and Release Agreement and to have the Chief Financial Officer issue the settlement/reimbursement check to Mildred Goleman.

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

**ROLL CALL:**

**AYES: Mr. Francy, Mrs. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little**

**NAYES: NONE**

**ABSENT: NONE**

**ABSTAIN: NONE**

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

**R-09-189  
RESOLUTION  
AUTHORIZING RELEASE OF MAINTENANCE BOND  
FOR TWO RIVERS CONSTRUCTION, LLC FOR PROPERTY LOCATED  
AT 216 BAY AVENUE ALSO KNOWN AS  
BLOCK 64 LOT 23**

**WHEREAS**, the applicant Two Rivers Construction, LLC of posted a Two Year Maintenance Bond in the amount of \$271.26 (Cash) which expired in May of 2009 for 216 Bay Avenue (Block 64 Lot 23): and Engineering Inspection Fees; and

**WHEREAS**, the Borough Engineers Office has authorized the release of said Maintenance Bond via email dated 10/14/2009.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Highland that the Chief Financial Officer is hereby directed to release and refund the Maintenance Guarantees for Two Rivers Construction, LLC, Inc. for Block 64 Lot23 in the amount of \$271.26 and all unused Engineering Inspection Fees plus any accrued interest.

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

**ROLL CALL:**

**AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little**

**NAYES: NONE**

**ABSENT: NONE**

**ABSTAIN: NONE**

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

**R-09-190**

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**RESOLUTION AUTHORIZING  
THE CANCELLATIONS/DISCHARGE OF MORTGAGES**

**WHEREAS**, the ten year term of Mortgages Note for the following have expired and same are to be canceled pursuant to the terms of the Mortgage in accordance with requirements of the Regional Contribution Agreements as established in the rules and regulations of the Council of Affordable Housing and the Department of Community Affairs Housing Rehabilitation Program; and

**WHEREAS**, the Mayor and Council of the Borough of Highlands hereby authorize the Borough Attorney to prepare cancellations/discharges of mortgages execution on the following Mortgage Notes.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the Mayor and the Borough Clerk be and are hereby authorized to execute cancellation/discharge of Mortgages in accordance with the recommendation of the Borough Attorney, Scott Arnette, Esq., for the following mortgages:

NAME:	Property Location:	Block	Lot	Amount
<b>White, D. &amp; A.</b>	<b>54 Second Street</b>	<b>63</b>	<b>23</b>	<b>\$18,000</b>
<b>Searcy, B.</b>	<b>63 Barberie Ave</b>	<b>75</b>	<b>14</b>	<b>\$18,000</b>

**BE IT FURTHER RESOLVED** that the Borough Attorney is hereby authorized to prepare Discharge Forms for execution.

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

**ROLL CALL:**

**AYES:** Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little

**NAYES:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

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

**R-09-191  
RESOLUTION  
APPOINTING  
RECYCLING COORDINATOR**

**WHEREAS**, on April 15, 1998 the Governing Body of the Borough of Highlands adopted Resolution R-98-62 entitled "Tonnage Grant Application" in which Reggie Robertson was designated as the Recycling Coordinator for the Borough of Highlands; and

**WHEREAS**, Reg Robertson has been serving as the Borough of Highlands Recycling Coordinator since 1998 and receiving an annual salary of \$2,000.00; and

**WHEREAS**, a specific separate Resolution Appointing Reg Robertson as Recycling Coordinator was not adopted; and

**WHEREAS**, the Recycling Coordinator is in the process of applying for a Tonnage Grant Application which is requiring a separate Resolution appointing Mr. Robertson as Recycling Coordinator in order to process our application.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands, County of Monmouth, that Reggie Robertson is hereby reappointed Recycling Coordinator for the Borough of Highlands and will continue to receive annual stipend.

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

**ROLL CALL:**

**AYES:** Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mrs. Little

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**NAYES: NONE  
ABSENT: NONE  
ABSTAIN: NONE**

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

**R-09-192  
RESOLUTION AUTHORIZING AWARD OF CONTRACT  
TO VENDOR(S) WITH STATE CONTRACT  
FOR RADIO EQUIPMENT**

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Highlands,  
County of Monmouth, State of New Jersey as follows:

1. In accordance with the requirements of the Local Public Contracts Law  
N.J.S.A. 40A:11-12 et seq., and the regulations promulgated thereunder,  
the following purchase without competitive bids from vendor(s) with  
State Contract is hereby approved.

ITEM # 1

VENDOR

**WPCS INTERNATIONAL INCORPORATED  
1985 SWARTHMORE AVENUE  
SUITE 4  
LAKEWOOD, N.J. 08701**

STATE CONTRACT # A53804

AMOUNT \$ 38,356.00

DESCRIPTION

RADIO EQUIPMENT  
FOR THE POLICE DEPARMENT

**WHEREAS**, the Chief Financial Officer of the Borough of Highlands has  
certified that adequate funds for such contract are available, and are designated to  
line item appropriation of the official budget no. GRANT FUND. A copy of the said  
certification is attached hereto and made a part hereof and the funds to be expended  
herein are assigned to line item no. STATE DONATION. A copy of the within  
resolution and certification shall be certified by the Borough Clerk.

2. The Borough Attorney is satisfied that the availability of funds has been  
provided and a copy of the within resolution shall be made a part of the file  
concerning said resolution and appointment.

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3. A certified copy of this resolution shall be provided by the Office of the Borough Clerk to each of the following:

- A. Purchasing Agent
- B. Chief Blewett, Police Department
- C. Bruce Hilling, Administrator

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

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

**R-09-193  
RESOLUTION  
AWARDING CONTRACT FOR THE BOROUGH OF HIGHLANDS  
FOR THE REHABILITATION OF VALLEY AVENUE DRAINAGE PIPE  
IN THE UNIMPROVED PORTION OF VALLEY AVENUE**

**WHEREAS**, the Borough of Highlands previously received Bids for the Rehabilitation of Valley Avenue Drainage Pipe in the Unimproved Portion of Valley Avenue on July 9, 2009 and Bids were subsequently rejected so the project was sent out for rebid; and

**WHEREAS**, the Borough of Highlands has advertised for bids for the Rehabilitation of Valley Avenue Drainage Pipe in the Unimproved Portion of Valley Avenue in accordance with the Local Public Contracts Law; and

**WHEREAS**, this is subject to NJDOT concurrence; and

**WHEREAS**, the following (3) bids were received and reviewed by the Borough Engineer and the Borough Attorney:

En-Tech Corporation, Closter, NJ	\$ 96,125.00
AM-Liner East, Inc., Berrville, VA	\$141,360.00
Lucas Construction Group, Inc, Morganville, NJ	\$208,750.00

; and

**WHEREAS**, the lowest responsible bid appears to be En-Tech Corporation, d/b/a/ Entech of NJ Corp., 304 Harrington Avenue, Closter, NJ 07624, in the sum of \$96,125.00; and

**WHEREAS**, funds are available in the following account:

Bond Ord. O-09-19	\$ 96,125.00
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\_\_\_\_\_  
Stephen Pfeffer, CFO

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that the contract is hereby awarded to En-Tech Corporation, d/b/a Entech of NJ Corp., 304 Harrington Avenue, Closter, NJ 07624 in the sum of \$96,125.00;

Seconded by Mr. Urbanski 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. Francy offered the following Resolution and moved its adoption:

BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

R-09-194

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN  
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES  
TO T & M ASSOCIATES  
ZONING ORDINANCE REVISIONS**

**WHEREAS**, the Borough of Highlands has a need for professional planning services for the to prepare a comprehensive amendment of the Highlands Zoning Ordinance to implement the Master Plan Reexamination Report as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

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

**WHEREAS**, this contract is to be awarded for an amount not to exceed \$10,000 plus reimbursable expenses per T & M Associates proposal dated October 7, 2009 for Professional Planning Services for the preparation of a comprehensive amendment of the Highlands Zoning Ordinance to implement the Master Plan Reexamination Report for the period of one year; and

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

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

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

I hereby certify funds are available from Current Fund - General Engineering Account.

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**Stephen Pfeffer, Chief Financial Officer**

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

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

5. T & M Associates are hereby retained to provide professional planning services as described above for an amount not to exceed \$10,000 plus reimbursable expenses.
6. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to sign the contract.
7. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
8. The Borough Clerk is hereby directed to publish notice of this award as required by law.

Seconded by Mr. 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**

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

**R-09-195  
RESOLUTION  
APPROVING THE 2009 RENEWAL OF TWO FERRY LICENSES  
FOR HIGHLANDS LANDING CORP  
d.b.a. Seastreak America, Inc.**

**WHEREAS**, Seastreak America, Inc. has submitted the required fees for the renewal of the Ferry Licenses for 2009, to operate a ferry service at 2 locations within the Borough of Highlands; and

**WHEREAS**, the one ferry location is located at 326 Shore Drive and the other ferry location is at Willow Street; and

**WHEREAS**, Seastreak America, Inc has also submitted a copy of the Certificate of Liability Insurance for both sites to the Borough Clerk.

**WHEREAS**, the ferry service had applied to the planning board of the Borough of Highlands for site plan approval for changes and modification to the 326 Shore Drive site, which were conditioned upon obtaining all other necessary and appropriate approvals for the site plan approved by the Board; and

**WHEREAS**, the ferry service has not finalized the approvals nor completed the work identified in the approved site plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that the Ferry Licenses for Seastreak America, Inc. for the sites located at 326 Shore Drive and at Willow Street are hereby renewed for the calendar year 2009; and

**BE IT FURTHER RESOLVED**, and the Borough Clerk is hereby authorized to issue the proper licenses for the operation of ferry services at those locations; and

**BE IT FURTHER RESOLVED**, that the renewal of these and future Licenses are conditioned on Seastreak Ferry, Inc.'s, full compliance with the site plan that was approved by the Borough of Highlands Planning Board for the 326 Shore Drive, including all terms and conditions regarding other agency approvals, and compliance with time parameters and limitations set forth in the Board's Resolution of approval.

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

**R-09-196  
RESOLUTION APPOINTING TEMPORARY  
PART-TIME RECYCLING YARD ATTENDANT**

**WHEREAS**, the Borough of Highlands is need of hiring a temporary part/time Recycling Yard Attendant to open, close and monitor the Recycling Yard during hours of operation;

**WHEREAS**, the Borough Administrator has conducted interviews with several applicants for said position; and

**WHEREAS**, it is the recommendation of the Borough Administrator that Edward O'Neil be appointed.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that Edward O'Neil is hereby appointed to the temporary part/time position of Recycling Yard Attendant effective October 26, 2009.

**BE IT FURTHER RESOLVED** that said appointment is to be compensated at a rate of \$10.00 per hour not to exceed 25 hours per week.

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

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

**RECAP OF PAYMENT OF BILLS  
10/22/09**

<b>CURRENT:</b>	\$	319,415.09
Payroll (10/15/09)	\$	105,669.76
<b>Manual Checks</b>	\$	<b>29,760.57</b>
<b>Voided Checks</b>	\$	
<b>SEWER ACCOUNT:</b>	\$	92,527.39
Payroll (10/15/09)	\$	6,510.97
Manual Checks	\$	9.00
Voided Checks	\$	
<b>CAPITAL/GENERAL</b>	\$	31,663.80
<b>CAPITAL-MANUAL CHECKS</b>	\$	
<b>WATER CAPITAL ACCOUNT</b>	\$	
<b>TRUST FUND</b>	\$	15,678.88

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Payroll	(10/15/09)	\$	10,266.41
Manual Checks		\$	
Voided Checks			\$
<b>UNEMPLOYMENT ACCT-MANUALS</b>			\$
<b>DOG FUND</b>			\$
<b>GRANT FUND</b>			\$ 765.99
Payroll	(10/15/09)	\$	
Manual Checks		\$	
Voided Checks			\$
<b>DEVELOPER'S TRUST</b>			\$
Manual Checks		\$	
Voided Checks			\$

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

**BOROUGH OF HIGHLANDS**

Supplemental Bill List for October 22, 2009

Bayview Condominium Association	Street Lighting Reimbursement	
	SFY 2009	\$5,758.08
	7/10/09-8/7/09	416.53
Total Supplemental Bill List		\$6,174.61

Seconded by Mr. Urbanski 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**

**Ordinances: 2<sup>nd</sup> Reading, Public Hearing & Adoption**

**Ordinance O-09-22**

Mrs. Cummins read the title of Ordinance O-09-22 for the second reading and public hearing and stated that this ordinance was published in its entirety in the October 12, 2009 edition of the Two River Times.

Mayor Little opened up the public hearing on Ordinance O-09-22.

There were no questions from the public; therefore Mayor Little closed the public hearing on Ordinance O-09-22.

Mrs. Cummins read the title of Ordinance O-09-22 for the third and 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-09-22**

**AN ORDINANCE AMENDING CHAPTER VII, SECTION 7-3.4  
OF THE CODE OF THE BOROUGH OF HIGHLANDS**



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**BE IT ORDAINED** by the Mayor and Council of the Borough of Highlands that they hereby **DELETE** that portion of the following section of Chapter VII of the Borough Code identified hereinafter:

**7-3.4 Regulate Public Parking**

Section 7-3.4, Traffic, Schedule 1 “No Parking” shall be amended to include the additional location on Cornwell Street as follows:

<i>Name of Street</i>	<i>Sides</i>	<i>Location</i>
Cornwell Street the	Both	From the corner of Shrewsbury Avenue to foot of Cornwell where it meets the river.

**BE IT FURTHER ORDAINED** by the Mayor and Council of the Borough of Highlands that they hereby amend Chapter VII of the Borough Code identified below to include the following:

**7-3.4 Regulate Public Parking**

Section 7-3.4, Traffic, Schedule 1 “No Parking” shall be amended to include the additional location on Cornwell Street as follows:

<i>Name of Street</i>	<i>Sides</i>	<i>Location</i>
Cornwell Street	N/A	26 feet across the bulkhead at the terminus of Cornwell Street and the Shrewsbury River.

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-09-23**

Mrs. Cummins read the title of Ordinance O-09-23 for the second reading and public hearing. She also stated that this ordinance was published in its entirety in the September 25, 2009 edition of the Two River Times. She then stated that the Council has also received the Planning Board Resolution of Recommendations on this ordinance.

Mayor Little opened up the public hearing on Ordinance O-09-23.

There were no public questions or comments.

Carol Bucco of 330 Shore Drive asked if this ordinance is replacing the existing flood ordinance.

Mr. Arnette stated that yes that is the intension of the ordinance.

Donna O’Callaghan of 29 S. Bay Avenue questioned if this would affect the new FEMA flood maps.

Mr. Francy explained that this ordinance incorporates those new FEMA maps.

Lori Dibble of 32 Paradise Park questioned the changes in the flood ordinance.

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Mr. Urbanski stated that this ordinance follows the NJDEP recommendations.

Mayor Little explained that it's required that this Borough adopt this in order for insurance companies to sell insurance here to our homeowners.

Lori Dibble questioned if this affected manufactured housing.

Mr. Keady explained that this ordinance came from FEMA.

Mr. Francy further commented on the FEMA imposed ordinance.

Jim Bemis of Twin Lights questioned the definition of substantial improvement in the ordinance.

Mr. Francy explained that it means substantial improvement of more than fifty percent.

Dale Leubner of T & M Associates further explained it.

Mayor Little then read from a portion of the ordinance for Mr. Bemis.

Peter Mullen of 11 Marine Place questioned the Planning Board recommendations with regard to this ordinance.

Mr. Arnette explained that the recommendations really dealt the public process of the ordinance so there are some modifications to the ordinance to incorporate the Planning Board comments.

Mrs. Cummins stated that the revised ordinance is on for introduction later this evening if this ordinance is not adopted.

Donna O'Callaghan of 29 South Bay Avenue questioned the ordinance with regard to manmade sand dunes in the VE and V Zone. she also questioned what a VE and V zone was.

Mr. Keady explained that the zones..

Donna O'Callaghan then spoke about her concerns with regard to the removal of soil at the South Bay Ave Beach and that she was told that it wasn't being replaced.

Mayor Little directed Mr. Hilling to note Ms. O'Callaghan's comments with regard to the South Bay Ave Beach.

Maureen Kraemer of 200 Portland Road questioned section 21-112.5 of the ordinance pertaining to bulk heads.

Mayor Little responded that she believes that there has been movement away from permitting such types of bulk heads.

Mr. Keady then explained that this section is essentially this is discussing the construction of property that could force the water to be directed into another direction and impact adjacent properties, which you don't want to do.

There were no further questions or comments from the public; therefore Mayor Little closed the public hearing on Ordinance O-09-23.

Mr. Arnette explained that there is an amended ordinance that was prepared based on the Planning Board comments.

Mrs. Cummins read the title of Ordinance O-09-23 for the third and final reading and adoption.

There was no motion made for the adoption of this ordinance; therefore the ordinance failed.

**Ordinance O-09-26**

**Mayor and Council  
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Mrs. Cummins read the title of Ordinance O-09-26 for the second reading and public hearing. She also stated that this ordinance was published in its entirety in the September 25<sup>th</sup> edition of the Two River Times.

Mayor Little opened up the public hearing on Ordinance O-09-26.

Maureen Kraemer of 200 Portland Road explained that since the reduced garbage collection pick up changes there has been a lot of people not conforming to the 4 can limit. She also spoke about the DPW not putting the lids back down on cans.

Ms. Kane directed the Borough Administrator to inform DPW that they need to put the lids back on cans.

Carla Cefalo-Braswell of 62 Gravelly Point Road stated that there are bags of garbage on Bay Avenue which are not in garbage cans and there is a rodent problem and we need code enforcement to enforce not putting garbage bags out.

Tara Ryan of 17 Ocean Street questioned if the ordinance requires lids to be placed on the containers.

Mayor Little – yes it dose.

There were no further questions or comments from the public; therefore Mayor Little closed the public hearing on Ordinance O-09-26.

Mrs. Cummins read the title of Ordinance O-09-26 for the third and final reading and adoption.

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

**O-09-26  
ORDINANCE AMENDING THE BOROUGH OF HIGHLANDS  
CODE TO ADD THE FOLLOWING REGULATIONS ON  
“GARBAGE COLLECTION”**

**WHEREAS**, the Borough of Highlands has maintained garbage collection for both residential and commercial uses within the Borough, providing much greater individual pick-up services for the commercial uses when compared to the residential use pick-up; and

**WHEREAS**, residential garbage collection and/or reimbursement is required under N.J.S.A. 40:66-1.2 et seq., and is provided by the Borough and limited to Four (4) receptacles that shall not exceed 40 pounds in weight each; and,

**WHEREAS**, there is no similar statutory obligation to provide the same type of garbage collection for commercial uses within the Borough; and

**WHEREAS**, the Borough of Highlands seeks to reduce municipal expenses by applying uniform pick-up procedures and quantities for both residential and commercial use garbage collection.

**BE IT ORDAINED**, by the Borough Council of the Borough of Highlands that the Code of the Borough of Highlands be amended and supplemented as follows, and all parts inconsistent herewith are hereby deleted:

**SECTION 3-7A**

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**NONRESIDENTIAL GARBAGE**

A. The Borough of Highlands shall collect four (4) receptacles, not to exceed 40 pounds in weight each, for the removal of garbage, trash and refuse from business or commercial establishments. The collection of garbage beyond the four (4) receptacles per pick up shall be the responsibility of the owners and occupants thereof to provide for private collection of garbage, trash and refuse and to comply with all applicable Federal, State and Borough laws,

rules and regulations regarding such collection. All businesses and commercial establishments shall also be entitled to four (4) receptacles of 40 pounds in weight each for recycling as required by law. The remaining recycling must be disposed of by the owner or occupant of the establishment through private collection to comply with all applicable Federal, State and Borough laws, rules and regulations regarding such collection.

B. For purposes of this ordinance, businesses and commercial uses shall be designated as any business or commercial operation having a mercantile license issued under Section 4-9.1 of the Code of the Borough of Highlands.

**SECTION TWO**

If any section or provision of this ordinance shall be held invalid in any court, the same shall not affect the other sections or provisions of this ordinance except so far as the section or provision so declared invalid and shall be inseparable from the remainder or any portion thereof.

**SECTION THREE**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION FOUR**

This ordinance shall take effect immediately after passage and publication 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

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**Ordinances: Introduce, Set Public Hearing date December 2, 2009**

**Ordinance O-09-27**

Mrs. Cummins read the title of Bond Ordinance O-09-27 for introduction and setting of a public hearing date for December 2, 2009.

Mr. Urbanski offered the following Bond Ordinance pass introduction and that a public hearing date be set for December 2, 2009 at 8:00 P.M. and authorized its publication according to law:

**O-09-27**

**BOND ORDINANCE PROVIDING AN APPROPRIATION  
OF \$300,000 FOR IMPROVEMENTS TO WATERWITCH  
AVENUE FOR AND BY THE BOROUGH OF  
HIGHLANDS IN THE COUNTY OF MONMOUTH, NEW  
JERSEY AND, AUTHORIZING THE ISSUANCE OF**

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**\$102,500 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 \$300,000, such sum includes the sum of (a) \$192,000 expected to be received from the New Jersey Department of Transportation and (b) \$5,500 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 \$102,500 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 \$102,500 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
Improvements to Waterwitch Avenue, including all work or materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications on file in the Office of the Clerk.	\$300,000	\$102,500	10 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 \$102,500.

(c) The estimated cost of the Improvements is \$300,000 which amount represents the initial appropriation made by the Borough.

**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.

**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 10 years.

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(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 \$102,500 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$100,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

**SECTION 7:**

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

**SECTION 8:**

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

**SECTION 9:**

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 \$102,500.

**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, Ms. Kane, Mr. Caizza, Mr. Urbanski, Mayor Little**

**NAYES: None**

**ABSENT: None**

**ABSTAIN: None**

**Ordinance O-09-28**

Mrs. Cummins read the title of Bond Ordinance O-09-28 for introduction and setting of a public hearing date for December 2, 2009.

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

**Mayor and Council  
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**O-09-28**

**BOND ORDINANCE PROVIDING AN APPROPRIATION  
OF \$446,000 FOR DESIGN AND PERMITTING FOR  
VARIOUS PROJECTS FOR AND BY THE BOROUGH  
OF HIGHLANDS IN THE COUNTY OF MONMOUTH,  
NEW JERSEY AND, AUTHORIZING THE ISSUANCE  
OF \$423,700 BONDS OR NOTES OF THE BOROUGH  
FOR FINANCING PART OF THE APPROPRIATION.**

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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 \$446,000, such sum includes the sum of \$22,300 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 \$423,700 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 \$423,700 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
Design and permitting for various projects, including but not limited to North Street watershed improvements, Valley Avenue watershed improvements, Waterwitch watershed improvements, replacement of outfall pipeline from Valley Street pump station and Snug Harbor pump station, and undertaking study for controlling flood water, including all work or materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications on file in the Office of the Clerk.	\$446,000	\$423,700	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 \$423,700.

(c) The estimated cost of the Improvements is \$446,000 which amount represents the initial appropriation made by the Borough.

**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:**

**Error! Unknown document property name.  
Error! Unknown document property name.**

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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 \$423,700 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$446,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

**SECTION 7:**

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

**SECTION 8:**

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

**SECTION 9:**

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 \$423,700.

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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. Caizza 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. Francy stated that we need make sure that before the engineer gets too far into the project that the projects are prioritized according to the Councils pleasure.

**Ordinance O-09-29**

Mrs. Cummins read the title of the Ordinance O-09-29 for introduction and setting of a public hearing date for December 2, 2009.

Mr. Urbanski offered the following Ordinance and moved that it be introduced and that a public hearing be scheduled for December 2, 2009 at 8:00 P.M. and authorized its publication according to law:

**O-09-29**

**AN ORDINANCE RESCINDING CHAPTER 17,  
OF THE CODE OF THE BOROUGH OF HIGHLANDS  
AND DISSOLVING AND DELETING THE BUSINESS IMPROVEMENT DISTRICT  
AND DISTRICT MANAGEMENT CORPORATION**

**WHEREAS**, Chapter 17 of the Code of the Borough of Highlands created a Business Improvement District as an area in which a special assessment on property would be imposed for promoting the economic welfare of the entire District; and

**WHEREAS**, the provisions of Chapter 17 contemplated a temporary existence of the Business Improvement District and the special assessment tax upon the businesses within the district and specifically indicated that the Chapter was to expire in three years unless re-enacted by the Mayor and Council of the Borough of Highlands prior to March 17, 2001; and

**WHEREAS**, the Governing Body of the Borough of Highlands have determined that the need for the Business Improvement District within the Borough of Highlands no longer exists; and

**WHEREAS**, the Governing Body has decided that it shall cease the taxation and special assessments that it imposes on all of the businesses within the Business Improvement District and terminate the funding of the District Management Corporation, the Highlands Business Partnership, Inc., by the Borough of Highlands as of June 30, 2009; and

**WHEREAS**, the Governing Body of the Borough of Highlands have determined that the Business Improvement District, created pursuant to Chapter 17 shall cease to exist and that the funding of the Highlands Business Partnership, Inc., shall hereby terminate.

**NOW THEREFORE BE IT ORDAINED**, by the Governing Body of the Borough of Highlands that:

1. Chapter 17 is hereby revoked, rescinded and deleted in its entirety from the Code of the Borough of Highlands, thereby terminating the Business Improvement District, created

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pursuant to Chapter 17 and ceasing the funding by the Business Improvement District of the Highlands Business Partnership, Inc.

2. The zone and area within the Borough of Highlands that had heretofore been designated by Chapter 17 as the Business Improvement District, an area in which special assessments on property within the district was imposed for the purposes of promoting the economic and general welfare of the designated Business Improvement District, is hereby dissolved and released from any such special assessment and taxation. The last special assessment and taxation was as of June 30, 2009.

3. That the Highlands Business Partnership, Inc., its predecessor or successor, shall no longer be designated or considered as the "District Management Corporation" for the District as a consequence of the rescission and deletion of Chapter 17. The District has hereby been deleted, and this management corporation shall no longer conduct any business as the Business Improvement District Management Corporation.

4. Any powers that had been heretofore created, designated or delegated to the District Management Corporation that had been created by Chapter 17 of the Code of the Borough of Highlands are hereby rescinded, revoked, deleted and taken from the District Management Corporation, the Highlands Business Partnership, LLC, its Steering Committee, members or any individual or entity associated therewith. There shall be no entity that shall be lawfully known as the District Management Corporation of the Business Improvement District of the Borough of Highlands hereafter, as a consequence of the recession and deletion of Chapter 17.

5. That the deletion of Chapter 17 of the Code of the Borough of Highlands, negates the need for the Borough of Highlands to require and receive an annual audit of the District Management Corporation.

6. Nothing herein shall in any way affect the power and authority of the Borough of Highlands to exercise legislative authority or its police power over any of the area, lands, or buildings within its Jurisdiction.

7. If any provisions of this Ordinance deleting Chapter 17 of the Code of the Borough of Highlands or the application thereof, to any person or circumstance is held invalid, such holding shall not effect other provisions of this Chapter and to this end the provisions of this Chapter are severable.

This Chapter shall take effect immediately after passage and publication is required by Law.

Seconded by Ms. Kane.

Ms. Kane then read a statement that she prepared as follows:

O-09-29 Dissolving the BID – Councilwoman Kane – October 22, 2009

Statement:

If this vote were about political sides this Ordinance would have been set in 2003. The people on this table have not changed much. Nonetheless we wanted to see the BID succeed. I personally worked tirelessly through my first term with Ms. Braswell to assist with events, even running the St. Patrick's Day parade while she suffered from a broken ankle, and no other members stepped up to the plate. I volunteered and rally support at the council table to ensure that projects were handled as a partnership when they were requested.

However our thoughts and input always fell on deaf ears. Prior to this vote, I contacted the National Trust, Downtown NJ and many other state associations in

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regards to the actions that will be taken tonight. I have suggested a DBAT assessment, and many other solutions to see how this can take a different direction, and in the end the divisive actions that have taken place even this week make the decision clear. The BID of Highlands is not working. It should be a true partnership and it is not, very little of their mission has been completed and they thrive themselves on the events. The events are great, but we need business 365, and not 5 days a year. As I spoke with the various state departments in regards to this issue, and they shared with me how BIDs are supposed to work, it was refreshing and I did think to myself if only half of this was done, we would not be in this situation.

Former Clerk Nina Flannery has sent numerous letters asking the intent of the HBP, to date we have not been notified of any response. The Mayor and Council is responsible for ensuring continuity of services and to ensure that the lives of the residents are minimally impacted with the decisions that take place at the table. With that being said I would like to put out an RFP for event management services, due to the fact that the HBP has not notified us of their intent, or called for a meeting with the governing body, and in fact have banned the liaisons from attending their meetings. I feel we have no other options then to move forward. I have spoken with some vendors that will be self liquidating; however they will have to go through the process as well.

Mayor Little thanked Councilwoman Kane for her comments and stated for the record that she and her have had some very lengthy meetings on this topic. She feels that they both respectfully disagree and they have spoken about that. The detail of her position of the BID has outlined at [mayorlittle.blog.spot.com](http://mayorlittle.blog.spot.com), she is not going to read it into the record at this time. It is her position that the BID has helped to create the image of what Highlands is today. It has created some dynamics in our Business District through the events and through other proposals that have come from them by way of water transportation. It began as a Neighborhood Preservation Program. It was very effective in many ways but she does agree with Councilwoman Kane in many ways and she thinks that the Management of the HBP feel that there are many other ways in which the BID could be used to encourage economic development here in the Borough of Highlands. What is significant is that under the current formula is the Businesses assess themselves and pay for the items that are in their budget with the cooperation of the Borough of Highlands. There are other participants by way of the different officials and employees of the Borough of Highlands that work together with the BID to put on these events and to execute the other proposals that the BID has made in the past. She thinks that going forward the Borough of Highlands needs a plan. She thinks that there is much more that the Borough could have done in cooperation with the BID to try to foster economic growth. She thinks that in fairness to prior administrations there is always something of extreme important's by ways of water, roads and drains and sewer. She thinks that there needs to be a priority. She is not pleased at the prospect of the BID being disestablished.

The Ordinance was approved for introduction on the following roll call vote:

**ROLL CALL:**

**AYES: Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski**

**NAYES: Mayor Little**

**ABSENT: None**

**ABSTAIN: None**

**Ordinance O-09-30**

Mrs. Cummins read the title of Ordinance O-09-30 for introduction and setting of a public hearing date for December 2, 2009.

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Mr. Francy offered the following Ordinance and moved that it be introduced and that a public hearing date be set for December 2, 2009 at 8:00 p.m.

**O-09-30  
ORDINANCE AMENDING ORDINANCE O-99-11  
PART 7  
FLOOD DAMAGE PREVENTION  
ARTICLE XXIV – ADOPTED 8/18/99**

**21.109        SHORT TITLE**

This section shall be known and may be cited as the “Floodplain Ordinance of the Borough of Highlands”.

**21-110        STATUTORY AUTHORIZATION**

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Mayor & Council of the Borough of Highlands, of Monmouth County, New Jersey does ordain as follows:

**21-111        FINDINGS OF FACT AND STATEMENT OF PURPOSE**

[1] The flood hazard areas of the Borough of Highlands are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- [1] To protect human life and health;
- [2] To minimize expenditure of public money for costly flood control projects;
- [3] To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- [4] To minimize prolonged business interruptions;
- [5] To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- [6] To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- [7] To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- [8] To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**21-112        METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance includes methods and provisions for:

[1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

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[2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;

[3] Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

[4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,

[5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

## **21.113 DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**"Appeal"** means a request for a review of the Building Official's interpretation of any provision of this ordinance or a request for a variance.

**"Area of shallow flooding"** means a designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of special flood hazard"** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

**"Areas of special flood related erosion hazard"** is the land within a community which is most likely to be subject to severe flood related erosion losses. After a detailed evaluation of the special flood related erosion hazard area will be designated a Zone E on the Flood Insurance Rate Map.

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Breakaway wall"** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

**"Coastal high hazard area"** means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**"Development"** means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

**"Digital Flood Insurance Rate Map" (DFIRM)** means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**"Elevated building"** means a non-basement building (i) built in the case of a building in a Coastal High Hazard Area to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of

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fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

**"Erosion"** means the process of the gradual wearing away of landmasses.

**"Flood or flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- [1] The overflow of inland or tidal waters and/or
- [2] The unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Insurance Study" (FIS)** means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

**"Flood plain management regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**"Highest adjacent grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is:

- [a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- [b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- [c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- [d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved State program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in States without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

**"Manufactured home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**"Manufactured home park or manufactured home subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"MLUL"** means the Municipal Land Use Law as set forth in N.J.S. 40:55D-1 et seq.

**"New construction"** means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.



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**"New manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

**"Primary frontal dune"** means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

**"Recreational vehicle"** means a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Sand dunes"** means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**"Start of Construction"** for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"Structure"** means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

**"Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

[1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

[2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"Variance"** means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

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**21-114            APPLICABILITY**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Highlands, Monmouth County, New Jersey.

**21-115            BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD  
                      HAZARD**

The areas of special flood hazard for the Borough of Highlands, Community No. 345297, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1.) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009.

- (a) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009
- (b) Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34025C0067F, 34025C0069F, 34025C0086F, 34025C0088F; whose effective date is September 25, 2009

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at 171 Bay Avenue, Highlands, New Jersey 07732-1405.

**21-116            ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**21-117            PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than (\$1,000.00) or imprisoned for not more than (180) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Highlands from taking such other lawful action as is necessary to prevent or remedy any violation. involved in the case. Nothing herein contained shall prevent the Borough of Highlands from taking such other lawful action as is necessary to prevent or remedy any violation.

**21-118            INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be:

- [1] Considered as minimum requirements;
- [2] Liberally construed in favor of the governing body; and,
- [3] Deemed neither to limit nor repeal any other powers granted under State statutes.

**21-119            WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

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This ordinance shall not create liability on the part of the Borough of Highlands, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**21-120 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 21-115. Application for a Development Permit shall be made on forms furnished by the Building Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

- [1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- [2] Elevation in relation to mean sea level to which any structure has been floodproofed.
- [3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 21-125.2; and,
- [4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**21-121 DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Building Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

**21-122 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Building Official shall include, but not be limited to:

**21-122.1 PERMIT REVIEW**

- [1] Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- [2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- [3] Review all development permits to determine if the proposed development is located in the floodway.
- [4] Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.
- [5] Review plans for walls to be used to enclose space below the base flood level in accordance with Section 21-125.6 (4).

**21-122.2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA**

When base flood elevation and floodway data has not been provided in accordance with Section 21-115, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 21-125.1, SPECIFIC STANDARDS, Residential Construction, and 21-125.2, SPECIFIC STANDARDS, Nonresidential Construction.

**21-122.3 INFORMATION TO BE OBTAINED AND MAINTAINED**

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[1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

[i] verify and record the actual elevation (in relation to mean sea level); and

[ii] maintain the floodproofing certifications required in Section 21-120 (3).

[3] In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 21-125.6 (1) and 21-125.6 (2)(i) and (ii) are met.

[4] Maintain for public inspection all records pertaining to the provisions of this ordinance.

#### **21-122.4 ALTERATION OF WATERCOURSES**

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

#### **21-122.5 INTERPRETATION OF FIRM BOUNDARIES**

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 21-123.

#### **21-123 VARIANCE PROCEDURE**

##### **21-123.1 APPEAL BOARD**

[1] Appeals and requests for variances from the requirements of this ordinance shall be filed in a manner and before the appropriate Board in a way that is consistent with the MLUL.

[2] The appropriate Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Borough Official enforcing or administering this ordinance.

[3] Those aggrieved by the decision of the Board, or any interested party, may appeal such decision as allowed by the MLUL and the Rules of the Superior Court of New Jersey.

[4] In passing upon such applications, the appropriate Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

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[5] Upon consideration of the factors of Section 21-123.1 [4] and the purposes of this ordinance, the appropriate Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

[6] The appropriate Borough Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

## **21-123.2 CONDITIONS FOR VARIANCES**

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 21-123.1 [4] have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 21-123.1 [4], or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## **21-124 GENERAL STANDARDS**

In all areas of special flood hazards the following standards are required:

### **21-124.1 ANCHORING**

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

### **21-124.2 CONSTRUCTION MATERIALS AND METHODS**

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

### **21-124.3 UTILITIES**

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

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[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed to prevent water from entering or accumulating within the components during conditions of flooding and located a minimum of one (1) foot above the base flood elevation.

[5] All utilities shall be flood proofed at least two (2) feet above the base flood elevation.

#### **21-124.4 SUBDIVISION PROPOSALS**

[1] All subdivision proposals shall be consistent with the need to minimize flood damage;

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

#### **21-124.5 ENCLOSURE OPENINGS**

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade and there must be one opening within three (3) feet of any building corner. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

#### **21-125 SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 21-115, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in Section 21-122.2, Use of Other Base Flood Data, the following standards are required:

##### **21-125.1 RESIDENTIAL CONSTRUCTION**

[1] New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, one (1) foot above base flood elevation;

[2] within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

##### **21-125.2 NONRESIDENTIAL CONSTRUCTION**

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall:

[1] either have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated one (1) foot above the base flood elevation; and

[2] within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the

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lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

[1] be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

[2] have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

[3] be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in Section 21-122.3 [2] [ii].

### **21-125.3 MANUFACTURED HOMES**

[1] Manufactured homes shall be anchored in accordance with Section 21-124.1 [2].

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

### **21-125.4 COASTAL HIGH HAZARD AREA**

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in Section 21-115. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

#### **21-125.5 LOCATION OF STRUCTURES**

[1] All buildings or structures shall be located landward of the reach of the mean high tide.

[2] The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

#### **21-125.6 CONSTRUCTION METHODS**

##### **[1] ELEVATION**

All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated one (1) foot above the base flood level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in Section 21-125.6 [4].

##### **[2] STRUCTURAL SUPPORT**

(i) All new construction and substantial improvements shall be securely anchored on piling or columns.

(ii) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(iii) There shall be no fill used for structural support.

##### **[3] CERTIFICATION**

A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of Section 21-125.6 [1] and 21-125.6 [2] (i) and (ii).

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**[4] SPACE BELOW THE LOWEST FLOOR**

(i) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.

(ii) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.

(a) breakaway wall collapse shall result from a water load less than that which would occur during the base flood and,

(b) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

(iii) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

(iv) Prior to construction, plans for any breakaway wall must be submitted to the Building Official for approval.

**21-126 SAND DUNES**

Prohibit man-made alteration of sand dunes within Zones VE and V on the community's DFIRM which would increase potential flood damage.

Seconded by Mr. Caizza and introduced 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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**Other Business:**

**DBAT Assessment for BID & Request for Proposal**

Mayor Little offered a motion to table the thought of an Request of an RFP until after the ordinance is adopted.

Ms. Kane comments – in audible

Mr. Urbanski comments – in audible.

Ms. Kane offered a motion to authorize RFP's, seconded by Mr. Urbanski and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Francy, Ms. Kane, Mr. Caizza, Mr. Urbanski

**NAYES:** Mayor Little

**ABSENT:** None

**ABSTAIN:**

Mayor Little asked if there was a motion to engage in a DBAT assessment at this time.



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Mr. Pfeffer stated that the funds for the DBAT would be available in the Councils budget.

Ms. Kane offered a motion to approve a DBAT Assessment for a cost of \$2,500, seconded by Mayor Little and approved on the following roll call vote:

**ROLL CALL:**

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

**NAYES:** Mr. Urbanski

**ABSENT:** None

**ABSTAIN:** None

**Borough Engineers Report**

Mr. Keady stated that the Valley Ave Drainage Project was awarded this evening. We will coordinate with the contractor. He then reviewed the following report with Council.

**HGHL-G0901**

**October 15, 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. **Valley Avenue Drainage Repairs:** We have been authorized by the Governing Body to proceed with design of this project. The project design has been completed and approved by the NJDOT. The project was advertised for bidding and bids were received on July 9, 2009. Two bids were received and both costs were above the Engineer's Estimate and were formally rejected by Mayor and Council on July 15, 2009. As a result, the Bond Ordinance was amended to increase the overall amount. The project was re-advertised and bids were received on October 14, 2009. The apparent low bid was provided by En-Tech Corporation, Closter, NJ in the amount of \$96,125.00. We are currently reviewing the bids and will provide a recommendation to the Governing Body for consideration.

**Capital Improvement Projects**

1. **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.
2. **Emergency Generators Project:** A Generator Committee meeting was held on August 26, 2009 to identify project direction with regards to utilizing permanent or portable generators. It was decided that portable generators will be utilized and permanent wiring will be installed at all sites. This direction will be formally proposed to and discussed with the County. We have since provided the Borough with all anticipated construction costs associated with the wiring for all sites. We are currently working with the Borough Director of Parks and Recreation to provide the required documentation to the County. Once the County provides a response, the project will proceed accordingly.
3. **Roadway Improvement Program:** As authorized, we have completed the design of the improvements of the roadways within this 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).

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Bids Date: March 13, 2009  
Contractor: S. Brothers, South River, NJ  
Amount: \$316,533.58.

The Borough awarded the project to S. Brothers in this amount at the March 18, 2009 Council Meeting. Contracts have been processed and a pre-construction meeting was held on May 12, 2009. The project has been substantially completed and a punchlist has been issued to the Contractor for his action.

4. **Portland Road Rehabilitation Project:** As requested, we have completed a FY 2009 NJDOT Discretionary Aid application for this project and submitted it to the NJDOT on behalf of the Borough for consideration.
5. **Flood Reduction Program:** At a public meeting held on June 20, 2009, we presented the Borough's anticipated flood reduction program and the various components. It is our understanding that the Borough is drafting a Bond Ordinance to progress with design and implementation of various drainage improvements within the program.
6. **Army Corps of Engineers (ACOE) Proposed Flood Mitigation Project:** On Thursday, July 2, 2009, the ACOE along with the NJDEP presented a proposed flood mitigation project to Borough Officials. The project is currently in the conceptual design stage. At the meeting, we gave a presentation on the Borough's flood reduction project to the ACOE and the NJDEP. ACOE stated that they would be interested in possibly combining components of the Borough's project with the ACOE project. As requested at this meeting, the ACOE has provided the Borough with hard copies and electronic copies of their conceptual plans for this project. We are providing the ACOE with information pertaining to the Borough's stormwater system and pump stations as they request it.

**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. On March 27, 2009, we notified the NJDOT in writing that the Borough is requesting to reduce the limits of this project to the area between N.J.S.H. Route 36 and Linden Avenue and are currently preparing the NJDOT requested paperwork. At the May 20, 2009 meeting, Mayor and Council requested that the sanitary sewer improvements be added into the request. The paperwork was submitted to the NJDOT on June 19, 2009 for consideration. On July 16, 2009, the NJDOT sent a letter to our office stating that they approve the request to reduce the project limits. As requested, we have submitted a design/contract administration proposal for consideration from the Governing Body.
2. **FY 2010 NJDOT Municipal Aid – Bay Avenue:** The Borough was recently notified that they have been awarded \$200,000 for the reconstruction of Bay Avenue between Waterwitch Avenue and Gravelly Point. This project will also include drainage improvements along Bay Avenue in the vicinity of Jones Creek.

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

Very truly yours,

T&M ASSOCIATES

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

Mr. Pfeffer asked if the Council wished for him to move forward at this time with the preparation of a Bond Ordinance for the NJDOT project.

Mayor – yes

Mr. Caizza – asked if the project could be done in phases.

Mr. Keady suggested that the Borough wait to move forward with a Bond Ordinance until modifications.

Mr. Francy stated that we should await action until we understand firmly of what we are getting with flood control.

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Mr. Keady stated that they have not gone into a detailed design.

Mr. Francy spoke about the flooding that we had this past weekend.

The Council stated that the projects need to be further discussed.

**Master Plan Reexamination Discussion**

Mayor Little stated that this item has been removed from the agenda due to action taken on the Consent Agenda.

**Peddlers License Appeal of Denial**

The Governing Body reviewed the an appeal from an applicant who recently received a denial of a Peddlers License due to criminal history.

Mrs. Cummins explained that the Chief of Police has denied this applicant due to criminal history and that applicant is now appealing this denial.

The Council unanimously denied the applicants appeal from the denial of Peddlers License and authorized the Borough Clerk to raffle this license off.

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**Additional Resolutions:**

**Resolution R-09-197**

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

Ms. Kane offered the following Resolution and moved its adoption:

BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

**R-09-197**

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN  
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES  
HDSRF GRANT APPLICATION FOR 2 PRIVATE ROAD  
PMK GROUP – A DIVISION OF BIRDSALL SERVICES GROUP**

**WHEREAS**, the Borough of Highlands has a need for professional engineering services for the NJDEP Office of Brownfield Reuse Hazardous Discharge Site Remediation Fund grant application for 2 Private Road 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 PMK Group, a Division of Birdsall Services Group, 611 Industrial Way West, Eatontown, N.J. 07724 is so recognized; and

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

**WHEREAS**, this contract is to be awarded for an amount not to exceed \$2,000 plus reimbursable expenses per the Birdsall Services Group's proposal dated January 30, 2009 for HDSRF Grant Acquisition Assistance for 2 Private Road provided to the Borough of Highlands for the period of one year; and

**WHEREAS**, PMK Group, a Division of Birdsall Services Group, has completed and submitted a Business Entity Disclosure Certification which certifies that PMK Group, a Division

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of Birdsall Services Group, 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 PMK Group, a Division of Birdsall Services Group, from making any reportable contributions through the term of the contract, and

**WHEREAS**, PMK Group, a Division of Birdsall Services Group, has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 271; and

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

I hereby certify funds are available from Bond Ordinance 08-12.

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**Stephen Pfeffer, Chief Financial Officer**

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

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

9. PMK Group, a Division of Birdsall Services Group, is hereby retained to provide professional engineering services as described above for an amount not to exceed \$2,000 plus reimbursable expenses.
10. 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 sign the contract.
11. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
12. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

**ROLL CALL:**

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

**NAYES: Mr. Urbanski**

**ABSENT: None**

**ABSTAIN: None**

**Resolution R-09-198**

Mrs. Cummins read the following resolution in its entirety for approval:

Ms. Kane offered the following Resolution and moved on its adoption:

**Borough of Highlands  
County of Monmouth**

**R-09-198**

**Resolution approving the appointment of Debbie Dailey to the full-time position of Payroll Clerk/Deputy Municipal Clerk**

**Whereas**, an employee of the Borough of Highland, Debbie Dailey, has been serving in the position of Payroll Clerk since April 23, 2002; and

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**Whereas**, there is now a vacancy in the position of Deputy Municipal Clerk and a need for an individual to serve in that position; and

**Whereas**, based on the change in her title and responsibilities there will be an increase in Ms. Dailey's workload;

**Now, therefore** Be It Resolved that the Highlands Borough Council approves the appointment of Debbie Dailey to the full-time position of Payroll Clerk/Deputy Municipal Clerk effective November 1, 2009; and be it further

**Resolved** that for her extra duties and responsibilities as Deputy Municipal Clerk Ms. Dailey will receive an annual stipend of \$4,000 added to her current base salary, with said stipend to be prorated for 2009.

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**

**Resolution R-09-199**

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

Mr. Francy wanted to clarify that Ms. Horniacek will continue to do her existing duties as well as the new duties.

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

**Borough of Highlands  
County of Monmouth**

**R-09-199**

**Resolution approving the appointment of Dawn Horniacek to the full-time position of Clerk Typist**

**Whereas**, an employee of the Borough of Highlands, Dawn Horniacek, has been serving in the position of Construction Official Secretary/Code Enforcement Secretary since November 15, 2006; and

**Whereas**, as a result of changes in staffing and operational needs, there is a need for Ms. Horniacek's services in other administrative Departments in addition to current work within the Borough; and

**Whereas**, based on the change in her title and responsibilities there will be an increase in Ms. Horniacek's workload;

**Now, therefore** Be It Resolved that the Highlands Borough Council approves the appointment of Dawn Horniacek to the full-time position of Clerk Typist; effective November 1, 2009; and be it further

**Resolved** that that additional duties for Ms. Horniacek will now include all current Construction Official Secretary/Code Enforcement Secretary duties plus new additional duties to include but not limited to Secretary to Borough Administrator and issuing all animal, mercantile, board of health licenses and parking permits for the Borough Clerks Office.

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**Resolved** that Ms. Horniacek will receive an annual stipend of \$1,000 added to her current base salary for her extra duties and responsibilities, with said stipend to be prorated for 2009.

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

**Mayor Little then excused Stephen Pfeffer, CFO from the meeting.**

Mr. Francy offered a motion to add an agenda item to tonight's meeting, seconded by Mayor Little and all were in favor. The item is Discussion RE: Bridge Traffic Pattern Changes.

**Traffic Pattern Changes RE: Bridge Project**

Mr. Francy informed the Public that the Reed Construction and the NJDOT has informed the Borough that they are closing Portland Road to do some repaving tonight and tomorrow. He then stated that signage will be posted.

Mayor Little commented on sign locations for the street closings.

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**Approval of Minutes:**

**Regular Minutes: August 19, 2009, September 2, 2009 and September 16, 2009**

Mrs. Cummins stated that Ms. Kane was absent at the September 16<sup>th</sup> meeting.

Mr. Caizza offered the approval of the August 19, September 2 and the September 16, 2009 Council Regular Meeting Minutes, 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  
**ABSTAIN:** Ms. Kane abstained on the September 16<sup>th</sup> Minutes  
**ABSENT:** None

**Executive Session Minutes: September 2, 2009 and September 16, 2009**

Mr. Caizza offered the approval of the September 2, 2009 and the September 16, 2009 Executive Session Minutes, 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:** Ms. Kane abstained on the September 16<sup>th</sup> minutes.

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**PUBLIC PORTION:**

Donna O'Callaghan of 29 South Bay Ave spoke about the Light House Tour Traffic went up the wrong way on the street and she is tired of this. She spoke about the need for Police to enforce traffic patterns and commented on the signage. She then stated that the bridge project should be responsible for the sidewalks on South Bay Ave. She also commented on the lengthy time period it took for a sewer break on South Bay to be repaired.

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Mayor Little directed the Borough Administrator to address Ms. O'Callaghan's comments.

Carol Bucco of 330 Shore Drive spoke about her recent OPRA request for copies of Fire Department Raffles and the audio copy of the last Council Meeting. She stated that there were missing raffle licenses for the Fire Department and no evidence of a Social Affair permit. She then spoke about the Diana Kurner complaints at the last meeting about the misconduct of the HBP raffle drawing at the October Fest. She defended the conduct of the HBP and how the raffle drawing was conducted properly. She also stated that disagreed with Mr. Caizza's comments regarding raffle licenses at the last council meeting.

Mrs. Cummins responded to Ms. Bucco with regard to the OPRA request.

Ms. Kane commented on the negative comments that were recently on the Herald.

Discussion took place between Ms. Kane and Mrs. Bucco.

Claudette Dorago of 12 Seadrift Avenue complained about the condition of property located at 5 Seadrift Avenue and stated that she is not happy with the enforcement by the Borough regarding her complaints against this property. She then presented photographs to the Council to show the issues at 5 Seadrift Ave.

Mr. Hilling stated that Mr. Vitale, Construction Official has been working to push the property owner forward with regard to the condition of 5 Seadrift Ave.

Mayor Little stated that there may be a Permit Extension Act that may affect this property.

Council briefly discussed issue of Ms. Dorago.

Jen Roberts of 179 Navesink Avenue expressed dissatisfaction with regard to Code Enforcement Officer serving her with a summons for her weeds on her property. She stated that the ordinance requires a 10-day warning notice be issued prior to the Code Enforcement Office issuing a summons. She also stated that she wants her court cost reimbursed to her.

Mr. Arnette explained that the Borough Council cannot return court costs.

Mr. Hilling stated that he will speak with Code Enforcement Officer about this situation.

Ms. Roberts then questioned the motive of the Code Enforcement Officer issuing her a summons.

Ms. Kane explained to Ms. Roberts that she did not direct the Code Enforcement Officer to issue her a summons.

Mayor Little called for order to the meeting.

Lori Dibble of 32 Paradise Park also spoke about the conduct of the Code Enforcement Officer issuing her association thirty something ticket

Mayor Little responded that the Borough Administrator will be sitting down with the Code Enforcer on these issues.

Christian Lee of 2 Navesink Avenue commented on the HBP Assessment is a positive thing and he stated that it appears that the HBP is willing to adapt to changes.

Don Manrodt of 268 Bayside Drive questioned if a design was prepared yet for the Bay Ave project. He then spoke about an issue on Bay Ave by the VFW that should be considered when designing the project.

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Tara Ryan of 17 Ocean Street passed on her turn to speak.

Diana Kurner of 287 Bay Avenue responded to Carol Bucco's comments with regard to the conduct of the HBP Raffle. She further expressed her complaints against the conduct of the HBP Raffle.

Carla Cefalo-Braswell of the HBP defended the conduct of the HBP raffle and stated that State did investigation and everything was found to be okay. She then spoke about a petition of the HBP Stakeholders. She then spoke about the DBAT Assessment and stated that she supports the assessment but she feels that it's a shame that the borough is spending money for this assessment. She further commented negatively on the Council's desire to get rid of the BID.

A.J. Solomon of 122 Marina Bay Court stated that the Atlantic Herold is a disgrace and is bad for our town. She then stated that the HBP business owners have been taking up a petition to save the HBP.

There were no further questions from the public.

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

The Meeting adjourned at 10:12 p.m.

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**CAROLYN CUMMINS, BOROUGH CLERK**