

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

Mayor Little called the Meeting to order at 7:16 pm.

Mrs. Cummins read the following statement: As per requirement of P.L. 1975, Chapter 231, notice is hereby given that this is a Work Shop Meeting with Special Action of the 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

Absent: Steve Pfeffer, Chief Financial Officer

Late Arrival: Mrs. Little

Also Present: Carolyn Cummins, Borough Clerk
Debby Dailey, Deputy Borough Clerk
Bruce Hilling, Borough Administrator
Scott Arnette, Esq., Borough Attorney

Executive Session Resolution:

Mrs. Cummins read the following Resolution for approval:

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

**RESOLUTION
EXECUTIVE SESSION**

BE IT RESOLVED that the following portion of this meeting dealing with the following generally described matters shall not be open to the public:

- 1.Litigation: Caizza Litigation**
- 2.Contract: UFCW Contract Negotiations**
- 3.Real Estate: Offer to Sell Block 56 Lot 8**
- 4. Personnel Matters: Paul Murphy, Code Enforcement Position (Riced)
Dawn Horniacek, Building Dept. (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.

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

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.

Ms. Kane seconded and all 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.

Mayor Little called the Combined Meeting back to order at 8:40 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: Steve Pfeffer, CFO

Also Present: Carolyn Cummins, Borough Clerk
Debby Dailey, Deputy Borough Clerk
Bruce Hilling, Borough Administrator
Scott Arnette, Esq., Borough Attorney
Dale Leubner, T&M Engineers
Keith Henderson, T&M Engineers

Public Portion on Agenda Items:

Tara Ryan - passed
Lori Dibble- passed
Michelle Pezzulo – passed
Carla Braswell – passed
Linda Rose – passed
Carol Custer – passed
John Bentham – passed
Jackie Kane – passed
James Bottini – passed
Arnie Fuog - passed

Consent Agenda Resolutions:

Mayor Little asked the council to remove R-09-211 from Consent Agenda. Mr. Urbanski offered and was seconded by Ms. Kane.
Mayor Little asked to table R-09-211. Ms. Kane offered and was seconded by Mr. Caizza.

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

Mrs. Little offered the following resolution and moved its adoption:

**R-09-203
APPOINTING ENVIRONMENTAL COMMISSION**

WHEREAS, the Chairman of the Environmental Commission as informed the Governing Body that both Mr. Manrodt, Alternate Member and Mr. Stockton have both resigned from their positions as Members of the Environmental Commission; and

WHEREAS, it is the desire of the Governing Body to fill these unexpired terms.

BE IT RESOLVED that the following listed persons be appointed to the Highlands Environmental Commission:

Amy Skillman - Regular Member 3 years to expire 12/31/2011
Jeremy Gully - Regular Member 3 years to expire 12/31/2011

Seconded by Mr. Francy 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

Committee Reports:

Mayor asked council to dispense with committee reports due to the number of resolutions, introduction of ordinance and discussion of flood mitigation. Any reports submitted by committees will be added to the record and minutes.

Ordinances: Introduction and Public Hearing Date

Mrs. Cummins read the title of Ordinance 0-09-31 for introduction and setting of public hearing date

Mr. Urbanski offered the following Ordinance and moved on its introduction and setting of a public hearing date for December 16, 2009 and authorized its publication:

O-09-31

**AN ORDINANCE AMENDING CHAPTER 4 OF THE REVISED
GENERAL CODE OF THE BOROUGH OF HIGHLANDS
SECTION 4-11 ENTITLED
FERRY COMMUTATION SERVICE**

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

WHEREAS, the annual ferry license fee as been reviewed by the Governing Body and it has been determined that the annual fee has been the same for a long period of time and is need of being increased; and

WHEREAS, prior administration relieved the ferry's of having to provide the off duty officers and it is the desire of the Governing Body to amend the ordinance.

NOW, THEREFORE, BE IT ORDAINED THAT SECTION 11-5 of CHAPTER 4 of the REVISED GENERAL ORDINANCE OF THE BOROUGH OF HIGHLANDS BE AND HEREBY IS ESTABLISHED TO READ AS FOLLOWS:

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

4-11.5 License Fees.

The license fee for one year shall be ~~four thousand eight hundred (\$4,800) dollars which shall be paid quarterly in advance at the beginning of each calendar quarter.~~ nine thousand six hundred dollars (\$9,600) which shall be paid at the beginning of each calendar license year. No ferry service shall be licensed until an insurance policy is filed with the borough clerk providing liability insurance coverage in such an amount as may be deemed by the Governing Body to be necessary for the protection of the public interest, which amount shall be fixed by Resolution of the governing body from time to time.

~~In addition to the above fee each licensee shall pay a sum of money to cover the cost of "off-duty" police officers which shall be calculated based upon the rate of forty (\$40.00) dollars per hour for three hours per day, five days per week, said sum to be divided equally among all holders of ferry licenses. The money due shall be deposited quarterly in advance at the beginning of each calendar with borough supervisor of accounts by the respective licensees.~~

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

Mrs. Cummins read the title of Ordinance 0-09-32 for introduction setting of a public hearing date

Mr. Francy offered the following Ordinance and moved on its introduction and setting of a public hearing date for December 16, 2009 at 8:00 p.m. and authorized its publication according to law:

**O-09-32
AN ORDINANCE AMENDING CHAPTER 2-10,
ADMINISTRATION OF THE REVISED GENERAL ORDINANCE
OF THE BOROUGH OF HIGHLANDS**

WHEREAS, the Mayor and Council of the Borough of Highlands recognize that when the Borough Police Officers are assigned Special Duty Assignments they are required to appear prepared for the assignment at the location within, in or around the Borough of Highlands; and

WHEREAS, the Mayor and Council of the Borough of Highlands are desirous of establishing a minimum call out requirement for the Borough's Police Officers that are assigned Special Duty Assignments.

NOW THEREFORE BE IT ORDAINED, by the Governing Body of the Borough of Highlands that Chapter 2.10 Special Duty Assignments, is hereby amended as follows:

The following language shall amend and replace Chapter 2.10 (c)(5) Special Duty Assignments:

5. A minimum four hour charge shall be paid by the entity utilizing Highlands' Officers for Special Duty Assignments. All rates are subject to change by way of Resolution of the Mayor and Council.

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

ROLL CALL:

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

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

Mr. Urbanski offered a motion and moved on the introduction of this ordinance and that a public hearing date be set for December 16, 2009 at 8:00 P.M. and authorized its publication according to law:

ORDINANCE #O-09-33

AN ORDINANCE OF THE BOROUGH OF HIGHLANDS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING CHAPTER 21 (ZONING AND LAND USE REGULATIONS) OF THE BOROUGH OF HIGHLANDS CODE TO IMPLEMENT THE RECOMMENDATIONS OF THE 2009 AMENDMENT TO THE LAND USE PLAN ELEMENT OF THE MASTER PLAN

WHEREAS the Highlands Borough Planning Board adopted a Master Plan Re-Examination Report on June 11, 2009; and

WHEREAS the Master Plan Re-Examination Report contained a series of recommendations concerning revisions to Chapter 21 (Zoning and Land Use Regulations) and the Highlands Borough Zoning Map addressing the Bay Avenue business districts and other zoning provisions; and

WHEREAS the Highlands Borough Planning Board adopted an amendment to the Land Use Plan Element of the Master Plan on June 11, 2009;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Highlands that Chapter 21 (Zoning and Land Use Regulations) of "The Revised General Ordinances of the Borough of the Highlands, 1975" is amended and supplemented as follows:

SECTION ONE

Chapter 21-8 (Definitions) is hereby amended and supplemented to delete the current definitions of "lot width" and "lot depth" in their entirety and substitute the following:

"Lot, width of – the straight line distance between points on opposite side lot lines measured at the front yard setback line. In the case of a corner lot, the lot width shall be the mean distance between the front and side lot lines.

Lot, depth of – the mean horizontal distance between the front and rear lot lines. In the case of a corner lot, the lot depth shall be the mean distance between the front and side lot lines."

Add the following definitions:

"Zone Overlay Area, Overlay District or Overlay Zone – an area designated by the Zoning and Land Use Regulations of the Borough which covers a portion of, or all of, one or more underlying zone districts. Within a zone overlay area, development is subject to the control of certain additional uniform regulations and requirements which supplement or supersede the underlying zone requirements.

Story That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use. The first story or floor shall be the story or level that has the lowest grade and proximity to the pre-existing site grade."

SECTION TWO

Chapter 21-69 (Zoning Districts) is hereby amended and supplemented to add the following Overlay Districts to the list of Zoning District:

<u>Symbol</u>	<u>Name</u>
B-1-O	B-1 Neighborhood Business Overlay zone district
B-2-O	B-2 Central Business District Overlay zone district

SECTION THREE

Mayor and Council
Workshop Meeting With Special Action
December 2, 2009

Chapter 21-70 (Zoning Map and Schedule) is hereby amended and supplemented to delete Paragraph A of this section in its entirety and insert the following paragraph in its place and stead:

“A. The boundaries of the zone districts are hereby established as shown on the map entitled Zoning Map Borough of Highlands dated December 1, 2009, which map accompanies and is hereby declared to be part of this chapter.”

SECTION FOUR

Chapter 21-77 (Principal Buildings and Structures) is hereby amended and supplemented to amend Paragraph A of this section as follows: (underlined text is added thus; text with strikethrough is deleted).

“A. Every principal building or structure shall be built upon a lot with frontage on a public street, ~~which shall be certified as suitably improved to the to the satisfaction of the governing body or for which the necessary performance guarantee has been posted to ensure such improvement.~~ The principal building shall have access from that public street.”

SECTION FIVE

Chapter 21-84 (Waterfront uses and Districts) is hereby re-labeled as “Chapter 21-84.A” No further revisions are proposed.

SECTION SIX

Chapter 21-84. B is hereby created and titled “Steep Slopes and Slump Blocks”. The entire text of Section 65.21 (Steep Slopes and Slump Blocks) of Chapter 21, (unrevised) as follows is hereby relocated to section 84.B of Chapter 21:

“Any increase in impervious areas disturbance of soil or redirection of storm water in areas of slopes from 20 to 35% must have a plot plan approved by the Borough Engineer prior to the issuance of any construction permits and the start of any construction activities. Such plan shall provide information on the extent of the disturbance, the stability of the soils, the existing topography and proposed grading, the temporary and permanent soil erosion and soil stability methods, and any other information required by the Borough Engineer to insure that proper construction techniques are used in the steep slopes areas. Where slopes exceed 35%, there shall be no disturbance of the steep slope areas. In addition there shall be no disturbance of the area within 15 feet of the top of slope and no structures located within 25 feet of the top of slope; nor there be any disturbance within 10 feet of the toe of the slope or any structures located within 15 feet of the toes of the slope.

In and adjacent to areas indicated as slump blocks in the Boroughs Master Plan, the Board may require further study, including soils and other technical reports, on the stability of the soils and any special construction techniques or limitations to construction required to address the issues of the slump area.”

SECTION SEVEN

Section 21-90

Section 21-90 (B-1 Neighborhood Business District) is hereby amended as follows: (underlined text is added thus; text with strikethrough is deleted).

“2. Permitted Accessory Uses

~~Residential use in commercial buildings provided that such use shall not be established on the first floor, that off street on site parking be provided and that the requirements of subsection 4.b be met.~~

“Reserved.”

SECTION EIGHT

Chapter 21-90 (B-1 Neighborhood Business District) is hereby amended to delete in its entirety the following text in section 90 Paragraph A. 1 (underlined text is added thus; text with strikethrough is deleted):

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

~~“In the overlay area only, uses will be limited to: Professional, administrative and businesses.”~~

SECTION NINE

Chapter 21-95 (WC-1 Waterfront Commercial), Paragraph A.1 is hereby amended and supplemented as follows: (underlined text is added **thus**; text with strikethrough is deleted).

“A. The following shall apply in all WC-1 Districts.

1. Permitted Principal Uses.
All uses permitted in the WTC-1 Zone district and the B-1 district, except that residential uses shall be prohibited.
Restaurants
Bars and taverns
Marine Sales
Boat yards
Charter and excursion boats, off-shore uses.”

SECTION TEN

Chapter 21 (Zoning and Land Use Regulations) is hereby amended and supplemented to amend Article XVIII create two overlay zone districts, one within the B-1 Neighborhood Business Zone and one within the B-2 Central Business Zone districts, as follows:

Delete: “Reserved”

Insert the following:

Chapter 21 Section 96.02 B-1 Neighborhood Business Overlay Zone District

“B-1 Zone Overlay Zone District. An overlay zone district is a district superimposed upon another district which supersedes, modifies or supplements the underlying regulations. The B-1 overlay district implements the recommendations of the 2009 Master Reexamination Report and amendment to the Land Use Plan Element of the Master Plan to encourage appropriate business development with the Bay Avenue commercial corridor.

A. Purpose of the B-1 Neighborhood Business Overlay Zone District

1. Strengthen the Bay Avenue commercial districts by encouraging a mix of uses that provides employment, retail opportunities, services and entertainment.
2. Expand mixed uses in the Bay Avenue commercial districts to increase the vitality of the downtown.
3. Enhance, retain and maintain existing commercial properties in the Bay Avenue commercial areas.
4. Encourage the upgrading of commercial properties along Bay Avenue.

B. Permitted Principal Uses

1. All principal uses permitted in the B-2 Zone.
2. Retail sales and service establishments (except tattoo/body piercing and massage parlors, shops which offer for retail sale or wholesale the firearms and/or ammunition).
3. Art galleries, artist studios and craft stores.
4. Live theater and museums
5. Medical offices.
6. Flower shops and retail plant stores
7. Gift and antique shops
8. Hobby stores
9. Pet stores
10. Clothing and apparel stores
11. Sporting goods sales
12. Home furnishing stores
13. Music, ballet and dance studios
14. Hardware, plumbing and electric supply sales

Mayor and Council
Workshop Meeting With Special Action
December 2, 2009

15. Health/fitness studios which shall mean private membership, limited size, health or exercise establishments which do not offer comprehensive athletic facilities nor contain a competitive sports area. This use will be modest in size and offer small or individualized fitness and may have a restricted number and type of exercise equipment.

C. Permitted Accessory Uses

1. All accessory uses permitted in the B-1 Zone.

D. Permitted Conditional Uses

1. All conditional uses permitted in the B-1 Zone.
2. Hotels, as defined in this chapter and subject to the standards as set forth in Section 21-97.
3. Inns and Bed and Breakfasts, subject to the standards set forth in Section 21-97.
4. Residences above the first (ground) level, subject to the standards as set forth in Section 21-97.

E. Prohibited Uses.

1. Drive through and drive-in uses.

F. Bulk Yard Area Requirements

The bulk, yard and area requirements in the B-1 Overlay Zone are the same as the requirements in the B-1 Zone District with the exception of the following:

1. Floor Area Ratio (FAR)
 - a. Maximum FAR of 1.5 when the entire structure is non-residential use.
 - b. Maximum FAR of 1.0 when the structure consists of both residential and non-residential uses (i.e. mixed use building)
2. Impervious or Lot Coverage: 100% unless an on-site loading berth is required by the Planning or Zoning Board.
3. In the case of any conflict between the bulk requirements of the B-2 Zone district and that of the B-2 Overlay zone, the more stringent regulations shall apply.

G. Off-street Parking Requirements. Each use shall comply with the minimum off-street parking requirements of section 65.14 of Chapter 21. However, The Planning or Zoning Board may reduce or eliminate the off-street parking requirement for non-residential uses in the B-1 Overlay zone district provided the applicant can show evidence of available and sufficient municipal parking spaces within 1,000 feet of the front entrance of the commercial establishment. If the Board reduces or eliminates the parking requirement of the non-commercial portion of the building, then the applicant shall address the one-time fee to the Borough of Highlands Municipal Parking Capital Improvements Fund as outlined in Section 21-65-14E.2.c.

H. On-site parking shall be sufficiently screened with fences, vegetation or similar materials. Parking beneath structures shall be screened from adjoining lots using building material and architectural elements consistent with the subject site and architectural features appropriate for the Bay Avenue downtown area.

Parking, provided underneath a structure, shall not abut the front property line or sidewalk area to minimize the disruption of the commercial street wall and maintain the retail and commercial character of Bay Avenue.

I. Design Standards The following design standards shall be considered as bulk requirements of the conditional use. Relief for the requirements of this section shall be addressed under 40:55D-970.c.

1. All new construction alterations and renovations should strive to be consistent with the "Highlands Central Business District Design Manual", Appendix A of Chapter XXI. The design guidelines in the Manual are not mandatory but should guide applicants, the Planning and Zoning Boards and their professionals during the design phase of improvements to structures in the overlay zone.

Mayor and Council
Workshop Meeting With Special Action
December 2, 2009

2. Transparency. A minimum of 50 percent of the street facing building façade between two feet and eight feet in height must comprise clear windows that allow views of the interior of indoor space or product display area.
3. The bottom of any window or product display window used to satisfy the transparency standards (paragraph a. above) must not be more than 4 feet above the grade of the adjacent sidewalk.
4. Product display windows used to satisfy these requirements must have a minimum height of four (4) feet and be internally lighted.
5. Curb cuts are discouraged unless deemed necessary for adequate and appropriate access to a property or use. Shared driveway access or rear entry to the lot shall be encouraged.

21-96.03 B-2 Central Business Overlay Zone District

A. Purpose of the B-2 Central Business Overlay zone district

1. Strengthen the Bay Avenue commercial districts by encouraging a mix of uses that provides employment, retail opportunities, services and entertainment.
2. Expand mixed uses in the Bay Avenue commercial districts to increase the vitality of the downtown.
3. Enhance, retain and maintain existing commercial properties in the Bay Avenue commercial areas.
4. Encourage the upgrading of commercial properties along Bay Avenue.

B. Permitted Principal Uses

1. All principal uses permitted in the B-2 Central Business Zone.
2. Retail sales and service establishments (except tattoo/body piercing and massage parlors, shops which offer for retail sale or wholesale the firearms and/or ammunition).
3. Art Galleries, artist studios and craft stores.
4. Medical offices.
5. Garden and flower shops
6. Gift and antique shops
7. Hobby stores
8. Pet stores
9. Clothing and apparel stores
10. Sporting goods sales
11. Home furnishing stores
12. Music and dance studios
13. Hardware, plumbing and electric supply sales
14. Health/fitness studios which shall mean private membership, limited size, health or exercise establishments which do not offer comprehensive athletic facilities nor contain a competitive sports area. This use will be modest in size and offer small or individualized fitness and may have a restricted number and type of exercise equipment.

C. Permitted Accessory Uses

1. All accessory uses permitted in the B-2 Zone.

D. Permitted Conditional Uses

1. All conditional uses permitted in the B-2 Zone.
2. Hotels, as defined in this chapter and subject to the standards as set forth in Section 21-97.
3. Inns and Bed and Breakfasts, subject to the standards set forth in Section 21-97.
4. Residences above the first (ground) level, subject to the standards as set forth in Section 21-97.

E. Prohibited Uses

1. Drive through and drive-in uses.

F. Bulk Yard Area Requirements

1. The bulk, yard and area requirements in the B-2 Overlay Zone are the same as the requirements in the B-2 Zone District, with the exception of the following:

Mayor and Council
Workshop Meeting With Special Action
December 2, 2009

- a. Front Setback. The front setback in the overlay area shall abut the front property line or be located within ten (10) feet of the property line.
 - b. Building height: A maximum of forty-two (42) feet/ three stories is permitted.
 - c. Impervious/Lot coverage: A maximum of one hundred percent (100%) except for business establishments which, in the opinion of the Planning or Zoning Board require an on-site loading berth. In the latter case, the maximum lot coverage shall be reduced to reflect the area of the on-site loading berth.
 - d. Floor Area Ratio (FAR)
 - Maximum FAR of 1.5 when the entire structure is non-residential use.
 - Maximum FAR of 1.0 when the structure consists of both residential and non-residential uses (i.e. mixed use building)
2. In the case of any conflict between the bulk requirements of the B-2 Zone district and that of the B-2 Overlay zone, the more stringent regulations shall apply.
- G. Surface parking area below a building structure shall not be included in the floor area for floor area ratio (FAR) computations.
- H. Off-street Parking Requirements.
Each use shall comply with the minimum off-street parking requirements of section 65.14 of Chapter 21. However, The Planning or Zoning Board may reduce or eliminate the off-street parking requirement for non-residential uses in the B-2 Overlay zone district for lots less than 10,000 square feet in area provided the applicant can show evidence of available and sufficient municipal parking spaces within 1,000 feet of the front entrance of the commercial establishment. If the Board reduces or eliminates the parking requirement of the non-commercial portion of the building, then the applicant shall address the one-time fee to the Borough of Highlands Municipal Parking Capital Improvements Fund as outlines in Section 21-65-14E.2.c.
- On-site parking shall be sufficiently screened with fences, vegetation or similar materials. Parking beneath structures shall be screened from adjoining lots using building material and architectural elements consistent with the subject site and architectural features appropriate for the Bay Avenue downtown area.
- Parking, provided underneath a structure, shall not abut the front property line or sidewalk area to minimize the disruption of the commercial street wall and maintain the retail and commercial character of Bay Avenue.
- N. Design Standards. The following design standards shall be considered as bulk requirements of the conditional use. Relief for the requirements of this section shall be addressed under NJSA 40:55D-970.c.
1. All new construction alterations and renovations should strive to be consistent with the "Highlands Central Business District Design Manual", Appendix A of Chapter XXI. The design guidelines in the manual are not mandatory but should guide applicants, the Planning and Zoning Boards and their professionals during the design phase of improvements to structures in the overlay zone.
 2. Transparency. A minimum of 50 percent of the street facing building façade between two feet and eight feet in height must comprise clear windows that allow views of the of indoor space or product display area.
 3. The bottom of any window or product display window used to satisfy the transparency standards (paragraph a. above must not be more than 4. feet above the grade of the adjacent sidewalk.
 4. Product display windows used to satisfy these requirements must have a minimum height of four (4) feet and be internally lighted
 5. Curb cuts are discouraged unless deemed necessary for adequate and appropriate access to a property or use. Shared driveway access or rear entry to the lot shall be encouraged.

SECTION ELEVEN

Mayor and Council
Workshop Meeting With Special Action
December 2, 2009

Section 21-97 is hereby amended and supplemented to create the following new subsection entitled "Hotels" as follows:

" I. Hotels in the B-1 and B-2 Overlay District.

Where specifically permitted pursuant to this chapter, the following minimum standards shall be met:

- i. Definition: *Hotel* shall mean a facility offering accommodations to the general public for limited tenure lodging and which may include additional facilities and services, such as restaurants, meeting rooms and personal services. The hotel facility shall include a public lobby or guest registration area. A dining room area for guests and/or general public may be provided. The hotel facility shall have –full time on-site management. *Limited tenure* shall mean occupancy of fourteen (14) days or less. In addition occupancy of no more than fourteen (14) days of any period of thirty (30) successive days.

2. Standards

- a. The minimum floor area per unit shall be 250 square feet.
- b. A hotel as defined herein may have a maximum building height of thirty six (36) feet or three (3) stories. If the ground level of the hotel primarily consists of an off-site parking area, the building height may be forty seven (47) feet or four stories.
- c. All solid waste containers for storage and pickup shall be centrally located and easily accessible within a screened enclosure.
- d. All hotel uses shall be provided with adequate fire safety and evacuation provisions and sprinkler systems. Regardless of the number of rooms, such facilities shall be approved by the municipal Fire Sub code Official and shall incorporate all applicable requirements of the National Fire Protection Association Code and the NJ Uniform Construction Code.
- d. Each unit of accommodation shall contain a minimum of two rooms, a bedroom, and a separate bathroom which affords privacy to a person within the room and is equipped with a toilet, a wash basin and bathtub/shower. Kitchen facilities are prohibited.
- e. The first floor area of a hotel may be used for offices, permitted non-residential uses, coffee shop or restaurant. The first floor use does not have to be related to the hotel use.
- f. The hotel shall contain a main lobby, a central reservation/ guest registration desk and a specified area for the pick up and drop off of guests and luggage .
- g. Each hotel shall provide parking at a ratio of one space per unit of accommodation. The parking may be provided on-site or within 1,000 feet of the hotel property. A minimum of 50% of the required parking shall be provided on the same lot, parcel, tract of the hotel use.
- h. The hotel use may provide some of the required parking on another parcel, which may or may not be contiguous to the hotel parcel, provided that the property line of the off-site parking lot is within one thousand (1,000) feet from the front entrance of the hotel structure. In addition the applicant shall provide written assurances acceptable to the appropriate Board that the parking will remain available in the future. Such assurances shall be in the form of lease agreements or deed restrictions which will be reviewed by the Attorney of the Board of jurisdiction.
- i. The Planning /Zoning Board shall adopt findings that the intensity of the proposed hotel use is consistent with the goals and objectives of the Highlands Borough Master Plan, the policies and character of the of the B-1 or NB-2 Zone District and the economic goals of Highlands Borough.
- j. The buffer zone between the rear setback of a hotel and a residential use shall comply with the requirements of this chapter but shall not be less than ten (10) feet in width.
- k. The structure shall not be a "rooming house" or " boarding house" as defined by current New Jersey statute.

SECTION TWELVE

Mayor and Council
Workshop Meeting With Special Action
December 2, 2009

Chapter 21-97 is hereby amended and supplemented to create the following new subsection entitled "Mixed Use buildings" as follows:

" J. Mixed Use buildings in the B-1 and B-2 Overlay Districts

Residential dwelling units shall be permitted above non-residential uses, as a conditional use in the B-1 and B-2 Overlay Zones, subject to the following conditions:

1. In the B-1 Overlay Zone, no more than one story, floor or level shall be used for residential purposes. The density of the residential dwellings in mixed use buildings in the B-1 Overlay shall not exceed eight (8) units to the acre. In the B-2 Overlay Zone, the density of the residential dwelling units may not exceed a density of ten (10) units per acre.
2. The floor area of the residential dwelling unit(s) may not exceed thirty-three percent (33%) of the floor area of the structure. If the structure is limited to two stories, the permitted limit of floor area may be up to fifty percent (50%). For purposes of this section, the floor area used to compute the allowable limits shall not include parking area underneath a building, storage areas, basements/cellars or garage areas.
3. Maximum building height: forty-two (42) feet or three (3) stories, whichever is less. If the ground level of the mixed use building primarily consists of an off-site parking area, the building height may be forty seven (47) feet or four stories (one parking level and three building levels)
4. The first floor must contain a permitted non-residential use or area for on-site parking.
5. All residential units shall have an entry separate from the the non-residential use and the residences shall have a common street entry.
6. The residential dwelling(s) must be on the second or third floor. If the first or ground level consists of on-site parking, the residence must be above a non-residential use. Residences shall not be located on a story below a non-residential use.
7. Notwithstanding other provisions of this chapter, the parking requirements for the residential dwellings of mixed use buildings shall be addressed on the same lot, site, parcel as the mixed use building.
8. Minimum Dwelling Unit Requirements. Each dwelling unit shall contain complete kitchen facilities, toilet , bathing and sleeping facilities as well as living space, and shall have a minimum gross floor area of one thousand (1,000) square feet provided that dwelling units in excess of two bedrooms per unit shall not be permitted.
9. Storage space. In addition to any storage space contained inside the individual dwelling units, there shall be provided for each dwelling unit three hundred fifty cubic feet (350 c.f.) of storage space in a convenient, centrally located area, possibly the ground floor for use of the residents .The area should be secured and locked without creating a safety hazard.
10. Site Appearance. Adequate provisions and facilities shall be provided for maintenance of the property for trash and garbage.
11. Heating, ventilation and air conditioning equipment shall be located in an enclosed area above the base flood elevation or on the roof, in the attic or other adequately screened area.
13. Residences in mixed use buildings in the B-1 and B-2 Overlay zone districts are exempt from the outdoor living space requirement of Section 21-90.A. 4.b (B-1 Zone) and 21-91 A.4.b (B-2 Zone)."

SECTION THIRTEEN Severability

The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION FOURTEEN Repealer

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

SECTION FIFTEEN Certified Copy

Mayor and Council
Workshop Meeting With Special Action
December 2, 2009

A certified copy of the within Ordinance shall be forwarded by the Borough Clerk to the clerks of all adjoining municipalities, the Monmouth County Planning Board and the following:

1. Borough Administrator
2. Borough Engineer
3. Planning Board
4. Zoning Board
5. Borough Attorney
6. Tax Assessor
7. Zoning Official

BE IT FURTHER ORDAINED that this ordinance shall take effect upon final passage and publication in accordance with law.

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

Mr. Arnett stated that the Planning Board has 30 days to review it.

Ordinances: 2nd Reading Public Hearing & Adoption:

Mrs. Cummins read the title of Ordinance 0-09-27 for the second reading and public hearing.

Mayor Little opened for public hearing.

Michelle Pezzullo of 115 Highland Ave – What kind of improvements outside of flooding?

Dale Leubner, T&M – Waterwitch, from Hwy#36 to Linden Ave. Will consist of drainage improvements, milling, curb replacement, some sidewalks and new asphalt.

Mr. Francy stated that this is all consistent with the flood control project.

Rachel Stockton of 31 Grand Tour – Would the closing of street effect school pedestrian access?

Dale Leubner - We will work with schoolboards and keep public informed. Closings would not be for an extended period of time.

Mr. Dowling of 68 5th Street – Are there grants from HUD for Waterwitch?

Mayor Little asked Dale Leubner if there is an overage?

He stated that the project is fully funded thru NJDOT.

There were no further questions from the public.

Mayor Little closed the public hearing on Ordinance O-09-27.

Mrs. Cummins read the title of Ordinance O-09-27 for the third and final reading and adoption.

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

O-09-27
BOND ORDINANCE PROVIDING AN APPROPRIATION
OF \$300,000 FOR IMPROVEMENTS TO WATERWITCH
AVENUE FOR AND BY THE BOROUGH OF

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

**HIGHLANDS IN THE COUNTY OF MONMOUTH, NEW
JERSEY AND, AUTHORIZING THE ISSUANCE OF
\$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:

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

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.

(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.

Mayor and Council
Workshop Meeting With Special Action
December 2, 2009

SECTION 7:

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

SECTION 8:

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

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**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

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 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 0-09-28

Mrs. Cummins read the title of Ordinance 0-09-28 for the second reading and public hearing.

Mayor Little opened public hearing.

Michelle Pezzullo of 115 Highland Ave., What kind of improvements and projects would this cover?

Mayor Little asked Dale Leubner to respond.

Dale Leubner –The projects are mostly concerning the downtown area. Installation of new pump in Snug Harbor region. Also installing new pump at North Street Station and upgrades to piping at Valley Street Station. Diverting run off toward southern part of town would allow pumping stations to alleviate flooding in downtown area.

Chris Francy stated that all three pumps would be considered “the system.” If any one pump station is down, the other stations would be able to pick up the slack.

Carol Custer of Central Ave., - Does this involve cleaning the creek?

Mayor Little stated that it does not. That is a maintenance issue.

Mr. Francy stated that the these are design studies, to put us in line for grants and loan applications.

AJ Soloman of Marina Bay Court – How much is the costs to date to fix flooding problem?

Mayor Little would have to defer this to the CFO, who was not present at this meeting.

Mr. Francy said it would probably be 4-5 million dollar range for the design phase, which must be in place in order to apply for grants.

Mayor Little stated we are working on grant applications in 2010. A lot depends on the State Budget and Grant Funding.

Carl West of 78 Bay Ave., Flooding question. Cost to pump water back into the tide while we are below sea level.

Mayor stated that Flood Mitigation will be discussed later on the agenda.

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

Mr. Dowling, 5th Street - Water retention issue.

Mayor stated that this will also be discussed during the Flood Mitigation part of the agenda.

Dale Leubner – We need elevations in line before anything can be determined.

There were no further questions or comments from the public.

Mayor Little closed the public portion on Ordinance O-09-28.

Mrs. Cummins read the title of Ordinance O-09-28 for the third and final reading and adoption.

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

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.

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:

**Mayor and Council
Workshop Meeting With Special Action
December 2, 2009**

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:

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.

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

Mayor and Council
**Workshop Meeting with Special Action
December 2, 2009**

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.

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

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

Mrs. Cummins read the title of Ordinance 0-09-30 for the second reading and public hearing. Mayor Little opened public hearing.

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

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 floodproofed, 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.

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

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;

[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.

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

"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 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.

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

"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.

"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.

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

"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.

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

Mayor and Council

**Workshop Meeting with Special Action
December 2, 2009**

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.

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

Mayor and Council

**Workshop Meeting with Special Action
December 2, 2009**

[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

[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

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

[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.

[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

Mayor and Council

**Workshop Meeting with Special Action
December 2, 2009**

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;

[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

**Workshop Meeting with Special Action
December 2, 2009**

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 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.

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

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).

[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

Mayor and Council
**Workshop Meeting with Special Action
December 2, 2009**

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 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

Arnie Fuog of 50 Valley St., - Is this ordinance the law on flood mediation?

Mayor Little answered that we would be in compliance with FEMA regulations.

Lori Dibble of 32 Paradise Park – Has this ordinance been changed or amended since its been introduced?

Mayor stated this ordinance has not been changed.

Jim Bottini of 30 Beach Blvd. – Who will control this ordinance, who has the authority?

Mayor Little stated that the Borough of Highlands along with both DEP and FEMA.

Chris Francy stated we are subject to inspection by FEMA to make sure we are in compliance.

Mr. Dowling of 5th Street – Would this effect Flood Insurance Premiums?

Mayor stated that it would not. Just eligibility.

Arnie Fuog of 50 Valley St – Only Flood Insurance or Building Requirements?

Members of Council stated it effects building requirements.

Other Business:

Flood Mitigation:

Dale Leubner, T&M Engineers

Keith Henderson, Lead Design Engineer

Keith Henderson stated that the work is a continuation of the study done by Baypointe Engineering in 2001. The problem in town is then surge of water from the high points of town. Need to divert rainwater at Shore Drive, pipe it elsewhere. The downtown drainage would then be more efficient. Also, updates to Valley St. and North Street pump stations. A pump station at Snug Harbor is needed. Currently there is a pipe with flapper valve at the bulkhead. They do not rely on these valves. The Snug Harbor Station would have an automatic valve, which would prevent the bay water from backing up. The Comprehensive plan is to divert water and pump out downtown water as best as possible while keeping up with the tides.

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

Dale Leubner – we need to do surveys and field work to obtain elevations of the road ways that would be affected and size and inverts of pipes. He also recommends a joint permit with DEP and Army Corp. He will keep Council informed on feedback. He will also proceed with survey for potential EIT funding. They will know better by next council meeting.

Mr. Francy – All data will be GIS compatible with a map that the County will keep up to date for the Borough. Would like to have another meeting for residents with better advertising. Reg Robertson will be brought in from DPW, he has sewer map data.

Mayor will speak with Steve Pfeffer about authorizing funds for Bond Ordinance.

0-09-29 HBP

Mrs. Cummins read the title of Ordinance 0-09-29 for the second reading and public hearing. Mayor Little opened to public hearing.

Mr. Urbanski offered the following Ordinance pass third and final reading and moved on its adoption and publication:

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 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

Mayor and Council
**Workshop Meeting with Special Action
December 2, 2009**

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

ROLL CALL:

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

NAYES: Mr. Francy, Mayor Little

ABSENT: None

ABSTAIN: None

Mrs. Jennings of 27 Ralph St. – Received automated call from Mayor to attend meeting. HBP is currently not working. There is a lack of trust between HBP and Borough. Can Boro restructure after disbanding?

Jim Bottini – HBP generates good things for town. Some form of HBP is necessary to help the community.

Jim Phillips – Supports the HBP. Believes the town needs it. Independent person would not be able to get funding thru the State.

Linda Rose of 128 Marina Bay Court – Has experience with Chamber of Commerce. They are self sufficient, not funded. Small Chambers are not able to get funds. She supports keeping the HBP.

Lori Dibble, 32 Paradise Park – Spoke against the HBP. Stated that they discouraged resident involvement.

Dan Kisch of 321 Bay Ave., - HBP events severely effects his hardware store business. Made \$53 the Sunday of the last Clamfest. Feels that the HBP is broken and needs to be fixed.

Carl West of 78 Bay Ave., Feels we do not need the HBP. Does not want anymore taxation.

Mayor and Council
**Workshop Meeting with Special Action
December 2, 2009**

John Bentham of 39 Washington Ave., - Business District was not very good prior to HBP.

AJ Soloman of 102 Marina Bay Court – Supports the HBP. If the town looks bad, not HBP' fault.

Nancy Burton of 22 Atlantic Street – Supports BID. Feels more positive communication between Council and HBP needed. Would see a big difference.

Rachel Stockton of 31 Grand Tour – Majority of businesses want to keep HBP going. If HBP dissolved, would taxpayers be responsible for the cost of events?

Mayor says yes.

Chris Francy – Cost of Event coordinator paid by profits of events.

Rachel Stockton of Grand Tour – Is it true that most of the businesses are in favor of keeping HBP? What is the Borough's responsibility in getting grants?

Chris Francy – We do not know. Have not received petition from HBP with that data. State recommended agency, DBAT, brought in to assess town. Waiting for written report.

Dan Shields of 55 Shrewsbury Ave., - Feels that no one is coming to this town. Owns two businesses in town and he feels there is a drop in business. Getting rid of the HBP without the right intent does not make sense – we all need help.

Linda Mikhail of 25 Huddy Ave. – The woman the borough wants to hire has been fired from four different towns. Why would you hire her?

Becky Kane – HBP did not respond to the RFP.

Sheila Weinstock of 151 Highland Avenue – Supports HBP. Feels that the Farmer's Markets relationship with HBP is extraordinary. People feel welcome and happy here.

Eileen Skiff of 15 Ocean Ave. – Supports HBP. Feels we have something good. Don't go backward.

Carol Custer of Central Ave. - What is income generated from events? Where does this money go?

The Mayor stated there is no direct line item for events. It is a partnership.

Carla Braswell of Gravelly Point Rd. – Spoke in support of the events. Talked briefly about Allen Consulting.

The BID terminated their contract. They were rude. There was a lawsuit.

Loriann Bodnar Nolan – Wanted to give her time to Carla.

Carla Braswell – Spoke of the lack of trust of the HBP. Anyone could see the audit. All information available to council. Spoke of petition. Has statement to read, given to clerk to be made part of record.

Bill Caizza – stated that DBAT said their organization is broken.

Roberta McEntee of 5th Street – Not in support of HBP.

Michelle Pezzullo of cutting HBP without an alternative is not a good plan. There is a lot of work behind the scenes.

Scott Merker of 255 Shore Drive – Where is all the hostility coming from? Asked that this be tabled until an alternate plan is made.

Mayor and Council
**Workshop Meeting with Special Action
December 2, 2009**

Michelle Merker of 255 Shore Drive – Why do Mr. Caizza and Mr. Urbanski oppose. Is it an issue with organization or person?

Mr. Urbanski stated it has nothing to do with person but with statement that were made. He tried to work with Carla.

Mayor Little said we do not tell them what to put in there budget. But they can not do things with out approval of Council.

Doug Lentz passed.

Nancy Burton of 22 Atlantic Ave., - Council reconsider. This can be fixed with time.

Carol Bucco of 330 Shore Drive – Spoke favorably about the BID and their accomplishments

John Sikowski of 93 Linden Ave. – spoke of the lack of funds for the explorers.

AJ Soloman – HBP never to be dissolved. The question was wether it was to be funded by the taxpayers. Some Council members would be ok with the HBP if they were self sufficient.

Carla Braswell of Gravelly Point Road – Why did you go out for RFP to run HBP events? We are self sustaining. Give us a chance – even with out funding. Advertisement has been done for upcoming events for 2010.

Chris Francy – Resolution is not to disband you. It is to terminate funding.

Mayor read ordinance.

Bill Weber of Jackson St -spoke in support of HBP. Atlantic Highlands has problems with Chamber of Commerce. Maybe combine.

Regina McGrath – spoke of the positives of the HBP.

Mayor closed public portion of the meeting,

Discussion:

Chris Francy – The HBP has not submitted a budget, so they have no funding for activities. The DBAT report is coming in a couple of weeks, wants to see what DBAT report says. There are things that can be fixed.

Mayor stated that she is in favor of the HBP. We need to do a better job. This is not resolvable. To move forward, we need to come together. In favor of tabling vote until report is in. She believes Mr. Francy feels the same way.

Mr. Caizza, Mr. Urbanski and Ms. Kane did not want to table.

Mayor Little spoke of economic times. Businesses need to survive.

Ms. Kane read a statement regarding the BID.

Statement for Bid

This BID program has been in existence for 10 years, during these years the Borough of Highlands has worked tirelessly to ensure that we kept up our part of the partnership. In this difficult economy, we cannot continue to allow programs to exist that are just not working, in an effort to remediate some of the underlying issues within the BID; I worked with many entities of the State starting with the Asst. State Coordinator of the Main Street program, as well as the assistant director of the National Trust Main Street Center, both of those organizations pointed us towards the Downtown NJ team for a DBAT assessment. In a good faith effort the Mayor

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

and Council approved the DBAT assessment; at no time during that meeting did I hear any objections.

Personally I found the DBAT was great resource; they brought some issues to light, and also showed some of the positives that we have here in Highlands. However in the end they ruled that our Business Improvement District is not working. They stated this for many reasons; to start we are marketing a place that has nothing to market. They had hoped to see some visual improvements to Bay Avenue; however during their walk through the borough they saw empty storefronts. They noted very little visual improvements and a total lack of management. The issues between many different organizations and as well as the governing body and the bid, should just not be. The DBAT believes that the BID should be the town's best friend, not a divisive organization that causes this sort of turmoil. They also believe that a BID should act as a non political organization.

When working on this issue as a council person I too have to take a step back and decide what is best for the town. When discussing taking the recommendation of the DBAT and working with a suspension within the BID, and forming a new committee, we have been instructed by our Mayor that was not an option, she stated to Councilman Francy that the budget will be passed in January, without question. We were also advised by Mayor Little that the BID has no issues and are operating properly, however if that was the case then why vote for a DBAT? There must have been inkling that there might be a small issue with in this organization.

Being as the Mayor refuses to take the recommendation of the DBAT, we are left with no choice, feeling as if we are backed into the corner with this vote, as the Mayor has made it clear that "status quo" is the way to go and that there are no issues that she has to deal with. In reality our town is being torn apart over this organization. That may be ok for some, however not for me. We need a positive change for our business improvement district. We need to be able to work together for the common good of this community and with the current leadership in the HBP, which is just not an option. With that I vote yes to dissolve O-09-29 to dissolve the BID.

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

Mayor Little commented.

Mr. Caizza said he volunteered for the HBP. Ms. Kane worked hard to keep the BID together.

Mr. Urbanski agreed with Mr. Caizza. Chris and Billy tried to keep this up, to make it work. Too much tension now. Needs to be rebuilt.

Public Portion:

Bernadine Harford of 168 Highland Ave. - Flood abatement, and water coming down the hill. Is this being taken into consideration for the flood plan that was mentioned earlier.

Chris Francy – Yes. There will be a comprehensive solution. Same people doing the engineering.

Carol Custer of 38 Central – Flooding in area by creek. Creek needs to be cleaned. There is a gap near the drain, and trees uprooting sidewalks. Also, maybe there should be a freeze on salaries. Are any boro vehicles taken out of town?

Mr. Hilling will take of the creek and gap as per the Mayor. Also, that Becky Kane's vehicle is the only one that goes out of town. It is a command vehicle.

Mayor stated that grant money is needed to replace the trees. Also addressed budget issues.

Tara Ryan – not present

Lori Dibble of Paradise Park – Problem with Code Enforcement tickets being issued in Paradise Park community. Maybe a warning letter first?

Mayor said that this has been addressed.

Mr. Hilling will speak with Lori Dibble about it. He stated that Mr. McNamara is working on it.

Chris Francy said there is a 10 day notice in ordinance may be a mistake.

Carol Bucco of 330 Shore Drive – spoke of OPRA request. All of 2008 Fire Dept. – there are no audit or raffle reports. Very few reports for 2009

Carolyn Cummins explained how the paperwork is filed.

Mayor stated that we must follow the letter of the law. Everyone is acting appropriately.

Becky commented on raffle issue.

Arnie Fuog of 50 Valley– Is there a sidewalk fund on the books?

Mayor said the money is there, Mr. Pfeffer will get that figure .

Lori Salco – passed.

Rachel Stockton – not present

AJ Solomon – not present

Doug Douty – not present.

Mr. Caizza offered to adjourn Workshop Meeting and was seconded by Mr. Urbanski.

All were in favor.

Mayor Little adjourned at 11:45 pm

Mayor and Council
Workshop Meeting with Special Action
December 2, 2009

Debby Dailey, Deputy Clerk

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