

**Borough of Highlands
Mayor and Council
Regular Meeting
December 16, 2009**

Mayor Little called the meeting to order at 7:05 p.m.

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

ROLL CALL:

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

Absent: None

**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**

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: AHHRSA, Bayview Condo Assoc., Caizza Litigation**
- 2.Contract:**
- 3.Real Estate:**
- 4. Personnel Matters: Edward O'Neil, (Riced)
Code Enforcement Position Update**
- 5.**

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

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

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

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

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

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

ROLL CALL: Mr.

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 Regular Meeting back to order at 8:05 p.m.

Awards Presentation for Police Officers:

Chief Joseph Blewett presented awards to:

Ptl. George Roxby – not present – attending school in Pennsylvania – life-saving for delivering baby. Present his award to him at a later date.

Captain Henry Clagett and Ptl. Ian Dobens – They will receive letters of commendation for assisting Ptl. George Roxby

Sgt. Joseph Rogers and Detective Anthony Macri – Received Exceptional Duty Awards in Narcotics Unit Arrests. In two years, 117 arrest warrants were executed. 175 arrests for distribution of narcotics.

Cpl. Robert White -Honorable Service Award for administrating CPR. Doing so for a prolonged period.

Lt. William Armenti – Letter of Commendation for assisting Cpl. Robert White

Chief Joseph Blewett would like to have a policy in place to present awards twice a year, spring and the end of the year.

Public Portion on Agenda Items:

No sign ups

Consent Agenda Resolutions:

Ms. Kane asked for removal of Resolution R-09-217 SFY 2010 Emergency Appropriations #6. Seconded by Mr. Caizza.

Mr. Hilling asked for a separate vote for Resolution R-09-219 Authorizing Disposal of Borough Vehicles. He needs to add another vehicle. Offered by Mr. Francy and seconded by Ms. Kane.

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**I
INSERT RESOLUTION R-09-216**

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**Borough of Highlands
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Mr. Francy offered the following Resolution and moved on its adoption:

**Borough of Highlands
County of Monmouth**

R-09-211

**Resolution approving the terms of a new Collective Negotiations Agreement
between the Borough of Highlands and the UFCW Local 152**

WHEREAS, the Collective Negotiations Agreement between the Borough of Highlands and the United Food and Commercial Workers Union Local 152 (UFCW) expired on June 30, 2008; and

WHEREAS, the Borough and the UFCW have been in negotiations for a new collective agreement since that time; and

WHEREAS, representatives of the Borough and the UFCW involved in collective negotiations have reached an agreement on terms and conditions for a new collective negotiations agreement and have recommended those terms to the full membership of the UFCW and the governing body of the Borough of Highlands for approval; and

WHEREAS, it has been determined by the Mayor and Council that the terms agreed to by the parties, which are contained in a written memorandum of agreement, for the period from July 1, 2008 through June 30, 2010, will provide a fair and reasonable level of benefits and compensation for Borough employees who are members of the UFCW bargaining unit for the next two (2) years; now therefore

IT IS HEREBY RESOLVED this 16th day of December , 2009 that the Mayor and Borough Council hereby approve the terms of the Memorandum of Agreement negotiated between the Borough and the UFCW; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized and directed to sign any and all contracts, agreements or amendments necessary to effectuate these approved terms and conditions.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

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BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

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

**R-09-212
RESOLUTION AMENDING RESOLUTION R-09-70
PROFESSIONAL ENGINEERING SERVICES OF A NON-FAIR AND OPEN CONTRACT FOR VALLEY AVENUE
STORM SEWER REHABILITATION
T & M ASSOCIATES**

WHEREAS, there exists the need for Professional Engineering Services for the Valley Avenue Storm Sewer Rehabilitation project as a non fair and open contract pursuant to the provisions of N.J.S.A.19:44A-20.5; and

WHEREAS, such Professional Engineering Services can only be provided by licensed professionals and T & M Associates, 11 Tindall Road, Middletown, NJ 07748 is so recognized; and

WHEREAS, a contract was awarded on April 15, 2009 for an amount not to exceed \$14,500 plus reimbursable expenses for the Professional Engineering Services for the Valley Avenue Storm Sewer Rehabilitation project ; and

WHEREAS, T & M Associates has requested an additional \$2,100 per their letter dated December 1, 2009 for services performed beyond the scope of the original contract (re-bid of project); and

Certification of Funds: Bond Ordinance 09-03

Stephen Pfeffer, Chief Financial Officer

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

WHEREAS, the determination of value has been placed on file with this resolution with the Borough Clerk; and

WHEREAS, T & M Associates has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

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

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

1. T & M Associates' contract for professional engineering services is hereby extended for an additional year until February 21, 2008. The contract amount is increased by \$2,100 for a total contract amount not to exceed of \$16,600 plus reimbursable expenses.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

R-09-213

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
WATERWITCH AVENUE RESURFACING AND SANITARY SEWER REPAIRS
T & M ASSOCIATES**

WHEREAS, the Borough of Highlands has a need for professional engineering services for the Waterwitch Avenue Resurfacing and Sanitary Sewer Repairs Project as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

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

WHEREAS, this contract is to be awarded for an amount not to exceed \$36,000 plus reimbursable expenses per T & M Associates proposal dated September 29, 2009 for Professional Engineering Services for the Waterwitch Avenue Resurfacing and Sanitary Sewer Repairs project provided to the Borough of Highlands for the period of one year; and

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

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

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

I hereby certify funds are available from:

Bond Ordinance 09-27 contingent upon the expiration of the twenty (20) day estoppels period.

Stephen Pfeffer, Chief Financial Officer

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

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

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1. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$36,000 plus reimbursable expenses.
2. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to sign the contract.
3. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

R-09-214

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR PROFESSIONAL
AUDITING SERVICES
FALLON & LARSEN, LLP**

WHEREAS, the Borough of Highlands has a need for professional auditing services; and

WHEREAS, such professional auditing services can only be provided by licensed professionals and of the firm of Fallon & Larsen, LLC, 1390 Route 36, Suite 102, Hazlet, N.J. 07730-1716 is so recognized; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$49,900 plus reimbursable expenses for professional auditing services for the Borough of Highlands for the SFY 2010 audit; and

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

WHEREAS, Fallon & Larsen has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 271; and

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

WHEREAS, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands contingent upon adoption of the following SFY 2010 Municipal Budget:

Account # 1030A-3551 \$31,900
3008-4000 \$18,000

Stephen Pfeffer, Chief Financial Officer

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:1101 et seq. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

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

1. The firm of Fallon & Larsen is hereby retained to provide professional auditing services as described above for an amount not to exceed \$49,900.00 plus reimbursable expenses.
2. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to sign the contract.
3. A copy of this Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

R-09-215

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
DESIGN FLOOD MITIGATION IMPROVEMENTS AND
SNUG HARBOR PUMP STATION
T & M ASSOCIATES**

WHEREAS, the Borough of Highlands has a need for professional engineering services to Design Flood Mitigation Improvements and the new Snug Harbor Pump Station as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

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

WHEREAS, this contract is to be awarded for an amount not to exceed \$406,000 plus reimbursable expenses per T & M Associates proposal dated April 9, 2009 for Professional Engineering Services to Design Flood Mitigation Improvements and the new Snug Harbor Pump Station provided to the Borough of Highlands for the period of one year; and

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

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

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

I hereby certify funds are available from:

Bond Ordinance 09-28 contingent upon the expiration of the twenty (20) day estoppels period.

Stephen Pfeffer, Chief Financial Officer

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

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

5. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$406,000 plus reimbursable expenses.
6. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to sign the contract.
7. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
8. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

**R-09-218
RESOLUTION AUTHORIZING
PAYMENT TO BOROUGH EMPLOYEE
IN LIEU OF RECEIVING MEDICAL COVERAGE**

WHEREAS, the Borough of Highlands approved Resolution R-09-184 on November 4, 2009, which approved a Section 125 Plan and Health Benefits Waiver in the amount of \$5,500 as set forth in the Plan; and

WHEREAS, a formal request was made to the Borough of Highlands by Blanche Reed, Court Administrator, in 2008 to receive such cash benefit in lieu of receiving medical coverage provided by the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the Chief Financial Officer is hereby authorized to issue Blanche Reed, Curt Administrator, a prorated payment for the period January 1, 2009 through November 15, 2009 in the amount of \$4,812.57.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

**R-09-220
RESOLUTION APPROVING
PERSON-TO-PERSON TRANSFER OF LIQUOR LICENSE
1317-33-030-007**

WHEREAS, an application has been filed for a Person-to-Person Transfer of Liquor License Number 1317-33-030-007 (Pocket License) from Neil's Original Oyster to Water Witch Highlands, LLC; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

WHEREAS, the applicant has disclosed and the Police Department has reviewed the source of all funds used in the purchase of the license.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Highlands does hereby approve, effective December 16, 2009, the Person-to-Person transfer of Liquor License Number 1317-33-030-007 from Neil's Original Oyster to Wate Witch of Highlands, LLC and does hereby direct the Borough Clerk to endorse the license certificate to the new ownership effective December 16, 2009.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

**R-09-222
RESOLUTION AUTHORIZING EXECUTION OF A SHARED SERVICES AGREEMENT
WITH THE COUNTY OF MONMOUTH FOR PARTICIPATION
IN THE SHREWSBURY RIVER AUTOMATED FLOOD WARNING SYSTEM**

WHEREAS, over the years, the Shrewsbury River, including the portion locally referred to as the Navesink River, has been the source of flooding that has adversely affected the communities bordering the river; and

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WHEREAS, the County of Monmouth has applied for a grant through the New Jersey State Police, Office of Emergency Management, to fund the installation of a Shrewsbury River Automated Flood Warning System (the “System”); and

WHEREAS, the County of Monmouth has proposed a Shared Services Agreement with the Borough of Highlands and other “Participating Municipalities” to establish and maintain the System, subject to the availability of the requested grant funding; and

WHEREAS, under the New Jersey Uniform Shared Services and Consolidation Act, namely C. 40A:65-1, *et seq.*, local units, such as the County of Monmouth and the Participating Municipalities may enter into such an agreement; and

WHEREAS, a copy of the proposed Shared Services Agreement is attached to this resolution; and

WHEREAS, there will be a separate Project Agreement between the County and Monmouth University (“Monmouth”) and Stevens Institute of Technology (“Stevens”), whereby Monmouth and Stevens will assist with the project generally and, in particular, will gather and post the data so that it will be available electronically to the Participating Municipalities, the County and other appropriate parties.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Highlands that the Mayor and Council, Municipal Clerk, and OEM Coordinator be and they are hereby authorized to enter into the proposed Shared Services Agreement with the County of Monmouth for the Shrewsbury River Automated Flood Warning System.

BE IT FURTHER RESOLVED that there is no need for a certification of available funds for the initial period of the Agreement, that is, through one year from the Operational Date, since the Agreement is conditioned upon the availability of the requested grant funds for that period, payable by the County of Monmouth.

BE IT FURTHER RESOLVED that the expenditure of future funds required thereafter for the Borough of Highlands continued participation in the Agreement, shall be subject to the filing of a certification by the Chief Financial Officer, stating that funds are available in the amount of \$1,500 in subsequent municipal budgets, in line item 1220 OEM Budget.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

**Borough of Highlands
Mayor and Council
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R-09-223**

**RESOLUTION AUTHORIZING THE AWARD OF A
PROFESSIONAL LEGAL SERVICE CONTRACT TO
THOMAS WILSON, ESQ.**

WHEREAS, the Borough of Highlands has a need for professional legal services for the Bentham/Caizza legal matter as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, such professional engineering services can only be provided by licensed professionals and the Thomas Wilson, Esq. of the firm of Thomas Wilson, Esq., P.O. Box 63, Middletown, N.J. 07748 is so recognized; and

WHEREAS, the Chief Financial Officer has determined and certified in writing that the value of the contract will not exceed \$17,500; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$2,500 plus reimbursable expenses for Professional Legal Services for the Councilman Caizza legal matter for the period of one year; and

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

I hereby certify funds are available from:

Account # _____

Stephen Pfeffer, Chief Financial Officer

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

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

9. Thomas Wilson, Esq. is hereby retained to provide professional legal services as described above for an amount not to exceed \$2,500 plus reimbursable expenses.
10. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to sign the contract.
11. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
12. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

**Borough of Highlands
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R-09-226**

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
HIGHLANDS REJECTING REQUEST FOR PROPOSALS FOR
EVENT MANAGEMENT SERVICES**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the receipt of request for proposals for Event Management Services; and

WHEREAS, Request for Proposals were received on November 16, 2009; and

WHEREAS, one Request for Proposal package was received by the Borough from Allen Consulting, Inc.; and

WHEREAS, said Request for Proposal was reviewed by the Governing Body of the Borough of Highlands, and it has been determined that the Request for Proposal exceeded the cost estimate; and

WHEREAS, it is the desire of the Governing Body of the Borough of Highlands to reject the Request for Proposal.

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

1. That the Request for Proposals received on November 16, 2009 for Event Management Services are hereby rejected.
2. That a certified copy of this resolution shall be provided by the Office of the Borough Clerk to each of the following:
 - A. Borough Engineer
 - B. Chief Financial Officer
 - C. Allen Consulting, Inc.
89 Middletown Road,
Holmdel, N.J. 07733

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

ROLL CALL:

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

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

RECAP OF PAYMENT OF BILLS

12/16/09

CURRENT:	\$	29,918.12
Payroll	\$	
Manual Checks	\$	36,501.58
Voided Checks	\$	-180.00
SEWER ACCOUNT:	\$	4,242.14
Payroll	\$	
Manual Checks	\$	200.32
Voided Checks	\$	
CAPITAL/GENERAL	\$	4,103.00
CAPITAL-MANUAL CHECKS	\$	
WATER CAPITAL ACCOUNT	\$	

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TRUST FUND	\$	15,820.02
Payroll	\$	
Manual Checks	\$	
Voided Checks	\$	-180.00
UNEMPLOYMENT ACCT-MANUALS	\$	
DOG FUND	\$	81.60
GRANT FUND	\$	1,350.00
Payroll	\$	
Manual Checks	\$	
Voided Checks	\$	
DEVELOPER'S TRUST	\$	
Manual Checks	\$	
Voided Checks	\$	

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

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

Other Resolutions:

R-09-219 – Authorizing Disposal of Borough Vehicles:

Mr. Hilling referred to Resolution R-09-219 Authorizing Disposal of Borough Vehicles. Would like to add a 2004 Ford Crown Vehicle 2FAFP71WX4X158506. The auction will be sometime in January.

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

**R-09-219
RESOLUTION AUTHORIZING DISPOSAL OF
BOROUGH VEHICLES**

WHEREAS, the Borough Administrator has determined that the Borough of Highlands has vehicles that have a value of \$1,000 or less and are no longer of any use to the Borough; and

WHEREAS, the Borough Administrator desires to conduct a public auction to dispose of certain borough vehicles.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the following vehicles may be disposed of:

- 1. 2001 Ford Police Interceptor
VIN #2FAFP71W11X197559**
- 2. 2004 Ford Crown Victoria
VIN# 2FAFP71W84X158505**

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3. **1999 Dodge Ram 3500
VIN# 3B6MF3662XM570283**
4. **2004 Ford Crown Victoria
VIN# 2FAFP71WX4X158506**

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

Resolution R-09-221 – Renewing Liquor License for Claddagh

Mrs. Cummins stated that she received a letter from the owner of the Claddagh. He could not attend this meeting but he is asking Council to move forward with renewal of license with out the special conditions.

Chief Joseph Blewett stated he recommended giving them an opportunity to see how they do with out the stipulation. There have been fewer calls for fights.

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

**R-09-221
RESOLUTION
RENEWING 2009-2010 LIQUOR LICENSE**

WHEREAS, Liquor License Renewal Application for Liquor License Number 1317-33-00-007 owned by Claddagh of Highlands, LLC was filed for the year 2009-2010 on time; and

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the following liquor license be renewed for the period of July 1, 2009 to June 30, 2010:

**1317-33-003-007 Claddagh of Highlands, LLC 297-299 Bay Ave
t/a Claddagh**

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
ABSTAIN: None
ABSENT: None

Resolution R-09-224 – Resolution Amending MCIA Agreement Amendment

Mr. Pfeffer said that the maintenance fee on the Dictaphone has become very expensive. Leasing a new machine would cost the same, but when lease purchase was amended with utility shed adjustment, and then determined not buying shed, we still had money left on that line item. Purchasing the machine directly would save on finance charges over five year lease.

The Chief stated that they can not get a maintenance agreement on the current equipment because it is too old. They do not carry the parts.

Mr. Caizza offered the following resolution and moved for its adoption:

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**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

R-09-224

**RESOLUTION AUTHORIZING THE CHIEF FINANCIAL OFFICER TO
AMEND THE EQUIPMENT LIST FOR THE PURCHASE AGREEMENT WITH
THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY**

WHEREAS, the Mayor and Council have determined that it is in the best interest of the Borough of Highlands to amend the following equipment (including accessories if applicable) amounts as authorized in the 2007 Lease Purchase Agreement with the Monmouth County Improvement Authority.; and

Utility Shed	From: \$16,000	To: \$ -0-
New Item: Dictaphone Machine Police Department	\$ -0-	\$ 16,000

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the Chief Financial Officer Stephen Pfeffer is hereby authorized and directed to amend the Equipment List for the 2007 Lease Purchase Agreement with the Monmouth County Improvement Authority as noted above and to execute all documents necessary to make such amendments.

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

ROLL CALL:

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

Resolution R—09-225 – Resolution Approving Agreement for 2010 Census:

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

**R-09-225
RESOLUTION APPROVING AGREEMENT
CONDITIONS FOR DONATION OF SERVICES AND SPACE AGREEMENT
FOR THE 2010 UNITES STATES CENSUS**

WHEREAS, the Borough of Highland received a written request from the United States Census Bureau, Freehold Office for use of the Borough Facilities for the upcoming 2010 Census to set up a Question Assistance Center (QAC) at a Borough facility to assist Borough residents in completing the Census 2010 Questionnaire; and

WHEREAS, it is the desire of the Mayor and Council of the Borough of Highlands to provide space at the Community Center for the QAC for the 2010 Census.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Highlands hereby approves use of the Community Center as per availability for the 2010 Census and that the Borough Administrator is hereby authorized to execute the Conditions for Donation of Services and Space Agreement for the 2010 Census.

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

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ABSENT: None
ABSTAIN: None

R-09-227 – Authorizing Payment to Bayview Condo:

Scott Arnette read the following resolution for approval:

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

**R-09-227
RESOLUTION AUTHORIZING PAYMENT
TO BAYVIEW CONDO ASSOCIATION**

WHEREAS, Bayview Condominium Association has asserted that they are Statutorily entitled to reimbursement for street lighting municipal services; and

WHEREAS, they have a Municipal Services Agreement with the Borough of Highlands for such services; and

WHEREAS, the agreement requires presentation of those expenses for reimbursement, and that the expenses should be presented in a timely manner; and

WHEREAS, the requests for reimbursements have been sporadic, but total more than \$24,000 over the last several years; and

WHEREAS, the Bayview Condo Association has accepted that their timing and nature of the request for reimbursement has been inconsistent with timely submissions; and

WHEREAS, threats of litigation have been made by the Condo Association Attorney seeking full reimbursement of the expenses.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that a settlement of this dispute of municipal services reimbursement be and is hereby approved in the amount of \$12,000 in total.

BE IT FURTHER RESOLVED that the Mayor and Council hereby direct the Borough Attorney and Chief Financial Officer to take all necessary action to settle this claim for reimbursement of Municipal Services in the full amount of \$12,000.

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

ROLL CALL:

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

Mayor stated that the original amount was much more than \$12,000. Mr. Arnette agreed, stating that it was closer to \$30,000.

=====
Ordinances: 2nd Reading, Public Hearing and adoption:

Mrs. Cummins read the title of Ordinance 0-09-31 for second reading and public hearing:

0-09-31 – Amending Ferry License Fee

Maureen Kraemer of 200 Portland Road – Why was this fee being raised? Were any others?

Mr. Francy stated that in August all the fees were raised except this one. How did we not raise this one is really the question. There has been no increase since they started 12 years ago.

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Mr. Arnette said the fees were raised to cover administrative costs.

Jack Bevins, Director of Operation for Ferry. Questioned if the ferry fee was doubling and if other business increasing at same percentage as SeaStreak?

Mrs. Cummins stated that they were doubled. It went from \$25 to \$50 for mercantile license.

Mr. Urbanski stated that this is not a mercantile license. It is an exclusive ferry license.

Mr. Bevins said that he was not notified that they were on the agenda.

Mayor Little stated that it was advertised. They do not notify each individual on the agenda.

Kim Skorka of 315 Shore Drive – What is involved in administering license?

Mayor Little explained work that is done in Clerk's Office including investigations.

Mr. Francy said there are other components involved, such as the cost of maintaining road, monitoring of parking. All costs have gone up.

Maureen Kraemer – Does not understand how a business is not notified, especially with significant increase in a fee.

Mayor Little explained that they are obligated by law to advertise.

Maureen Kraemer said that as a courtesy they should be notified.

Mayor Little said that she is reconsidering her position in light of the economy and the need to do some development at the ferry terminal in the future.

Mr. Urbanski said that Shore Drive is in bad condition.

Mayor said there isn't any grant money forthcoming, possibly because it is privately owned, not sure.

Mr. Caizza said that the County maintains the Belford Ferry.

Mayor Little said it was because it is public land.

Mrs. Cummins read the title of Ordinance 0-09-31 for the third and final reading and adoption:

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

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:

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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
NAYES: Mayor Little
ABSENT: None
ABSTAIN: None

O-09-32 – Special Police Duty Ordinance Amendment

Mrs. Cummins read the title of Ordinance 0-09-32 for the second reading and public hearing.

Maureen Kraemer of 200 Portland Road – Is this about Special Duty Construction officers

Mr. Francy – it is to amend work rules to the union contract.

Mrs. Cummins read the title of Ordinance 0-09-32 for the third and final reading and adoption.

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:

Ms. Kane offered the following Ordinance pass third and final reading and moved on its adoption and authorized its publication:

**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:

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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 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

O-09-33 – Zoning Ordinance Amendment

Mrs. Cummins read the title of Ordinance 0-09-33 for second reading and public hearing. She stated that the Planning Board has reviewed and has sent back resolution with attachments for recommendations.

Mr Arnette stated that this was introduced two weeks ago. Sent to Planning Board to make sure it is consistent with the Master Plan. They have advised that it is.

Public Portion:

Mr. Lee of 2 Navesink Avenue – Changes to waterfront commercial district for allowing larger structures. Questioned process used to come up with recommendations.

Mayor Little stated that she did make a recommendation at the Planning Board meeting that they consider establishing a view shed committee because the views are a valuable asset.

Mr. Mullen urges council to vote against this. There are inconsistencies. Urges to reconsider adopting this ordinance.

Lori Dibble of Paradise Park feels that the map is hard to read, is there another rendition of the map. Hard to tell where the zones are.

Arnie Fuog of 50 Valley Street – What is the height for zone?

TR Dempsey of 79 Navesink Avenue – How would 42 feet elevation on Bay Avenue effect the view of the people on the hill.

Mrs. Lee of 2 Navesink Avenue – stated to come to property and see.

Mr. Mullen wanted the point of view from planner of appropriateness of adopting ordinance as written as opposed to as amended.

Scott Arnette said that we received a resolution from the Planning Board that this was consistent with the Master Plan. He then read for the record 0-09-33 that was inacted by Governing Body two weeks ago.

Mr. Mullen feels that the document being voted on is not the document being voted on this evening.

Maureen Kraemer of Portland Road -Why is planning board questioning this?

Scott Arnette said that there is a process that is put in place on how things happen. We must follow a statutory guideline. Inacted and read the ordinance and introduced r-09-33 and it was sent to planning board for review.

Carolyn Cummins stated that it was reviewed by Mr. Truscott.

Mrs. Jennings of Ralph Street said this was more confusing. Was something added?

Chris Francy – there is an opportunity to do this further, to fine tune.

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Mrs. Jennings asked that they all agree that there is an opportunity to change this or add recommendations from the planning board at another date.

Closed public hearing

John Urbanski said there were no changes made to waterfront zone.

Bill Caizza stated that the changes would be good for the town.

Mayor Little has spoken with a member of the Long Branch NAACP asking for this to be tabled due to an email communications that has statement in it that if true, would be illegal. Mayor does not want to take planning board recommendations at this time . Wanted Council to be aware of this before vote taken.

Mrs. Cummins read the title of Ordinance 0-09-33 for the third and final reading and adoption.

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

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."

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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

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 slope 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

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~~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):

~~“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).

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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
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.

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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.
 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.

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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:
 - 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.

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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.

SECTION ELEVEN

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.

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- 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

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

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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

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. 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

INSERT MAP ORD. #0-09-33

Other Business:

Item #3 Schedule of 2010 Mayor and Council Reorganization Meeting

Reorganization meeting will be Jan 1st, 2010 at 2 pm at the Community Center.

Item #2 Scheduling of Special Council Meeting for Purpose of Introducing the Budget

Steve Pfeffer has received calls from the state regarding the delay in budget. Feels that we should pick a date last week in December and get the budget introduced. Get the process rolling. Included in the intro of budget will be the intro of the normal index rate and cap ordinance that we do every year. Suggest adding bill list.

We stand at a tax increase of 2.15 cent increase up from 1.04. Council has requested increases of 60,000 dollars in the budget in the past few weeks. He suggest we intro budget as it is right now. We can amend later. Needs intro before end of year. And adopted in January . Meeting scheduled for Wednesday, Dec 30th to intro budget at 7:30 am in council meeting room..

Item #8 – Acknowledge Receipt of HBP 2010 Calendar of Events

Mayor Little and Ms Kane attended meeting with BID. They are looking to move forward as a non-profit.

Ms. Kane stated that we are all moving forward to work together.

Mayor said that we are acknowledging receipt of 2010 Calendar of Events.

Mayor excused herself at 9:15

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Engineers Report:

Rob Keady of T & M Engineers spoke about the Valley Ave. drainage project. They had a preconstruction meeting, anticipates starting in January.

Emergency Generator Project – meeting held with borough to clarify the change in scope at four locations. Proceeding with design.

Dale Leubner said there will be permanent electrical hook ups. Wheel generator to it, plug in and you are up and running.

Flood Reduction Program – In process of coordinating a pre application meeting with DEP and Army Corps of Engineers. Needs additional authorization to validate Baypointe's concepts by doing the hydrology for the project. The regulations have changed. Would like to prepare a concept for the Snug Harbor pump station portion which was not included in Baypointe's analysis.

Would recommend waiting for feed back from meeting for discussion and agree on approach. Down side is may miss March 1st deadline for next round of funding.

Chris Francy asked if a design study and meet March 1, and risk joint meeting with *permitees* would have a different idea on how to proceed and not permit what we have already done.

Mr. Keady agreed. He also stated that permits do have to be applied for prior to March 1.

Mr. Francy said this joint meeting is important to move forward smoothly without backtracking and increasing cost.

Mr, Keady said this is cost effective. He always recommends a pre-application meeting for larger projects with all agencies involved.. The issue is the timing of the meeting and the March 1st date.

John Urbanski asked if the only one that is different is the Snug Harbor drains. We could proceed with everything else, there is not much else changing.

Council discussed further.

Steve Pfeffer stated that the EIT application is extremely important because it allows to do project with out 5 percent down payment which is significant and gives us preferred financing from EIT that will reduce cost over the long run. Asked if new governor would slow down EIT process to our benefit and would EIT except something because of this meeting , would they grant us any kind of extension.

Mr. Keady stated he has never seen where they extended it. He will prepare for the pre application meeting.

Mr. Francy stated that there will be a public meeting with the new council, the date to be set soon.

#4 Authorizing Change in Corporate Structure for Sandy Hook LLC

Mrs. Cummins stated that this change does not require a resolution, and the application has been reviewed by the Police Department. They found no objection to it. Ms. Cummins is looking for authorization to send ABC a letter that we do not have any objections.

Offered by Mr. Caizza, seconded by Ms. Kane.

ROLL CALL:

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

NAYES: None

ABSENT: Mayor Little

ABSTAIN: None

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#5 & #6 Social Affair Permits – Highlands Fire Dept. - Two applications

Mrs. Cummins stated that this is for Jan. 29 and March 20 events. Reviewed and approved by the Chief of Police.

Offered by Mr. Francy seconded by Mr. Urbanski for both applications

Roll call – all in favor

ROLL CALL:

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

NAYES: None

ABSENT: Mayor Little

ABSTAIN: None

#7 Raffle Application – Highlands Business Partnership for Jan 1 to March 20 off premise raffle

Offered by Mr. Urbanski, seconded by Ms Kane

ROLL CALL:

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

NAYES: Mr. Caizza

ABSENT: Mayor Little

ABSTAIN: None

Approval of Minutes:

Mr. Caizza offered a motion and moved on the approval of the October 7th, October 22nd and November 4th, 2009 Regular Minutes, seconded by Ms. Kane and approved on the following Roll Call Vote:

ROLL CALL:

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

NAYES: None

ABSENT: Mayor Little

ABSTAIN: None

Mr. Caizza offered a motion and moved on the approval of the October 22nd, November 4th, and December 2nd, 2009 Executive Session Minutes, seconded by Ms. Kane and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSENT: Mayor Little

ABSTAIN: None

Public Portion:

Roberta McEntee of 55 5th Street – 100 signatures to do something about the grammar school. Cost per child is \$22,000 which is ridiculous. Not getting a good education. The Borough should take over the school building for offices. We want to start having meetings with parents to do something about the schools. She will be a point of contact.

Christian Lee of 2 Navesink Avenue – passed

Arnie Fuog of 50 Valley Street – absent

John Bentham of 39 Washington – Raffle application that were approved tonight.

Carol Bucco pointed out that she did an OPRA request, and that dept. did not have any licensing for the past two years. Is this being addressed in any way? Would you have approved raffle license for any other organization in town that did not have proper license for two years.

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Mr Urbanski stated that the proper paper work was filed. Mrs. Bucco may persue it further if necessary.

Maureen Kraemer of 200 Portland Road – She sent a letter to the Boro regarding large pieces of equipment on both sides of Portland Road. Requesting police presence between 7 and 7:30 am to direct traffic.

Mr. Hilling will discuss it with the DOT in the morning.

Chief Blewett will look in to it.

Maureen Kraemer also stated that she sent a letter, stating that at last council meeting she was not allowed to be part of the meeting due to overcrowding. A robo call was sent out for the last meeting, why was the venue not changed?

Mr. Arnette received authorization today to respond to Maureen Kraemer's letter. He will provide a written response to her letter.

There were no further questions or comments from the public.

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

Mr. Mullen asked for one more question.

Roll call was taken – all voted no to adjourn meeting,

Peter Mullen of Marina Place – Questioned why council decided that they did not agree with the recommendations of the planning board.

Mr. Arnette said that the council acted upon the resolution that they received from the planning board.

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

The Meeting adjourned at 10:10 pm

CAROLYN CUMMINS, BOROUGH CLERK