

**Borough of Highlands
Mayor & Council
Special Meeting
December 21, 2010**

Mr. Nolan called the meeting to order at 7:46 P.M.

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

ROLL CALL:

Present: Mr. Nolan, Mr. O'Neil, Mr. Francy, Ms. Kane

Absent: Mayor Little

Also Present: Carolyn Cummins, Borough Clerk
Robert Merryman, Esq., Labor Attorney
Bruce Hilling, Borough Administrator

Executive Session Resolution:

Mrs. Cummins read the following Resolution for approval:

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

**RESOLUTION
EXECUTIVE SESSION**

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

- 1.Litigation:**
- 2.Contract: CWA Contract Negotiations**
- 3.Real Estate:**
- 4. Personnel Matters: Wayne Occhipinti - Riced**
- 5. Attorney-Client Privilege:**

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.
8. Related to investigation of violations or possible violations of the law.

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

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

ROLL CALL:

AYES: Mr. Nolan, Mr. O'Neil, Mr. Francy, Ms. Kane
NAYES: None
ABSENT: Mayor Little
ABSTAIN: None

The Governing Body then entered into Executive Session.

Mr. Nolan called the meeting back to order at 8:36 P.M.

Mr. Nolan asked all to stand for the Pledge of Allegiance.

ROLL CALL:

Present: Mr. O'Neil, Mr. Nolan, Mr. Francy, Ms. Kane

Absent: Mayor Little

Also Present: Carolyn Cummins, Borough Clerk
Bruce Hilling, Borough Administrator
Robert Merryman, Labor Attorney

Resolution:

R-10-237 Resolution Approving CWA Contract Modifications

Mr. Nolan explained to the public that we are holding on this because we are having our Attorney make a call right now to have a penalty clause removed from the modification agreement.

R-10-238

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

**R-10-238
CDBG BLOCK GRANT RESOLUTION AUTHORIZING THE MAYOR AND CLERK
TO EXECUTE A PROJECT AGREEMENT WITH MONMOUTH COUNTY FOR
PERFORMANCE AND DELIVERY OF FY 2011
COMMUNITY DEVELOPMENT PROJECTS**

WHEREAS, certain federal funds are potentially available to Monmouth County under the Housing and Community Development Act of 1974, as amended: and

WHEREAS, the County of Monmouth expects to receive an allocation for **FY 2011** from

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the United States Department of Housing and Urban Development; and

WHEREAS, the County of Monmouth has submitted its Annual Plan for **FY2011** to the U.S. Department of Housing and Urban, which included a project hereinafter referred to as **Borough of Highlands** with a grant allocation of **\$183,603.00**

WHEREAS, the **Borough of Highlands** hereby met all the requirements for the release of funds to begin incurring costs for this project: and

WHEREAS, the **Borough of Highlands** has filed with the Monmouth County Community Development Program an acceptable "TIMETABLE FOR PROJECT COMPLETION AND EXPENDITURE OF GRANT FUNDS," which is included as Appendix I of the Project Agreement.

NOW, THEREFORE, BE IT ORDAINED, that the Mayor and Municipal Clerk of the **Borough of Highlands** authorized to execute with the County of Monmouth the attached Project Agreement.

Seconded by Mr. O'Neil adopted on roll call by the following vote:

ROLL CALL:

AYES: Mr. Nolan, Mr. O'Neil, Mr. Francy, Ms. Kane

NAYES: None

ABSENT: None

ABSTAIN: None

R-10-239

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

Resolution No. R-10-239

**CDBG BLOCK GRANT RESOLUTION AUTHORIZING THE MAYOR TO SIGN A
CERTIFICATION PROHIBITING THE USE OF EXCESSIVE FORCE AND A
CERTIFICATION PROHIBITING THE USE OF FEDERAL FUNDS FOR LOBBYING**

WHEREAS, certain federal funds are potentially available to Monmouth County through the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the United States Department of Housing and Urban Development has allocated funding to the County of Monmouth for **FY 2011**; and

WHEREAS, the County is making some of these funds available to certain participating municipalities and non-profit agencies; and

WHEREAS, it is required that the **Borough of Highlands** execute a project agreement with Monmouth County to undertake a project known as **Reconstruction of Bay Avenue Phase II** and

WHEREAS, the U.S. Department of Housing and Urban Development is requiring that the Mayor of the **Borough of Highlands** sign additional certifications in order to receive these funds; and

WHEREAS, the **Borough of Highlands** has adopted a policy prohibiting the use of

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excessive force by its law enforcement agency (police force) within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

WHEREAS, a copy of that policy is attached to and made part of this resolution.

NOW, THEREFORE, BE IT RESOLVED, that the **Borough of Highlands** has met the conditions of receiving a **FY 2011** allocation by adopting a policy prohibiting the use of excessive force and by not using federal funds for lobbying or by disclosing that funds have been used for lobbying.

BE IT FURTHER RESOLVED, that the Mayor of the **Borough of Highlands** is hereby authorized to sign the attached certifications which will become part of the **FY 2011** Project Agreement.

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

ROLL CALL:

AYES: Mr. Nolan, Mr. O'Neil, Mr. Francy, Ms. Kane

NAYES: None

ABSENT: None

ABSTAIN: None

R-10-240

Mrs. Cummins – we don't have a Resolution R-10-240 at this time.

Public Portion:

Jorgi Craig asked if the Attorney was making a phone call at this time to CWA”

Mr. Nolan – yes.

Donna Conrad asked Mr. Nolan to explain to her what is going on.

Mr. Nolan – in the agreement there is a penalty clause and we want to remove the penalty clause. We agreed to rescind the layoff tonight's but we don't want the penalty clause.

There were no further questions or comments from the public.

Mr. Nolan called for a ten minute break at 8:40 P.M.

Mr. Nolan called the meeting back to order at 9:03 P.M.

Mr. Nolan asked if all have a copy of the CWA Memorandum of Agreement with them this evening. The Clerk supplied the public with copies.

He then explained that the Councils proposal is to take out the first sentence in. They are also proposing to remove items five and six, with those changes he will offer the agreement.

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

R-10-237

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Resolution approving revisions and modifications to the terms of the Collective Negotiations Agreement between the Borough of Highlands and the CWA Local 1032 for the period from July 1, 2008 through December 31, 2011

WHEREAS, the Borough of Highlands (“Borough”) and the CWA Local 1032 (“CWA”) are parties to a collective negotiations agreement (the “Agreement”) effective July 1, 2008 through December 31, 2011 and

WHEREAS, the Borough has proposed modifications to that agreement in order to provide savings and to avoid staff reductions beyond the elimination of four sanitation positions and one mechanic position and the disruption to public services caused by such staff reductions; and

WHEREAS, representatives of the Borough and the CWA who have been involved in discussions regarding modifications to the Agreement have recommended the terms of an agreement on modifications to the parties’ current Agreement that will provide financial savings and help avoid additional layoffs, furloughs or reductions in hours during the remaining term of the collective negotiations agreement and have recommended those terms to the full membership of the CWA 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 proposed by the parties, which are contained in a written memorandum of agreement, will provide the Borough with substantial savings; now therefore

IT IS HEREBY RESOLVED this 21st day of December, 2010 that the Mayor and Borough Council hereby approve the terms of the Memorandum of Agreement negotiated between the Borough and the CWA; 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 Mr. Francy and adopted on the following roll call:

ROLL CALL:

AYES: Mr. Nolan, Mr. O’Neil, Mr. Francy, Ms. Kane

NAYES: None

ABSTAIN: None

ASENT: None

MEMORANDUM OF AGREEMENT
between
Borough of Highlands and CWA Local 1032

The parties hereby agree to following changes to the 2008-2011 collective negotiations agreement:

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1. The parties agree to modify Article IX, Section 1 to eliminate the 3.25% salary increase that was scheduled to take effect on July 1, 2010 and agree that there will be no wage increase for bargaining unit members, other than those specified in Paragraph 2 below, for the 2011 fiscal year, from July 1, 2010 through June 30, 2011, and for the period from July 1, 2011 through December 31, 2011.
2. The five employees directly impacted by the subcontracting of Sanitation and the Mechanic services, Michael Johnson, John Coberg, Wayne Occhipinti, Richard White and James Caplinger, will receive a wage increase retroactive to July 1, 2010 for the period from July 1, 2010 through December 31, 2010 only.
3. The parties agreed to modify Article XII – Health Benefits to provide that health benefits and prescription coverage will be provided through the New Jersey State Health Benefits Plan.
4. The Borough further agrees to withdraw any layoff plan or part thereof and any layoff notices as to the four (4) clerical positions subject to elimination on December 31, 2010 that has been filed with the Civil Service Commission Civil Service Commission or delivered to clerical employees upon execution of the MOA.
5. The terms of this MOA are subject to the grievance/arbitration provisions of the collective bargaining agreement between the parties and any dispute arising under this MOA, involving the application or interpretation of the terms of the MOA, may be submitted to binding arbitration in accordance with the grievance/arbitration provisions of the Agreement. The Borough agrees that in the event the Union seeks to arbitrate a dispute arising under this MOA, the Borough waives any right it may have to claim that the dispute is not legally arbitrable under scope of negotiations law.
6. The CWA agrees to waive any appeal, grievance or other legal proceeding challenging the layoffs of the four (4) sanitation employees and the one (1) mechanic in accordance with the layoff plan previously approved by the Civil Service Commission.
7. All remaining provisions contained in the 2008-2011 collective negotiations agreement, which has been extended to December 31, 2011, will remain unchanged.

Mr. Nolan asked Mr. Merryman to speak with the CWA tomorrow to see if there is an agreement on this agreement.

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Mr. Nolan offered a motion to adjourn the meeting, seconded by Mr. O'Neil and all were in favor.

Kris Burton – if Mr. Merryman speaks with Mario of CWA and Mario wants a change, then he will relay that back to the borough, then there will be another meeting?

Mr. Nolan – Mario will relay decision to the Borough. He further explained the Councils opposition to a penalty clause in the agreement.

Mr. O'Neil offered a motion to adjourn the meeting, seconded by Mr. Nolan and all were in favor.

The Meeting adjourned at 9:08 P.M.

Carolyn Cummins, Borough Clerk

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