

**Borough of Highlands
Mayor & Council
Work Shop/Regular Meeting
April 18, 2012**

Mayor Nolan called the meeting to order at 7:14 p.m.

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

ROLL CALL:

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

Absent: None

Also Present: Carolyn Cummins, Borough Clerk

Tim Hill, Borough Administrator

Bruce Padula, Labor Attorney

Dale Leubner, Borough Engineer

Executive Session Resolution

Mrs. Cummins read the following Resolution for approval:

Mayor Nolan offered the following Resolution and moved its adoption:

**R-12-80
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: * Captains Cove Marina

***American Legion**

2.Contract: *PBA Union Contract

*** Phone Service Proposed Contract**

3.Real Estate: *Fifth Street Parking Lot Lease (Dan-Rob)

4. Personnel Matters:

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. Any matter which, by express provision of Federal Law, State statute or rule of court shall be rendered confidential or excluded from public discussion. Rendered confidential by Federal law or that if disclosed would impair receipt of Federal funds.
2. Any matter in which the release of information would impair a right to receive funds from the federal government.

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3. Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.
4. **Any collective bargaining agreement, or the terms and the conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body.**
5. **Any matter involving the purchase lease or acquisition of real property with public funds, the setting of bank rates or investments of public funds where it could adversely affect the public interest if discussion of such matters were disclosed.**
6. Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of law
7. **Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.**
8. Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting. Subject to the balancing of the public's interest and the employee's privacy rights under *South Jersey Publishing Co. v. New Jersey Expressway Authority*, 124, NJ 478 (1991).
9. Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act of omission for which the responding party bears responsibility.

BE IT FURTHER RESOLVED that formal action may be taken after the executive session.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

The Governing Body then entered into Executive Session.

Mayor Nolan called the Regular Meeting back to order at 8:17 p.m.

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

ROLL CALL:

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

Absent: None

Also Present: Carolyn Cummins, Borough Clerk

Tim Hill, Borough Administrator

Bruce Padula, Labor Attorney

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Dale Leubner, Borough Engineer

American Legion Liquor License Violation Hearing:

Mr. Padula spoke with American Legion people. The Prosecutor's office recommended a amicable resolution. He is going to give the Commander a summary of the terms. We can do a resolution of agreement at the next meeting.

Consent Agenda:

Mayor Nolan offered the following Resolution and moved on its' adoption:

R-12-81

**RESOLUTION AUTHORIZING THE APPLICATION
FOR THE**

2012 SUMMER FOOD PROGRAM

WHEREAS, the Mayor and Council of the Borough of Highlands have reviewed the material received from the State of New Jersey regarding **the 2012** Summer Food Service Program; and

WHEREAS, the Mayor and Council of the Borough of Highlands agree that the Borough's participation in the Summer Food Program will be of benefit to the Borough and its residents;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the Mayor, Borough Administrator, & Recreation Assistant are hereby authorized to make application to the State of New Jersey for the **2012** Summer Food Program in the anticipated amount of **\$11,146.69**.

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

ROLL CALL:

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

Mayor Nolan offered the following Resolution and moved its adoption:

R-12-82

RESOLUTION AUTHORIZING TONNAGE GRANT APPLICATION

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WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102 has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, recycling regulations imposed on municipalities certain requirements as conditions for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycle and to indicate the assent of the Borough of Highlands to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the Borough of Highlands hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Reggie Robertson as the Recycling Coordinator for the Borough of Highlands and that he is to ensure that the application is properly filed;

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purpose of recycling.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

**R-12-83
RESOLUTION
AUTHORIZING REFUND OF TAX OVERPAYMENT**

WHEREAS, the Tax Collector of the Borough of Highlands has reviewed the rolls and determined that certain monies are due and payable by the Borough of Highlands to certain residents and property owners within the Borough of Highlands, as a result of an overpayment of taxes, and

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WHEREAS, the Tax Collector recommends the immediate reimbursement of the excess funds currently collected by the Borough of Highlands to certain enumerated individuals,

NOW, THEREFORE BE IT AND IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of Highlands, in the County of Monmouth, State of New Jersey, that the Tax Collector is authorized to immediately refund and pay the overpayment of taxes to the individuals and property owners of the specific properties listed below, and attached hereto:

<u>BLOCK</u>	<u>LOT</u>	<u>YEAR</u>	<u>AMOUNT</u>
11	15.01	2009	75.52
12	3.01	2009	2,978.08
19	25	2009	14.84
38	2	2009	1,703.13
42	8	2009	1,397.91
43	11.03	2009	1,248.11
44	1	2009	16.65
47	2	2009	1,071.83
56	15.01	2009	22.82
72	9.23	2009	2,219.76
72	29	2009	190.62
77	4	2009	46.74
77	16	2009	93.28
100	10	2009	13.44
103	2	2009	775.76
106.1	605	2009	42.54
106.1	1006	2009	301.15
115	2.01	2009	117.36
116	8.01	2009	1,060.00
118	4	2009	1,206.59
118	7	2009	2,007.02
120	10.2-22	2009	1,626.94
6	2	2010	3,868.23
9	9.01	2010	1,986.45
43	5	2010	3,669.32

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59	24	2010	1,125.73
72	9.06	2010	2,662.09
115	2.01	2010	3,480.51
115	8	2010	<u>5,431.45</u>
Totals			40,453.87

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

ROLL CALL:

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

Mayor Nolan offered the following Resolution and moved its adoption:

R-12-84
**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
T & M ASSOCIATES
FOR THE COMPLETION OF A FEMA EGRANT APPLICATION**

WHEREAS, the Borough of Highlands has a need for professional engineering services to prepare and apply for a FEMA eGrant Application for 15 homes classified as substantially damaged by Hurricane Irene. This contract is being awarded 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 \$8,475.00 plus reimbursable expenses as per T & M Associates proposal dated April 4, 2012 for Professional Engineering Services to prepare and apply for FEMA eGrant for 15 homes classified as substantially damaged by Hurricane Irene 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

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WHEREAS, certification of availability of funds will be payable through the grant only if the grant is successful and receives funding. Consultant will invoice the Borough if grant is deemed successful and funded and the Borough will draw the funds from the grant within 30 days from when the grant money becomes available:

Stephen Pfeffer, Chief Financial Officer

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

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

1. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$8,475.00 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 execute the contract documents.
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.
- 5.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

**R-12-85
RESOLUTION AUTHORIZING
THE REMOVAL OF ONE DISABLED PARKING SPACE
AT 191 BAY AVENUE**

WHEREAS, the Governing Body approved via Resolution R-10-151 a disabled parking space for Donna Ryan residing at 191 Bay Avenue on July 21, 2010; and

WHEREAS, the approved spot was located four feet west of pole #BT90073HB on Bay Avenue; and

WHEREAS, Ms. Ryan no longer resides at 191 Bay Avenue and it is the recommendation of the Chief of Police that said disabled parking spot designation be eliminated; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the disabled parking sign that was previously approved for Ms. Ryan of 191 Bay Avenue is hereby eliminated and the DPW Supervisor is hereby directed to remove said disabled parking sign.

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

ROLL CALL:

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

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

R-12-86

**RESOLUTION
APPROVING RAFFLE LICENSE
APPLICATIONS NO. RA#1317-12-13 & RA#1317-12-14**

WHEREAS, the Highlands Business Partnership has submitted two Raffle License Applications No. RA1317-12-13 for a drawing to be held on May 27, 2012 and Raffle License Application No. RA#1317-12-14 for a raffle to be held on August 5, 2012.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that Raffle License Applications RA#1317-12-13 and RA#1317-12-14 are hereby both approved and the Borough Clerk is authorized to sign off on licenses.

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

ROLL CALL:

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

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

**R-12-87
RESOLUTION APPROVING
MEMORANDUM OF AGREEMENT WITH THE
MONMOUTH COUNTY MOSQUITO EXTERMINATION COMMISSION**

WHEREAS, the Monmouth County Mosquito Extermination Commission anticipates resumption of aerial surveillance and treatment program on or about April 15, 2012 and continuing through November 30, 2012; and

WHEREAS, Federal Aviation Administration Regulations requires the Commission to obtain prior written approval from the municipalities.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the attached memorandum of agreement for aerial surveillance and treatment is hereby approved and the Mayor and Clerk are hereby authorized to execute agreement.

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

ROLL CALL:

AYES: Mr. Redmond, Mr. O'Neil, Mr. Francy, Ms. Kane, Mayor Nolan
NAYES: None

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ABSENT: None

ABSTAIN: None

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

R-12-89

**RESOLUTION APPROVING ANIMAL CONTROL SERVICES CONTRACT
FOR THE PERIOD OF MAY 1, 2012 THROUGH DECEMBER 31, 2012**

WHEREAS, the Borough of Highlands has a need to provide Animal Control Services to the Borough; and

WHEREAS, Kerry Gowan, a Licensed Animal Control Officer is so qualified to provided Animal Control Services to the Borough of Highlands; and

WHEREAS, Kerry Gowan will provide Animal Control Services to the Borough at a rate of \$30.00 per animal control response.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Mayor & Council that Kerry Gowan is hereby awarded a contract to provide Professional Animal Control Services to the Borough of Highlands for the period of May 1, 2012 through December, 2012 and the Borough Administrator is hereby authorized to execute attached agreement.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

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

R-12-90

**RESOLUTION APPROVING AGREEMENT BETWEEN THE BOROUGH OF
HIGHLANDS AND RA MULTIMEDIA CORP. D/B/A CAPTAIN'S COVE MARINA
CONCERNING 2012 MERCANTILE LICENSE**

WHEREAS, on or about August 27, 2011, the Captains Cove Marina suffered damage to a portion of its bulkhead as a result of Hurricane Irene which rendered several boat slips in the marina no suitable for use; and

WHEREAS, the Marina has requested that the Borough issue it a mercantile license for the year 2012;

WHEREAS, it is the desire of the Governing Body to issue a Mercantile License to the marina only for the usable slips.

NOW, THEREFORE, BE IT RESOVLED by the Governing Body of the Borough of Highlands that the attached agreement is hereby approved and the Mayor is authorized to execute said agreement and the Clerk will issue a conditional mercantile license once the marina executes agreement and provided required documents.

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

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ROLL CALL:

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

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

R-12-91

RESOLUTION APPROVING

PETITION TO EXTEND LICENSED PREMISE OF A LIQUOR LICENSE

CHILANGOS RESTAURANT, INC

WHEREAS, Chilangos Restaurant, Inc has submitted a Petitions to Extend Licensed Premises for May 5, 2012 with a rain date of May 6, 2012; and

WHEREAS, the Chief of Police has reviewed and approved of the application; and

WHEREAS, the area to be extended is to include the parking lot for the one day;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Mayor and Council that Petition to Extend Licensed Premise for Chilangos Restaurant, Inc License is hereby approved.

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

ROLL CALL:

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

Mayor Nolan offered the following Payment of Bills and moved on its approval for payment:

**RECAP OF PAYMENT OF BILLS
04/18/2012**

CURRENT:		\$ 66,442.48
Payroll	(04/15/2012)	\$ 172,165.27
Manual Checks		\$ 19,642.50
Voided Checks		\$
SEWER ACCOUNT:		\$ 105,476.20
Payroll	(04/15/2012)	\$ 9,284.34
Manual Checks		\$ 65.38

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Voided Checks		\$	
CAPITAL/GENERAL		\$	
CAPITAL-MANUAL CHECKS		\$	
Voided Checks		\$	
WATER CAPITAL ACCOUNT		\$	
TRUST FUND		\$	69,560.41
Payroll	(04/15/2012)	\$	1,525.00
Manual Checks		\$	
Voided Checks		\$	
UNEMPLOYMENT ACCT-MANUALS		\$	
DOG FUND		\$	130.00
GRANT FUND		\$	7,278.72
Payroll	(04/15/2012)		
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.**

SUPPLEMENTAL BILL LIST

April 18, 2012

CURRENT FUND

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Future Sanitation	Tipping Fees 3/27/12-3/31/12	1,843.38
Future Sanitation	Tipping Fees 4/1/12-4/12/12	5,399.31
Future Sanitation	Solid Waste/Recycling Services 4/1-4/15	8,408.34
Future Sanitation	Solid Waste/Recycling Services 4/15-4/30	8,408.34
Rebecca Kane	Cell Phone Reimbursement	90.00
Riverfront Condo Association	Street Lighting Reimbursement	127.18
George Wall	Vehicle Parts	136.96
Total Current Fund		24,413.51
 CAPITAL FUND		
Total Capital Fund		0.00
 GRANT FUND		
Total Grant Fund		0.00
 SEWER UTILITY FUND		
Total Sewer Utility Fund		0.00
 TRUST FUND		
T & M Associates	Sandy Hook Bay Marina	176.91
T & M Associates	Sandy Hook Bay Marina	838.75
Total Trust Fund		1,015.66

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Total Supplemental Bill List

25,429.17

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

Minutes Approved on Consent Agenda:

Mayor Nolan offered a motion for the approval of the April 4, 2012 Regular and Executive Minutes, and seconded by Mr. Redmond on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

Ordinances: 2nd Reading, Public Hearing and Adoption:

Ordinance O-12-11

Mrs. Cummins read the title of Ordinance O-12-11 for the second reading & public hearing. She stated that this was published in its entirety in the March 30th edition of the Two Rivers Times and may now be open for public hearing.

Mayor Nolan asked if there were any questions regarding this ordinance.

Carol Bucco of 330 Shore Drive asked about the effective date.

Mayor Nolan said effective upon publication.

Mayor Nolan closed the public hearing.

Mrs. Cummins read the title of Ordinance 0-12-11 for the third and final reading and adoption.

Mayor Nolan offered the following Ordinance pass third and final reading and moved on its adoption and authorized its publication according to law:

O-12-11

BOROUGH OF HIGHLANDS

COUNTY OF MONMOUTH

ORDINANCE ADOPTING SECTION 9-8.14

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**OF THE CODE OF THE BOROUGH OF HIGHLANDS ESTABLISHING A LATE FEE TO BE CHARGED
FOR OVERDUE SEWER BILLS**

WHEREAS, the Borough of Highlands provides and sewer services to the residents and businesses of the Borough; and

WHEREAS, the Borough's auditor has recommended that late charges be charged for any sewer charges not be paid when due, and that said late charges shall take the form of interest on overdue charges;

WHEREAS, the Borough wishes to establish and codify late charges to be charged for overdue sewer charges, in accordance with applicable law and regulations; and

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

SECTION ONE. Section 9-8.14 of the Code of the Borough of Highlands shall be adopted to provide as follows:

All sewer charges shall be due and payable within thirty (30) days of the quarterly due date. In the event that any charges are not paid within thirty (30) days of the quarterly due date, then the charges shall be considered delinquent as of the quarterly due date. Interest shall accrue from the date of delinquency on all unpaid delinquent balances at the rate of 8% per annum on the first \$1,500.00 of any unpaid balances and 18% per annum for any balances in excess of \$1,500.00, with said interest accruing upon the balances, and interest thereon, until such time as they are paid in full.

SECTION TWO. The Borough shall add to the Borough Code a new Section, 9-8.15, which shall be Reserved.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

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

SECTION FIVE. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

Ordinance O-12-12:

Mrs. Cummins read the title of Ordinance O-12-12 Ordinance for second reading and public hearing. This Bond Ordinance was published in April 8th edition of the Asbury Park Press and was approved by DLGS. It may now be open to public hearing.

Mayor Nolan asked if there were any questions from the public.

John Bajor asked if the cost estimate can be made public.

Mayor Nolan said when it can be, it will be public.

Mayor Nolan closed the public hearing.

Mrs. Cummins read the title of Ordinance O-12-12 for the third and final reading and adoption.

Mr. Bajor asked about the interest rate on the bond ordinance.

Mr. Pfeffer explained the process of selling notes and public bids.

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

O-12-12

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$700,000 FOR ROAD IMPROVEMENTS TO WASHINGTON AVENUE FOR AND BY THE BOROUGH OF HIGHLANDS IN THE COUNTY OF MONMOUTH, NEW JERSEY AND, AUTHORIZING THE ISSUANCE OF \$665,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.

BE IT ORDAINED, BY THE BOROUGH COUNCIL OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1:

The improvements described in Section 3 of this bond ordinance (the "Improvements") are hereby authorized to be undertaken by the Borough of Highlands, New Jersey (the "Borough") as general improvements. For the said Improvements there is hereby appropriated the amount of \$700,000, such sum includes the sum of \$35,000 as the down payment (the "Down Payment") required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the "Local Bond Law"). The Down Payment is now available by virtue of provision in one or more previously adopted budgets for down payments for capital improvement purposes.

SECTION 2:

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In order to finance the cost of the Improvements not covered by application of the Down Payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$665,000 pursuant to the provisions of the Local Bond Law (the "Bonds"). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Borough are hereby authorized to be issued in the principal amount not exceeding \$665,000 pursuant to the provisions of the Local Bond Law (the "Bond Anticipation Notes" or "Notes").

SECTION 3:

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

Improvements	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or Notes	Period of Usefulness
Bulkhead replacement along Washington Avenue and various improvements to Washington Avenue, including reconstruction of roadway and installation of curbs and sidewalks, including all work or materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications thereof on file in the office of the Borough Clerk.	\$700,000	\$665,000	15 Years

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$665,000.

(c) The estimated cost of the Improvements is \$700,000 which amount represents the initial appropriation made by the Borough. The excess of the appropriations made for the Improvements and the estimated maximum amount of Bonds or Notes authorized to be issued therefor as stated above and the amount of the expected grants is the amount of the Down Payment.

SECTION 4:

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

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ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

SECTION 5:

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

SECTION 6:

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

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

(b) The period of usefulness of the Improvements, within the limitations of the Local Bond Law, and according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Borough, as defined in the Local Bond Law, is increased by the authorization of the Bonds and Notes provided in this bond ordinance by \$665,000 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$150,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

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

SECTION 8:

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

SECTION 9:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Borough reasonably expects to pay expenditures with respect to the Improvements prior to the date that Borough incurs debt obligations under this Bond Ordinance. The Borough reasonably expects to reimburse such expenditures with the proceeds

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of debt to be incurred by the Borough under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$665,000.

SECTION 10:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

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

ROLL CALL:

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

NAYES: None

ABSENT: None

ABSTAIN: None

Other Resolutions:

R-12-88

Mrs. Cummins read the title of R-12-88, a Resolution Authorizing Prof. Engineering Services – Washington Avenue:

Mayor Nolan offered the following Resolution and moved its adoption:

BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

R-12-88

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
WASHINGTON AVENUE REPAIRS ALONG FAILED BULKHEAD AREAS
T & M ASSOCIATES**

WHEREAS, the Borough of Highlands has a need for professional engineering services to prepare the plans and specifications for the repairs to Washington Avenue and to provide contract administrative services during construction phase. This contract is being awarded as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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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 \$65,000 plus reimbursable expenses as per T & M Associates proposal last revised on March 28, 2012 for Professional Engineering Services for the repairs to Washington Avenue 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 contingent upon the expiration of the estoppel period of Bond Ordinance O-12-12.:

Bond Ordinance O-12-12

Stephen Pfeffer, Chief Financial Officer

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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:

6. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed \$65,000 plus reimbursable expenses.
7. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to execute the contract documents.
8. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
9. 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. Redmond, Mr. O'Neil, Mr. Francy, Ms. Kane, Mayor Nolan

NAYES: None

ABSENT: None

ABSTAIN: None

Mr. Francy said when this is passed; it is a contract with T&M. They can not do anything until the Borough authorizes.

Mr. Leubner if you don't do all the repairs, the bond ordinance will be greatly reduced. He stated that no repairs will be done unless authorized.

Budget:

Mr. Pfeffer asked to address the council regarding the six month budget. He is finished with the transition year budget. He is hoping to bring it in to a zero tax increase. He further explained. He also spoke of the police car purchase. We can pay cash for it in May instead of leasing it. We will save money on the interest. He asked the council if they want to move forward with the new car.

Council approved.

Mr. Francy stated that the budget committee has not been having meetings, but they will start meeting again in June to start working on the January 2013 budget.

Other Business:

Borough Engineer's Status Report:

Mr. Leubner read thru his report.

HGHL-G1201

April 13, 2012

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

Re: Engineer's Status Report

Dear Mr. Hill:

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

Capital Improvement Projects

1. **Flood Reduction Program:** Permit applications were submitted to the various agencies on March 4, 2011 and the project plans and specifications submitted to the NJDEP under the EIT program on March 7, 2011. A Tidelands License has been approved by the NJDEP to relocate the Valley Street Pumpstation outfall line to the Borough right-of-way. The permits for the project have been issued by the Army Corps of Engineers on July 7, 2011 and the NJDEP issued CAFRA and Waterfront Development Permits on July 27, 2011. As requested, we have prepared and submitted a cost impact analysis to relocate the proposed pumpstation in Jones Creek to the footbridge adjacent to the community center. A presentation was held on September 20, 2011 to present the anticipated improvements of the overall project. As discussed at the December 7, 2011 Council meeting, the Mayor and Council have elected to delay advertisement of the project and enter the 2013 EIT funding cycle due to the timing of potential FEMA funding amounts.

2. **2011 Roadway Improvements Project:** T&M Associates has been authorized to design and provide contract administration services for the following roadways:

- **Valley Avenue Resurfacing:** from Highland Ave. to the western terminus
- **Woodland Street Reconstruction:** from Highland Avenue to Prospect Street (NJDOT Local Aid funding: \$160,000)
- **Prospect Street Mill/Overlay:** from Osborne Street to the vicinity east of Woodland Street (NJAW funding: \$38,800)
- **Bay View Street Rehabilitation:** The entire length

Bid Date: February 29, 2012

Award Date: March 7, 2012

Contractor: Black Rock Enterprises, L.L.C., Old Bridge, NJ

Amount: \$399,345.28

- Project has been conditionally awarded by the Mayor and Council. Concurrence of award from the NJDOT has been received.
- Contract documents are currently being prepared.

3. **The Reconstruction of Highland Avenue:** The NJDOT awarded the Borough \$1,184,000.00 in Discretionary Aid for Highland Avenue and the portions of Valley Avenue and Miller Street between Route 36 and Highland Avenue.

Bid Date: July 19, 2011

Award Date: July 20, 2011

Contractor: Fiore Paving Company, Inc., Oceanport, NJ

Amount: \$1,186,325.00

- A preconstruction meeting was held on August 23, 2011.
- Contractor has mobilized and has begun drainage improvements. Gas main relocation by NJNG on Miller Street by Route 36 has been completed.
- Concrete work is underway.
- Paving operations will not commence until spring 2012 due to the onset of winter weather and seasonal closing of asphalt plants.
- All NJDOT access and drainage permits have now been received.
- Drainage and concrete crews have remobilized and work has resumed.

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- Water main break on March 16, 2012 has delayed the completion of the drainage installation. Storm sewer has been redesigned to avoid conflicts with the waterman in its current location which differs from the information originally provided to our office during design.
- Meeting held with NJAW on April 11, 2012 to review proposed drainage changes. Follow up meeting to be held on April 13, 2012 due to NJAW's uncertainty distinguishing between live and inactive mains.
- Concrete work has been completed with the exception of Miller Street and South Peak Street.
- Work to resume once all utility information is accurately provided by the respective companies and the revised plan can be implemented without further conflicts.

4. **The Reconstruction of Bay Avenue:** The NJDOT awarded the Borough \$250,000.00 for the reconstruction of Bay Avenue between Waterwitch Avenue and Central Avenue. The Monmouth County Community Development Block Committee awarded the Borough \$183,603.00 for the reconstruction of Bay Avenue between Central Avenue and Gravelly Point. This project includes drainage improvements to the northern portion of Huddy Park. The plans have been approved by the NJDOT and the Monmouth County Community Development Office. The project was advertised and conditionally awarded as follows:

Bid Date:	November 30, 2011
Conditional Award Date:	February 15, 2012
Contractor:	L&L Paving Company Inc., Tinton Falls NJ
Amount:	\$387,842.40

- Concurrence of award has been received by the NJDOT and Monmouth County Community Development.
- A pre-construction meeting was held on March 21, 2012.
- Contractor expecting to mobilize over the next couple of weeks.

5. **Automatic Transfer Switches for Four Emergency Generators:** The Borough has been awarded \$40,000 in discretionary funding from the Monmouth County Community Development Office to replace manual transfer switches with automatic transfer switches at the following locations:

- South Bay Avenue Pumpstation
- Waterwitch Avenue Pumpstation
- Robert D. Wilson Community Center

The Borough is also providing an automatic transfer switch at Borough Hall and will pay for this work utilizing local funds.

Bid Date:	November 30, 2011
Conditional Award Date:	December 21, 2011
Contractor:	Gary Kubiak and Son Electric, Allentown NJ
Amount:	\$49,335.00

- Concurrence of award has been received by the Monmouth County Community Development Office.

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- A pre-construction meeting was held on January 25, 2012.
- Contracts have been executed
- Shop drawings have been submitted and approved.
- Switches have been installed and tested. Failure of one switch at Borough Hall to be rectified between the contractor and the manufacturer prior to final inspection by Borough Subcode Official.

Grants and Loans

1. **FEMA Hazardous Mitigation Assistance Grant Application:** The Letter of Intent was submitted to FEMA on April 8, 2011 as required. FEMA has reacted favorably to the Borough's flood reduction project as described in the Letter of Intent. T&M Associates has prepared and submitted the grant application on behalf of the Borough. The application was submitted on October 28, 2011. The Borough has been notified that the project ranks third and fourth on the State funding list.

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

Very truly yours,

T&M ASSOCIATES

ROBERT R. KEADY, JR. P.E., C.M.E.

HIGHLANDS BOROUGH ENGINEER

Mr. Francy asked about the mark outs in Huddy Park.

Mr. Leubner said the contractor did a survey and lay out for drains.

Mr. Francy mentioned summer events are coming up.

Mr. Leubner we can work around them so as not to interrupt them.

Mr. Francy asked if Huddy Park will be free of standing water.

Mr. Leubner said yes it will, the lower portion only.

Mayor Nolan asked Mr. Leubner to keep the council informed thru Mr. Hill

Council wants sod at Huddy Park.

Review of Planning Board Comments on Ordinances O-12-9 and O-12-10:

Ms. Kane left the meeting at 8:38 p.m.

Mayor Nolan asked if the council wants to amend the ordinance to implement the planning board comments.

Council discussed.

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Mayor Nolan offered a motion to introduce the ordinances as amended on May 16th, and seconded by Mr. Francy on the following roll call vote:

ROLL CALL:

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

OLPH – Request for Waiver of Building Permit Fees:

Mayor Nolan explained that the church wants to renovate the food pantry. The fees would be about \$1,050.00.

John Bajor said the Knights of Columbus will be meeting there.

Mr. Pfeffer stated that we can't waive state fees.

Mayor Nolan said we would only waive local fees.

Mayor Nolan offered a motion to waive the Municipal fees only, and it was seconded by Mr. Francy on the following roll call vote:

ROLL CALL:

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

Ms. Kane returned to the meeting at 8:45 p.m.

Public Portion:

Carol Bucco of 330 Shore Drive asked about resolution R-12-84, could T&M prepare grants for private homes.

Mr. O'Neil said it's for raising homes.

Mrs. Bucco said she submitted bills for services to the Borough. She has not heard back. She also asked about cell phones reimbursement for council. She feels that they should use the borough phone or pay for their own.

Kim Skorka of 315 Shore Drive spoke of the stream that runs behind the vacant property on Shore Drive. It is blocked and she is concerned about it becoming a mosquito issue in the warm weather. She explained that they did work there, as much as they were allowed to do.

Mr. Hill will look at it tomorrow.

John Bajor of 15 Huddy Avenue questioned awarding a contract to T&M with out a competitive bid for Washington Avenue.

Mayor Nolan explained that some projects do have to go out to bid and some do not by law. We chose our town engineer.

Mr. Padula stated that local public contract law 40A11-5 provides exceptions to public bidding.

Fred Rosiak of 9 Marine Place asked if Resolution R-12-90 has been approved, has his mercantile license been approved also.

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Mayor Nolan said yes, subject to Mr. Rosiak providing required documents.

Mr. Rosiak questioned Resolution R-12-84, asked what is involved in the application to FEMA.

Mr. Leubner explained it is for lifting of 15 homes.

Mr. Rosiak asked how the fifteen homes were selected.

Mr. Leubner said it was thru the building department and FEMA applications by the individuals.

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

The meeting adjourned at 8:57 p.m.

Debby Dailey, Deputy Clerk

HIGHLANDSNJ.COM