

**Borough of Highlands  
Mayor & Council  
Regular/Workshop Meeting  
June 19, 2013**

Meeting Location: Ptak Towers, 215 Shore Drive, Highlands, NJ 07732

Ms. Kane called the meeting to order at 7:07 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 Work Shop/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: Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane**

**Absent: Mayor Nolan**

**Also Present: Carolyn Cummins, Borough Clerk**

**Tim Hill, Borough Administrator**

**Steve Pfeffer, Borough CFO**

**Bruce Padula, Borough Attorney**

**Dale Leubner, Borough Engineer**

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**Executive Session Resolution:**

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

**R-13-128**

**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: Captain's Cove Marina
- 2.Contract: Municipal Court Shared Services Agreement
- 3.Real Estate:
4. Personnel Matters:
5. Attorney-Client Privilege: MEL JIF Insurance  
Changes to Ordinances – K. Redmond  
June 4<sup>th</sup> ZB Meeting Action – C. Francy  
NJ Future Recovery Plan – D. Kutner  
Borough Facilities Flood Zone Designations

**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.
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,

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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 action may be taken after the executive session.

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

**ROLL CALL:**

**AYES: Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane**

**NAYES: None**

**ABSENT: Mayor Nolan**

**ABSTAIN: None**

**The Governing Body then entered into Executive Session.**

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Ms. Kane called the meeting back to order at 8:01 p.m.

Ms. Kane asked all to stand for the Pledge of Allegiance.

**ROLL CALL:**

**AYES: Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane**

**NAYES: None**

**ABSENT: Mayor Nolan**

**ABSTAIN: None**

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**Consent Agenda:**

Ms. Kane asked if anyone had questions or concerns on any resolutions.

Mrs. Cummins stated that there is a correction on R-13-135; it should state for three social permits.

Mrs. Cummins also requested R-13-130 to be removed. It is not ready yet.

Mrs. Cummins requested the minutes for May 8<sup>th</sup>, 2013 Meeting to be pulled. They were not printed.

Ms. Kane requested to remove R-13-136. She would like to read it aloud.

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

**R-13-129  
Resolution Approving Hurricane Sandy National Emergency Grant Agreement  
NO. HS-PY12-22 MOD 1 EXT with  
the Board of Chosen Freeholders of the County of Monmouth**

**Whereas**, Hurricane Sandy caused extensive damage within Borough of Highlands; and

**Whereas**, as part of the recovery effort additional employment is needed ; and

**Whereas**, the Board of Chosen Freeholders of the County of Monmouth have approved the Borough to receive Hurricane Sandy National Emergency Grant which covers the costs to employ temporary employees;

**Now, therefore, be it Resolved** by the governing body of the Borough of Highlands that the attached Hurricane Sandy National Emergency Grant agreement between the Borough, Highlands and the Board of Chosen Freeholders of the County of Monmouth is hereby approved.

**BE IT FURTHER RESOLVED** that the Borough Administrator is authorized to execute the agreement No. HS-PY12-22 MOD 1 EXT on behalf of the Borough.

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

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSENT:** Mayor Nolan

**ABSTAIN:** None

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

**R-13-131  
RESOLUTION  
RENEWING 2013-2014 LIQUOR LICENSES**

**WHEREAS**, Liquor License Renewal Applications were filed for the year 2013-2014 for the following Liquor Licenses; and

**WHEREAS**, no objections were filed against the renewals of licenses and Tax Clearance Certificates have all been received for the licenses listed below:

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the following liquor licenses be renewed for the period of July 1, 2013 to June 30, 2014:

<b>1317-31-027-001</b>	<b>American Legion Twilight Post 143 t/a American Legion Twilight Post 143</b>	<b>85-87 Bay Avenue</b>
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1317-31-028-001	Highlands Post 6902 VFW of US t/a Highlands VFW 6902	331 Bay Avenue
1317-32-009-007	GRALA, LLC t/a The Chubby Pickle	23 Bay Ave
1317-32-018-005	DDS Enterprise, LLC t/a Driftwood Liquors	300 Bay Avenue
1317-32-021-003	Andy's Shore Bar, Inc. t/a Andy's Shore Bar	150-52 Bay Ave
1317-33-001-003	Bahrs Restaurant Inc. t/a Bahrs Landing Moby's	2 Bay Avenue
1317-33-003-007	Claddagh of Highlands t/a Claddagh	297-299 Bay Ave
1317-33-005-002	Sandy Hook Holdings, LLC t/a Original Oyster	1 Willow Street
1317-33-006-004	Tomaini, John In active	Pocket
1317-33-007-003	Inlet Café, Inc. t/a Inlet Café Inc.	3 Cornwall St
1317-33-010-011	JWALKER BLACK, LLC t/a Havanna Tropical Cafe	409 Bay Ave
1317-33-012-004	Dan-Rob Restaurant Assoc. t/a Windansea	56 Shrewsbury Ave
1317-33-015-007	Chilangos Restaurant, Inc t/a Chilango's Restaurant	272 Bay Ave
1317-33-016-003	Filip Enterprises, Inc. t/a Doris & Ed's	348 Shore Drive
1317-33-022-010	M & D, Inc. t/a Off The Hook Restaurant & Bar	1 Navesink Avenue
1317-33-024-012	Was Two, LLC t/a Twin Light Tap House	128 Bay Ave
1317-33-030-008	Waterwitch Highlands, LLC t/a Havana Tropical Cafe	None
1317-44-011-003	Monir Inc. t/a Bay Spirits	116 Bay Avenue

Seconded by Mr. Redmond and adopted on the following Roll Call Vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSTAIN:** None

**ABSENT:** Mayor Nolan

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

**R-13-132  
RESOLUTION APPOINTING TEMPORARY SUMMER SEASONAL EMPLOYEES  
FOR THE BOROUGH OF HIGHLANDS**

**WHEREAS**, the Borough has the need for temporary summer employees to work with the DPW, Municipal Office & Summer Recreation Program; and

**WHEREAS**, Timothy Hill, Borough Administrator has made the following recommendations for appointments to the Governing Body; and

**WHEREAS**, the positions listed have been included in the Municipal Budget within each department, and the 2013 SFSP Approved Budget & use of 2012 SFSP carryover funds.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that the following seasonal temporary appointments be and hereby are approved:

<b>DPW</b>	<b>Position</b>	<b>Name</b>	<b>Hrly. Rate</b>
(6/21-9/7/12)	Laborer	_____	\$12.00
(6/21-9/7/12)	Laborer	_____	\$12.00

<b>Mun. Office</b>	<b>Position</b>	<b>Name</b>	<b>Hrly. Rate</b>
(6/21-8/31/12)	Clerical	_____	\$9.00

<b>Rec. Dept.</b>	<b>Position</b>	<b>Name</b>	<b>Hrly. Rate</b>
Summer	Supervisor	Kim Karaman	\$18.50
6/25/13 - 8/21/13	Supervisor	Stephanie Paroumakian	\$17.00
	Programmer	Michael Gannon	\$15.50
	Programmer	Amanda Campbell	\$12.00
	Rec Aide	Amy Cullen	\$10.25
	Rec Aide	Thomas Bell	\$ 8.50
	Rec Aide	Jacob Link	\$ 7.75
	Rec Aide	Cassandra Filippone	\$ 7.50
	Rec Aide	Austin O'Neil	\$ 7.50
	Rec Aide	Henry Kingsmore	\$ 7.50
	Rec Aide	Alexandra Cassidy	\$ 7.50

Lifeguards	Head Lifeguard	Elyse Parker	\$15.50
6/24/13 - 9/2/13	LG	Andrew Mueller	\$ 9.00
	LG	Jacob Bremekamp*	\$ 8.50
	LG	Sean Mulkeen	\$ 8.50
	LG	Melissa Festa	\$ 8.00

(\* Pending Recertification completion / documentation)

Summer Food	Food Prep	Victoria Torres	\$ 8.50 (25 hrs/wk)
7/1/13 - 8/16/13	Food Prep	Alexandra Mitchell	\$ 8.25 (25 hrs/wk)
	Food Prep	Brittany Feola	\$ 8.25 (25 hrs/wk)
	Director	Jennifer Strehl	\$18.25 (34 total hrs)
	Record Keeper	Amanda Campbell	\$12.00 (34 total hrs)

Seconded by Mr. Redmond adopted on the following Roll Call Vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane  
**NAYES:** None  
**ABSENT:** Mayor Nolan  
**ABSTAIN:** None

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

**R-13-133  
RESOLUTION APPOINTING PROVISIONAL  
PART-TIME RECREATION LEADER**

**WHEREAS**, due to a vacancy the Borough of Highlands is in need of hiring a part/time Recreation Leader to assist within the Recreation Department; and

**WHEREAS**, Jennifer Strehl, Recreation Assistant and Timothy Hill, the Borough Administrator have interviewed applicants for said position and have recommended that Dianne Distasio be appointed.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that Dianne Distasio is hereby appointed to the provisional part/time position of Recreation Leader effective June 19, 2013

**BE IT FURTHER RESOLVED** that said appointment is to be compensated at an hourly rate of \$12.00 per hour.

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

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSENT:** Mayor Nolan

**ABSTAIN:** None

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

**R-13-134  
RESOLUTION APPROVING SOCIAL AFFAIRS PERMIT APPLICATIONS**

**WHEREAS**, the Highlands Business Partnership has filed an application for a Social Affairs Permit for an event to be held on August 1<sup>st</sup> – August 4, 2013 with no rain date; and

**WHEREAS**, the Highlands VFW has filed two applications for Social Affairs Permits for events to be held on August 1<sup>st</sup> – August 4, 2013 and on July 20, 2013 with no rain dates; and

**WHEREAS**, the submitted application form is complete in all respects, fees have been paid; and

**WHEREAS**, all applications have been approved by the Chief of Police.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor & Council of the Borough of Highlands does hereby approve the Social Affairs Permit applications for both the Highlands Business Partnership & Highlands VFW for an event to be held on August 1<sup>st</sup> – August 4, 2013 and VFW for July 20, 2013 with no rain date.

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

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSENT:** Mayor Nolan

**ABSTAIN:** None

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Ms. Kane offered the following payment of bills listing and moved on its approval for payment:

**RECAP OF PAYMENT OF BILLS  
06/19/2013**

<b>CURRENT:</b>		\$	404,050.71
Payroll	(06/15/2013)	\$	115,672.69
Manual Checks		\$	17,147.48
Voided Checks		\$	
<b>SEWER ACCOUNT:</b>		\$	109,812.00
Payroll	(06/15/2013)	\$	3,026.60
Manual Checks		\$	
Voided Checks		\$	
<b>CAPITAL/GENERAL</b>		\$	
<b>CAPITAL-MANUAL CHECKS</b>		\$	
Voided Checks		\$	
<b>WATER CAPITAL ACCOUNT</b>		\$	
<b>TRUST FUND</b>		\$	5,792.25
Payroll	(06/15/2013)	\$	400.00
Manual Checks		\$	
Voided Checks		\$	
<b>UNEMPLOYMENT ACCT-MANUALS</b>		\$	
<b>DOG FUND</b>		\$	
<b>GRANT FUND</b>		\$	1,292.85
Payroll	(06/15/2013)	\$	9,172.53
Manual Checks		\$	
Voided Checks		\$	
<b>DEVELOPER'S TRUST</b>		\$	
Manual Checks		\$	
Voided Checks		\$	

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

Seconded by Mr. Redmond and approved for payment on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane  
**NAYES:** None  
**ABSENT:** Mayor Nolan  
**ABSTAIN:** None

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**Minutes Approved on Consent Agenda:**

Ms. Kane offered a motion for the approval of the May 1<sup>st</sup> and May 22<sup>nd</sup>, 2013 Executive and Regular Meeting Minutes, seconded by Mr. Redmond and all were in favor on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane  
**NAYES:** None  
**ABSENT:** Mayor Nolan  
**ABSTAIN:** None

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Ms. Kane read the proclamation that was presented to the Henry Hudson Band.

**R-13-136  
Borough of Highlands**

**Proclamation**

**Recognizing Outstanding Achievement**

**WHEREAS**, the involvement of the student population in the Band and Music Department at Henry Hudson Regional School is of great value and importance to an overall educational experience; and

**WHEREAS**, the students and faculty of the Henry Hudson Regional School District Band have given their time and musical talents to a wide variety of programs within the school and the community; and

**WHEREAS**, the efforts of the entire Henry Hudson Band and Music Department has been sought out and recognized through various public performances; and

**WHEREAS**, most recently, the HHRS Band competed in the "Music in the Park Festival" held on June 1, 2013 at Busch Gardens, Williamsburg, VA; and

**WHEREAS**, the HHRS High School Band won the A division with a rating of "excellent" and taking home of the first place trophy .

**NOW, THEREFORE**, let it be known by all that the Mayor & Council of the Borough of Highlands, NJ officially recognizes the recent achievements of the Henry Hudson Regional School Band; and we do hereby publicly congratulate the students, parents, and faculty members whose participation and support are so vital to the success of such programs.

Presented On this 19<sup>h</sup> Day of June, 2013

**Frank L. Nolan**

Frank L. Nolan, Mayor  
Highlands, NJ

Mr. Francy would like the video of the performance put on the website

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**Other Resolutions:**

**R-13-137 - Resolution – Recovery Planning Management:**

Mrs. Cummins read the title of Resolution R-13-137.

Mr. Hill explained the grant resolution.

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

**R-13-137  
Recovery Planning Manager**

**Borough of Highlands, New Jersey**

**Resolution adopted June 19, 2013**

**Whereas**, the Borough of Highlands, New Jersey, and its neighboring communities, experienced major devastation as a result of Superstorm Sandy that struck the area on October 29, 2012; and

**Whereas**, the federal and state governments will be providing billions of dollars of aid and thousands of hours of technical support to towns in New Jersey that were affected by the storm; and

**Whereas**, the Borough of Highlands has a limited municipal staff and in-house resources to:

1. Access federal and state support and manage the recovery and rebuilding process following the storm
2. Perform the planning and community engagement necessary to address future storm events; and

**Whereas**, the Borough of Highlands is committed to rebuilding in a manner that anticipates and responds to future storm events and sea level rise and helps the community to be more resistant to damage from such events and is more sustainable for future generations;

**Therefore, be it resolved** that the Borough of Highlands:

1. Requests that New Jersey Future assign a Recovery Planning Manager to work with the municipality to provide direct, ongoing assistance to help municipal staff develop and implement its long-term recovery and rebuilding process as quickly as possible;
2. Authorizes the town administrator to enter into the appropriate agreements with New Jersey Future to have a Recovery Planning Manager work with the town on a regular basis for at least one year at no contract cost to the town;
3. Agrees to the attached Planning Principles to guide planning and rebuilding activities;
4. Supports active outreach and community engagement throughout the planning process to inform recovery response and mitigation planning and decision-making;

**Further be it resolved** that, the Town Council of the Borough of Highlands encourages all citizens and staff to participate in the recovery and rebuilding activities coordinated through the Recovery Planning Manager, the County of Money, the State of New Jersey, FEMA's Long-Term Community Recovery group and other recovery partners.

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

**ROLL CALL:**

**AYES: Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane**

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**NAYES:** None  
**ABSENT:** Mayor Nolan  
**ABSTAIN:** None

**R-13-138 - Resolution – Releasing Cash Portion of Perf Bond & Escrow Fees:**

Mrs. Cummins read the title of R-13-138.

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

**R-13-138  
RESOLUTION AUTHORIZING  
REFUNDS OF CASH PORTION OF PERFORMANCE BOND AND ENGINEERING  
ESCROW FEES**

**WHEREAS**, the Borough Clerk has received a written withdrawal of the Catsaros Project for block 14 lot 3.01, 30 Grand Tour which was a project approved by the Planning Board known at PB#2006-3

**WHEREAS**, the Borough Engineer has reviewed the Catsaros Engineering Escrow and Performance Bond release and has no objection to the releasing of the funds.

**WHEREAS**, there are no outstanding professional legal or engineering invoices for this matter.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the Chief Financial Officer is hereby authorized and directed to refund Gregory Catsaros the cash portion of the performance bond in the amount of 3,935 and the remaining engineering escrow fees in the amount of \$1,640.00 .

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

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane  
**NAYES:** None  
**ABSENT:** Mayor Nolan  
**ABSTAIN:** None

**R-13-139 - Resolution – Approving Handicap Parking Designation:**

Mrs. Cummins read the title of R-13-139.

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

**R-13-139  
RESOLUTION APPROVING DISABLED PARKING SPACE**

**WHEREAS**, application for a Disabled Parking Designation was submitted to the Highlands Police Department by Albert Hartsgrove, of 10-A Rogers Street; and

**WHEREAS**, the Chief of Police has reviewed the application and recommends the approval of said Disabled Parking Designation;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the application for Disabled Parking Designation for the following is hereby approved:

1. Albert Hartsgrove – disabled parking designation sign be erected on twenty seven point three (27.3) feet west of the fire hydrant at the east most corner of the Jenny Park Manor building with placard #P1149077.

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

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Ms. Kane  
**NAYES:** None  
**ABSENT:** Mayor Nolan  
**ABSTAIN:** Mr. Francy

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

**R-13-140  
Resolution authorizing an Agreement with the County of Monmouth  
for Dredging of Snug Harbor**

**Whereas**, the Borough has been in communication with officials from Monmouth County concerning the dredging of Snug Harbor; and

**Whereas**, the County has informed the Borough that work will commence on or about June 24, 2013 and should last 1-2 full work days; and

**Whereas**, the County estimated the cost to be \$28,795.14;

**Whereas**, entering into this agreement with the County of Monmouth is exempt from public bidding pursuant to N.J.S.A. 40A:11-5(2).

**Now, therefore, be it RESOLVED** that the governing body of the Borough of Highlands approves an agreement with the County of Monmouth to perform dredging work in Snug Harbor as outlined in the proposal presented to the Borough, in an amount not to exceed \$28,795.14.

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

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane  
**NAYES:** None  
**ABSENT:** Mayor Nolan  
**ABSTAIN:** None

Mr. Leubner stated that they will start on Monday and finish on Tuesday.

Ms. Ryan recommended that we notify the bank.

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**Ordinances: Introduction & Setting of a Public Hearing Date of July 17th, 2013**

**O-13-9 Ordinance for Residency Requirements:**

Mrs. Cummins read the title of Ordinance O-13-9 for introduction and setting of a public hearing for July 17<sup>th</sup>, 2013.

Mr. Francy offered the following Resolution and moved in its introduction and setting of a public hearing date of July 17, 2013 at 8:00 P.M.:

**O-13-9  
BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH**

**ORDINANCE ESTABLISHING A PREFERENCE FOR BOROUGH RESIDENTS  
SEEKING EMPLOYMENT WITH THE BOROUGH**

**WHEREAS**, the Borough of Highlands (hereinafter referred to as "Borough") determines the requirements for those seeking employment within the Borough and enumerates such in Section 2-7A and Section 2.10.2 of the Code of the Borough of Highlands; and

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**WHEREAS**, N.J.S.A. 40A:9-1.1 *et seq.* permits municipalities to require residency preferences for officers and employees; and

**WHEREAS**, N.J.S.A. 40A:14-123.1a permits municipalities to establish a residency preference for appointment to municipal police departments; and

**WHEREAS**, in *In the Matter of Leary*, 91 N.J. 151 (1982), the New Jersey Supreme Court held that a municipality may, pursuant to statute, elect to require residency as of the date of hiring in order to obtain the residency preference established by N.J.S.A. 40A:14-123.1a;

**WHEREAS**, the Borough wishes to amend Section 2-7A, "Residency" to establish a preference for Borough residents in the hiring and promotion of individuals to various positions within the Borough; and

**WHEREAS**, the Borough also wishes to establish a preference for residents in hiring members of the Borough's Police Department;

**WHEREAS**, the Borough finds that it is in the best interests of the citizens of the Borough to establish a residency preference for employment and/or a promotions within the Borough.

**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.** Borough Code Section 2-7A (previously Reserved), "Residency," shall be amended to provide as follows:

- (a) Residency in Borough required.** All officers and employees becoming hereafter employed by the Borough of Highlands are hereby required, as a condition of commencing employment, to be a bona fide resident of the Borough. Failure of any employee to maintain residency in the Borough, when required to do so under the terms of this article, shall be cause for removal or discharge from service.
- (b) Grandfather clause.** No current Borough employee shall be affected by the fact of non-residence at the time that this article is adopted. However, the Borough reserves all other rights it may have in regards to such employees' continued employment, except for any claims the Borough may have against such continued employment on the grounds of an employee's residency at the time of the final adoption of this article, except as otherwise set out herein.
- (c) Term defined.** A bona fide "resident" is defined as any person having a permanent domicile within the Borough of Highlands from the time of posting or advertising of any vacancy for any position through and including the date employment commences.
- (d) Applicability; autonomous agencies.**

  - i. The provisions of this article shall apply to all municipal officers and employees not otherwise exempt from residency requirements by N.J.S.A. 40A:9-1.3 *et seq.*, 40A:14-9.1 and 40A:14-122.1 and also shall not apply to persons rendering special, unique or professional services to the Borough of Highlands, including but not limited to doctors, architects, nurses, scientific or chemical analysts, attorneys, accountants, auditors and planners, Municipal Clerk, Deputy Municipal Clerk, subject to the requirements set forth in N.J.S.A. 40A:9-133 *et seq.*, and Chief Financial Officer, subject to the requirements set forth in N.J.S.A. 40A:9-140.1 *et seq.*, and the Municipal Administrator.

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ii. Wherever legally permissible, autonomous or semiautonomous municipal agencies or authorities of the Borough of Highlands shall adhere to the residency policy set forth in this article when hiring employees, agents or servants.

iii. Except as may otherwise be required by Section 2-10.2A of the Borough Code [being adopted herewith], with respect to police positions and candidates for these positions, residency, for purposes of consideration of appointment to the employ of the Borough and inclusion on any Civil Service Commission employment eligibility list for the Borough, shall be as of the date of appointment, and residency must be continuously maintained from the closing date of the examination up to and including the date of appointment to the employ of the Borough.

**(e) Hiring of nonresidents.**

i. Where the appointing authority shall determine that there cannot be recruited a sufficient number of qualified residents from within the Borough for available specific positions or employments, the appointing authority may, in its discretion, hire nonresidents for such positions or employments in the following manner:

- (a) Class 1: Other residents of Monmouth County.
- (b) Class 2: Residents of counties contiguous to Monmouth County.
- (c) Class 3: Other residents of the state.
- (d) Class 4: All other applicants

ii. When the necessity arises to invoke this section, the hiring authority shall first appoint all those in Class 1 and then those in each succeeding class in the order above listed and shall appoint a person or persons in any such class only to a position or positions of employment or employments remaining after all qualified applicants in the preceding class or classes have been appointed or have declined an offer of appointment. The preference established by this section shall in no way diminish, reduce or affect the preferences granted pursuant to any other provisions of the law.

**(f) Preference in promotion.** Hereinafter, the Borough shall give preference in promotion to officers and employees who are bona fide residents of Borough. When promotions are based upon merit as determined by suitable promotion tests or other objective criteria, a resident shall be given preference over a nonresident in any instance when all other measurable criteria are equal. The preference granted by this section shall in no way diminish, reduce, or affect the preference granted pursuant to any other provision of law.

**(g) Preemption of order of court or of state or federal agency to eliminate discrimination.** Any requirements concerning eligibility, appointment or promotion contained in any ordinance or resolution adopted pursuant to this act shall be subject to any order issued by any court, or by any state or federal agency pursuant to law, with respect to a requirement of action to eliminate discrimination in employment based upon race, creed, color, national origin, ancestry, marital status or sex, except that any requirement contained in any such ordinance or resolution pursuant to the provisions of this article shall continue to apply notwithstanding any such order.

**SECTION TWO.** Borough Code Section 2-10, "Police Department," shall be supplemented to include the following new subsection, which shall be designated at Borough Code Section 2-10.2A, and entitled "Residency:"

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- (a) Applicants seeking to obtain a position in the Borough's police department, who are residents of the Borough, shall be given a preference when the Borough determines its factors and requirements for filling a position. The same preference for residents will be included as a factor when promoting an individual currently within the department. Notwithstanding, pursuant to N.J.S.A. 40A:14-122.1, residency is not a condition of employment, but rather residency will be one of various factors when determining which individual(s) will be offered employment to become a member of the police department.
- (b) **Classification of applicants.** Before any person shall be appointed as a member of the paid Police Department, the Appointing Authority shall classify all the duly qualified applicants for the available position or positions in the following classes:
- (1) Class I: residents of the Borough of Highlands.
  - (2) Class II: residents of Monmouth County.
  - (3) Class III: other residents of the state.
  - (4) Class IV: all other qualified residents.
- Within each such classification, duly qualified applicants who are veterans shall be accorded all such veterans preferences as are provided by law. Persons discharged from the service within six months prior to making application to such municipality, who fulfill the requirements of N.J.S.A. 40A:14-10.1 and who thereby are entitled to appointment notwithstanding their failure to meet the New Jersey residency requirement at the time of their initial application, shall be placed in Class III.
- (c) **Order of appointments.** In making such appointments, the Appointing Authority shall first appoint all those in Class I and then those in each succeeding class in the order above listed and shall appoint a person or persons in any such class only to a vacancy or vacancies remaining after all qualified applicants in the preceding class or classes have been appointed or have declined an offer of appointment.
- (d) **Certification of eligibles for positions.** The classes of qualified applicants defined by this section shall be considered as separate and successive lists of eligibles, and the Civil Service Commission shall, when requested to certify eligibles for positions specified in this article, make such certifications from said classes separately and successively and shall certify no person from any such class until all persons in the preceding class or classes have been appointed or have declined offers of appointment.
- (e) **Applicability.** This article shall apply only to initial appointments and to promotional appointments of persons already members of the Police Department.
- (f) **Temporary appointments.** In making temporary appointments, the Appointing Authority shall utilize the classifications set forth herein and shall classify accordingly all duly qualified applicants for the position or positions to be temporarily filled.

**SECTION THREE. Severability.** 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.

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**SECTION FIVE. Effective.** This Ordinance shall take effect after final passage as provided by law.

Seconded by Ms. Ryan and introduced on the following roll call vote:

**ROLL CALL:**

**AYES: Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane**

**NAYES: None**

**ABSENT: Mayor Nolan**

**ABSTAIN: None**

**O-13-10 Ordinance Amending Noise Ordinance:**

Mrs. Cummins read the title of Ordinance O-13-10 for introduction and setting of a public hearing for July 17<sup>th</sup>, 2013.

Ms. Kane offered the following ordinance and moved on its introduction and setting of a public hearing date on July 17, 2013 at 8:00 P.M.:

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH**

**O-13-10**

**AN ORDINANCE AMENDING SECTION 3-2.2, "PROHIBITED NOISE," TO  
EXPAND THE APPLICATION OF THE NOISE ORDINANCE TO ALL  
"STRUCTURES" RATHER THAN ONLY "DWELLINGS" AND SECTION 3-2.3,  
"ENUMERATION OF NOISES," OF THE CODE OF THE BOROUGH OF  
HIGHLANDS AND TO PERMIT THE PLAYING OF OUTDOOR MUSIC UNTIL  
11:00 P.M. ON SUNDAY, SEPTEMBER 1, 2013**

**Whereas**, the Borough has adopted ordinances pursuant to its general police powers to control noise within the Borough; and

**Whereas**, the Chief of Police requested that the Borough amend Sections 3-2.2 and 3-2.3 of the Borough Code to provide clarification of prohibited noises; and

**Whereas**, by previous Ordinance adopted earlier this year, the Borough permitted outdoor music until 11:00 p.m. on Sunday evening of Memorial Day Weekend 2013 in an effort to encourage business in the aftermath of Hurricane Sandy; and

**Whereas**, those efforts were successful in encouraging business activity in the Borough and did not result in any extraordinary complaints or police activity; and

**Whereas**, the business community requested to permit such activity on Sunday of Labor Day Weekend 2013; and

**Whereas**, the Borough wishes to continue to encourage business activity in the Borough while balancing those interests with the quality of life in the Borough; and

**Whereas**, the outdoor music contemplated by this Ordinance balances those interests by limiting outdoor music for one specific day while strengthening and expanding the application of noise proscriptions to all "structures" rather than only "dwellings."

Now, therefore, be it ORDAINED as follows:

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**Section One.** Section 3-2.2 and 3-2.3 of the Code of the Borough of Highlands shall be amended as follows (strikethroughs represent deleted material; underscore indicates new language):

**3-2.2 Prohibited Noise.**

a. The making, creation or permitting of any unreasonable, disturbing or unnecessary noise in the Borough of Highlands is hereby prohibited.

1. No person shall permit any noise to emanate from any speaker, vehicle or instrument, whether natural or artificial, or use amplification or sound system equipment inside or outside a fully enclosed ~~principal dwelling~~ structure on a property in the Borough of Highlands such that the noise created thereby is plainly audible at a distance of 100 feet from the boundary line of such property.

2. When an officer can hear plainly audible music or other noise 100 feet beyond the property line of the noise-generating property, or any unreasonably, disturbing or unnecessary noise, there is a violation of this section.

3. The following activities, among others, are declared unreasonably loud, disturbing and unnecessary noise in violation of this section, but said enumeration shall not be deemed to exclude those not included herein:

(a) The sounding of a horn or signaling device on an automobile, motorcycle or other motorized vehicle, except as a warning of danger, and then only for such period of time as is reasonably necessary for giving such warning.

(b) The playing, using, operating or permitting to be played, used or operated of any electronic receiving set, musical instrument, phonograph or machine or device for the production or reproduction of sound with louder amplified volume than is necessary for the normal sensitive hearing of the person so playing, using or operating such instrument or device and such persons who are voluntary listeners thereto or in such manner as to unreasonably disturb the peace, quiet and comfort of neighboring inhabitants.

(c) The use, operation or playing of any loudspeakers, amplifiers or other machines or devices for the producing of sound which is cast upon a public street for the purpose of commercial advertising or attracting the attention of the public.

(d) The keeping of any animal or bird which by causing frequent or long-continued noise, such as barking or jabbering, shall disturb the peace, quiet and comfort of neighboring inhabitants.

(e) Creating an audible noise by landscape and erection, excavation, demolition, alteration or repair of any building other than between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 6:00 p.m. on Saturday and Sunday, except in the case of urgent matters and the interest of public safety and health.

(f) The making, creation or permitting of any unreasonable, disturbing or unnecessary noise in the Borough of Highlands is hereby prohibited, especially between the hours of 8:00 p.m. and 8:00 a.m. on Sunday, Monday, Tuesday, Wednesday and Thursday, and 10:00 p.m. and 8:00 a.m. on Friday and Saturday. Consequently, no person shall permit any noise to emanate from any source or instrument whether natural or artificial, or use equipment outside a fully enclosed principal dwelling, structure or other establishment on a property in the Borough of Highlands such that the noise created thereby is plainly audible, as defined in paragraph b. hereinafter, at a distance of 100 feet from the property line.

b. "Plainly audible" shall mean any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is live entertainment or a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic base component of the music is sufficient to verify plainly audible sound. The law enforcement officer need not determine the title, specific words or the artist performing the song.

**3-2.3 Enumeration of Noises.**

The following are declared to be loud, disturbing and unnecessary noise in violation of this section, but said enumeration shall not be deemed to be exclusive:



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a. The playing of any radio, phonograph or any musical instrument or instruments or singing or talking in such a manner or in such volume as to annoy or disturb the quiet, comfort, repose, peace or tranquility of persons in any dwelling, hotel or other type residence or structure.

b. (1) The playing of music outdoors, either live or recorded, between the hours of 8:00 p.m. and the following 8:00 a.m. on Sunday, Monday, Tuesday, Wednesday, Thursday, and between the hours of 10:00 p.m. and the following 8:00 a.m. on Friday and Saturday is hereby prohibited;

(2) On Sunday, September 1, 2013, the restriction provided by subparagraph (b)(1) above shall read “the playing of music outdoors, either live or recorded, between the hours of 11:00 p.m. and the following 8:00 a.m. on Friday, Saturday and Sunday is hereby prohibited;”

c. The keeping of any animal or bird which has been causing or causes frequent or long continued noise which disturbs the comfort and repose of any person within the vicinity.

d. The shouting of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

e. The sound of any horn or signal device on any automobile or other vehicle, while not in motion or occupied, as well as any structure, for any unnecessary or unreasonable period of time, except as a danger signal.

**Section Two.** SEVERABILITY. 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 Three.** REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section Four.** EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

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

**ROLL CALL:**

**AYES: Ms. Ryan, Mr. Redmond, Ms. Kane,**

**NAYES: Mr. Francy**

**ABSENT: Mayor Nolan**

**ABSTAIN: None**

**O-13-11 Ordinance Creating a DBIZ:**

Mrs. Cummins read the title of Ordinance O-13-11 for introduction and setting of a public hearing for July 17<sup>th</sup>, 2013.

Ms. Ryan offered the following Ordinance and moved on its introduction and setting of a public hearing date of July 18, 2013 at 8:00 P.M.

**O-13-11**

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH**

**AN ORDINANCE CREATING A DOWNTOWN BUSINESS  
IMPROVEMENT ZONE (D-BIZ) WITHIN THE BOROUGH OF  
HIGHLANDS**

**Whereas**, the Borough has and continues to undertake efforts to revitalize its downtown business improvement district, which is defined by the Code of Borough of Highlands, Section 17-6, therein described as the “Business Improvement District;” and

**Whereas**, the Highlands Business Partnership (“HBP”) was established in 1999 and is a not-for-profit entity operating the Business Improvement District (“BID”); and

**Whereas**, the HBP is the designated management entity of the BID; and

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**Whereas**, to compliment to work done by the HBP and the efforts revitalize the BID and, in order to facilitate recovery from the devastating effects of Hurricane Sandy, which severely and adversely affected the Borough, the Borough wishes to establish a Downtown Business Improvement Zone (“D-BIZ”) in accordance with N.J.S.A. 40:56-65 et seq; and

**Whereas**, establishing a D-BIZ will assist the Borough and the BID in undertaking public improvements to the BID and is in the best interest of the Borough.

**Now, therefore**, be it ORDAINED as follows:

Section 1. The purpose of this Ordinance is to (a) promote economic growth and employment within the business district and, in particular, the Business Improvement District; (b) foster and encourage self-help programs to enhance to local business climate; and (c) authorize, permit and facilitate the Business Improvement District and the Highlands Business Partnership to apply for and accept funds or loans from the State Department of Community Affairs for public improvements as contemplated by P.L. 1998, c. 115; and

Section 2. There is hereby created and designated within the Borough a Downtown Improvement Zone (“D-BIZ”) which shall be co-extensive with the Business Improvement District as defined by the Code of the Borough of Highlands, § 17-3;

Section 3. This Ordinance shall be incorporated into the Chapter 17 of the Borough Code, as appropriate; and

Section 4. All Ordinances inconsistent herewith are hereby repealed; and

Section 5. If any portion of this Ordinance is deemed or declared invalid by a Court of competent jurisdiction, the remainder of this Ordinance unaffected by the ruling shall remain in full force and effect; and

Section 6. Within 10 days after adoption, the Clerk shall forward a copy of this Ordinance to the Director of the Division of Local Government Services in the Department of Community Affairs; and

Section 7. This Ordinance shall take effect upon final passage and publication in accordance with applicable law.

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

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSENT:** Mayor Nolan

**ABSTAIN:** None

Ms. Braswell gave a brief explanation of ordinance and grants.

**O-13-12 Ordinance MCIA Lease Purchase Ord – Capital Equipment:**

Mrs. Cummins read the title of Ordinance O-13-12 for introduction and setting of a public hearing for July 17<sup>th</sup>, 2013.

Mr. Redmond offered the following ordinance and moved on its introduction and setting of a public hearing date of July 17, 2013 at 8:00 P.M.

**ORDINANCE NO. O-13-12**

**ORDINANCE AUTHORIZING THE LEASING OF CERTAIN CAPITAL EQUIPMENT BY THE BOROUGH OF HIGHLANDS, NEW JERSEY FROM THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY AND THE EXECUTION OF A LEASE AND AGREEMENT RELATING THERETO**

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**BE IT ORDAINED** by the Borough Council of the Borough of Highlands, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) as follows:

Section 1. Pursuant to Section 78 of the County Improvement Authorities Law, N.J.S.A. 40:37A-44, et seq., the Borough of Highlands (the "Municipality") is hereby authorized to unconditionally and irrevocably lease certain items of capital equipment from The Monmouth County Improvement Authority (the "Authority") pursuant to a Lease and Agreement, substantially in the form submitted to this meeting (the "Lease"), a copy of which is on file in the office of the Clerk to the Municipality. The Mayor is hereby authorized to execute the Lease on behalf of the Municipality in substantially such form as submitted to this meeting and with such changes as may be approved by the Mayor, which approval shall be conclusively evidenced by the execution thereof, and the Clerk to the Municipality is hereby authorized to affix and attest the seal of the Municipality.

Section 2. The following additional matters are hereby determined, declared, recited and stated:

(a) In recognition of the fact that the lease payment of the Municipality under the Lease will be based, in part, on the amount of bonds issued by the Authority to finance the acquisition of the leased equipment and the interest thereon, the maximum amount of bonds which the Authority shall issued to finance the acquisition of the equipment to be leased to the Municipality shall not exceed \$383,000 and the interest rate on said bonds shall not exceed five and fifty hundredths percent (5.50%) per annum;

(b) The items to be leased from the Authority shall be as set forth in Schedule A hereto; provided that the Mayor or any authorized municipal representative (as defined in the Lease) may substitute or add items of equipment in accordance with the provisions of the Lease; and

(c) The lease term applicable to a particular item of leased equipment shall not exceed the useful life of such item.

Section 3. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption as provided by law.

**SCHEDULE A - EQUIPMENT LIST**

Borough of Highlands

<u>Equipment</u>	<u>Useful Life (Years)</u>	<u>Lease Term (Years)</u>	<u>Estimated Cost</u>
Street Sweeper	15	10	\$250,000
Dump Truck with plow	15	10	<u>80,000</u>
			\$330,000

SECONDED BY MS. KANE AND INTRODUCED ON THE FOLLOWING ROLL CALL VOTE;

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSENT:** Mayor Nolan

**ABSTAIN:** None

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**O-13-13 Ordinance MCIA Lease Purchase Ord – Police Cars:**

Mrs. Cummins read the title of Ordinance O-13-13 for introduction and setting of a public hearing for July 17<sup>th</sup>, 2013.

Ms. Kane offered the following Resolution and moved on its introduction and setting of a public hearing date:

**ORDINANCE NO. O-13-13**

**ORDINANCE AUTHORIZING THE LEASING OF CERTAIN CAPITAL EQUIPMENT BY THE BOROUGH OF HIGHLANDS, NEW JERSEY FROM THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY AND THE EXECUTION OF A LEASE AND AGREEMENT RELATING THERETO**

**BE IT ORDAINED** by the Borough Council of the Borough of Highlands, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) as follows:

Section 1. Pursuant to Section 78 of the County Improvement Authorities Law, N.J.S.A. 40:37A-44, et seq., the Borough of Highlands (the "Municipality") is hereby authorized to unconditionally and irrevocably lease certain items of capital equipment from The Monmouth County Improvement Authority (the "Authority") pursuant to a Lease and Agreement, substantially in the form submitted to this meeting (the "Lease"), a copy of which is on file in the office of the Clerk to the Municipality. The Mayor is hereby authorized to execute the Lease on behalf of the Municipality in substantially such form as submitted to this meeting and with such changes as may be approved by the Mayor, which approval shall be conclusively evidenced by the execution thereof, and the Clerk to the Municipality is hereby authorized to affix and attest the seal of the Municipality.

Section 2. The following additional matters are hereby determined, declared, recited and stated:

- (a) In recognition of the fact that the lease payment of the Municipality under the Lease will be based, in part, on the amount of bonds issued by the Authority to finance the acquisition of the leased equipment and the interest thereon, the maximum amount of bonds which the Authority shall issued to finance the acquisition of the equipment to be leased to the Municipality shall not exceed \$87,000 and the interest rate on said bonds shall not exceed five and fifty hundredths percent (5.50%) per annum;
- (b) The items to be leased from the Authority shall be as set forth in Schedule A hereto; provided that the Mayor or any authorized municipal representative (as defined in the Lease) may substitute or add items of equipment in accordance with the provisions of the Lease; and
- (c) The lease term applicable to a particular item of leased equipment shall not exceed the useful life of such item.

Section 3. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption as provided by law.

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SCHEDULE A - EQUIPMENT LIST**

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<u>Equipment</u>	<u>Useful Life (Years)</u>	<u>Lease Term (Years)</u>	<u>Estimated Cost</u>
2 Police Cars	3	3	\$70,000

SECONDED BY MR. REDMOND AND INTRODUCED ON THE FOLLOWING ROLL CALL VOTE:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSENT:** Mayor Nolan

**ABSTAIN:** None

**O-13-14 Ordinance Guaranty for Police Cars:**

Mrs. Cummins read the title of Ordinance O-13-14 for introduction and setting of a public hearing for July 17<sup>th</sup>, 2013.

Ms. Kane offered the following ordinance and moved on its introduction and setting of a public hearing date for July 17, 2013 at 8:00 P.M. and authorized its publication according to law:

**ORDINANCE NO. O-13-14**

**BOROUGH COUNCIL  
MEETING DATE – JUNE 19, 2013**

**ORDINANCE AUTHORIZING THE GUARANTY BY THE BOROUGH OF  
HIGHLANDS, NEW JERSEY FOR PAYMENT OF PRINCIPAL AND  
INTEREST ON THE CAPITAL EQUIPMENT LEASE REVENUE BONDS,  
SERIES 2013 (HIGHLANDS PROJECT) OF THE MONMOUTH COUNTY  
IMPROVEMENT AUTHORITY**

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

Section 1. Pursuant to Section 80 of the County Improvement Authorities Law, N.J.S.A. 40:37A-44 et. seq., the Borough of Highlands, New Jersey (the "Municipality") is hereby authorized to unconditionally and irrevocably guaranty the punctual payment of the principal of and the interest on the Capital Equipment Lease Revenue Bonds, Series 2013 (Highlands Project) (the "Bonds") of The Monmouth County Improvement Authority (the "Authority") Outstanding (as that term is defined in the following described resolution ) under the resolution of the Authority entitled "Capital Equipment Lease Revenue Bond Resolution (Highlands Project)" (the "Bond Resolution") to be adopted in a form approved by counsel to the Municipality. The Authority plans to issue the Bonds to finance the acquisition and subsequent leasing of certain capital equipment to the Municipality pursuant to a lease and agreement to be entered into by the Authority and the Municipality (the "Lease"). Such guaranty shall be given in accordance with the guaranty agreement (the "Guaranty Agreement") between the Municipality and the Authority in substantially the form submitted to this Municipality, a copy of which is on file in the office of the Clerk of the Municipality, with such changes as may be approved by counsel to the Municipality. The Mayor is hereby authorized to execute the Guaranty Agreement on behalf of the Municipality in substantially such form as submitted hereto and with such changes as may be approved by the Mayor, and the Clerk of the Municipality is hereby authorized to attest such signature affixing the seal of the Municipality.

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All representatives, officials and employees of the Municipality are hereby authorized to enforce and to implement the Guaranty Agreement.

Section 2. The following additional matters are hereby determined, declared, recited and state:

- (1) The maximum principal amount of the Bonds of the Authority hereby and hereunder to be guaranteed as to payment of principal and interest shall not exceed the sum of the amount necessary to acquire the Municipality's equipment as set forth in Schedule A which will be subject to the Lease and to pay the Municipality's share of the costs of issuance, but in no event shall such principal amount exceed \$87,000.
- (2) The Bonds shall mature within eleven years of the date of issue.
- (3) The Bonds shall remain Outstanding to their respective stated maturity dates and the guaranty authorized herein shall remain effective until all Bonds shall have been paid in full in accordance with their terms notwithstanding the occurrence of any other event.
- (4) The guaranty authorized herein may be made and this ordinance may be adopted notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the Local Bond Law, N.J.S.A. 40A:2-1, et. seq., but the principal amount of any Outstanding Bonds shall be included after their issuance in the gross debt of the Municipality for the purpose of determining the indebtedness of the Municipality under or pursuant to the Local Bond law. The principal amount of the Bonds included in the gross debt of the Municipality shall be deducted from the gross debt of the Municipality under and all for all the purposes of the Local Bond Law (a) from and after the time of issuance of the Bonds until the end of the fiscal year beginning next after the acquisition of the equipment to be financed from the proceeds of the Bonds and (b) in any Annual Debt Statement filed pursuant to the Local Bond law as of the end of such fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the Authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal of and the interest on all such Bonds, all bonds of the Municipality issued as provided under N.J.S.A. 40:37A-79 and all bonds of the Authority issued under the County Improvement Authorities Law.

Section 3. Upon payment of the principal of and the interest due on the Bonds by the Authority or by the defeasance of the Bonds pursuant to the Bond Resolution, the guaranty authorized herein will cease to exist and the gross debt of the Municipality shall be reduced to the extent that such Bonds cease to be Outstanding under the Bond Resolution.

Section 4. This ordinance shall take effect 20 days after the first publication thereof after final adoption in accordance with the County Improvement Authorities Law and the Local Bond Law.

**SCHEDULE A - EQUIPMENT LIST**

Borough of Highlands

<u>Equipment</u>	<u>Useful Life (Years)</u>	<u>Lease Term (Years)</u>	<u>Estimated Cost</u>
2 Police Cars	3	3	\$70,000

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SECONDED BY MR. REDMOND AND INTRODUCED ON THE FOLLOWING ROLL CALL VOTE:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSTAIN:** None

**ABSENT:** Mayor Nolan

**O-13-15 Ordinance Restoring Non-Conforming Uses:**

Ms. Kane offered a motion to table O-13-15, and seconded by Mr. Redmond and all were in favor on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane

**NAYES:** None

**ABSTAIN:** None

**ABSENT:** Mayor Nolan

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**Other Business:**

**Borough Engineer's Status Report:**

Mr. Leubner read thru his report.

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. The project has been put on hold. We have requested to be included in the 2014 EIT funding cycle at this time.
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 completed.
- Final closeout documents are being prepared.

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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

- We are currently preparing final close out documents to send to the NJDOT for final reimbursement. Everything has now been received from the Borough CFO.

4. **The Dredging of Jones Creek at Snug Harbor:** Permit applications and associated plans are underway.

- County is offering to dredge Jones Creek utilizing County forces and equipment as long as the Borough obtains the necessary permits.
- Permit plans substantially complete.
- County has confirmed the disposal site and is currently drafting up the agreements.
- We have received the Emergency Action Permit from the NJDEP.
- County is prepared to commence work on June 24, 2013 provided a favorable vote agreeing to their fee is provided at the June 19, 2013 Council meeting.
- County will also remove the spoils pile from the vacant lot on Shore Drive adjacent to the bank. This also includes material removed from the portion of the creek adjacent to the VFW. The Borough DPW recently removed the sediment from that portion.

5. **The Replacement of the North Street Stormwater Pumpstation:** The station was lost during Hurricane Sandy.

- A 12" trailer pump is currently in place and utilized as needed until the station can be replaced.
- Design is substantially complete.
  - Station has been redesigned higher to be out of the new floodplain per recent ABFE's.
  - Design has been revised to utilize electric pumps with a backup diesel generator due to the inability to satisfy NJDEP sound attenuation regulations.
- Draft plans have been submitted to the Governing Body for review. We will advertise the project once bonding is in place and we are authorized to do so.
- Awaiting further direction from the Governing Body with regards to the overall size of the station. Now that the new flood maps have been released, the overall height of the station can be reduced by four feet.
- Access agreements are required from the adjacent property owners for construction purposes.

6. **Repairs to Washington Avenue:** This project will complete repairs to the roadway due to the bulkhead failure at the Captain's Cove Marina. The project was advertised and awarded as follows:

Bid Date: October 10, 2012  
Award Date: December 5, 2012  
Contractor: L&L Paving Company Inc., Tinton Falls, NJ  
Amount: \$46,150.00

- Pre-construction meeting was held on April 19, 2013.
- Inclement weather has resulted in several delays.
- Roadway preparation to commence June 20, 2013.
- Concrete work to be completed June 21, 2013.



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- Roadway to be paved the week of June 24, 2013.
- Outfall piping and inlet to be installed once legal issues are resolved.

7. **The Reconstruction of Bayside Drive:** The project includes the area between Marie and Matthews Streets and is being funded by Exxon/Mobil as part of the overall remediation project.

Bid Date:	April 30, 2013
Award Date:	May 1, 2013
Contractor:	Esposito Construction, LLC, Matawan, NJ
Amount:	\$110,955.00

- Contracts are currently under review by the Borough Attorney.
- Construction is scheduled to commence the week of July 7, 2013.

**Grants and Loans**

1. **FEMA Hazardous Mitigation Assistance Grant Application (Flood Reduction Program):** 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.
2. **FEMA House Lifting Program (Irene):** A meeting was held with Borough Officials and the affected residents on July 24, 2012 and again on July 30, 2012 with FEMA and State officials. Conflicting information was provided on July 30, 2012 and we are currently attempting to obtain a clear directive from the State on how to proceed. The overall application has been approved. Agreements have been executed. A meeting was held with the NJOEM office on June 14, 2013. Project parameters are being finalized.
3. **Monmouth County Community Development Block Grant:** As requested, we have prepared and submitted a grant application for the improvements to the North Street Pumpstation and the North Street inflow pipe between Bay Avenue and the pumpstation. T&M provided a formal presentation to the Committee on August 22, 2012. The Borough has been informed that an award of \$178,077.00 has been made. This funding may be able to be re-programmed towards the replacement of the North Street Pumpstation based on recent discussions with the County.
4. **FY 2013 NJDOT Local Aid Applications:** The application for the resurfacing of Shore Drive between Waterwitch Avenue and Locust Street has been submitted as directed by the Governing Body. The Borough has been informed by the NJDOT that \$200,000 has been awarded for this project.
5. **FEMA Hazardous Mitigation Assistance Grant (Sandy):** Letters of Intent have been submitted to the County as requested. The only viable project identified was for house lifting and building flood-proofing.

Mr. Francy stated that we have a meeting at 8:30 a.m. on Friday morning at the Solution Center with Congressman Pallone to get answers as to where we are on the FEMA list.

Mr. Francy questioned the North Street Pump and where is the proposal from Pumping Services.

Mr. Leubner explained and will have the proposal by the end of the week.

**Dredge Spoils on Shore Drive:**

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Discussed in Borough Engineer's Report.

**FEMA Disaster Recovery Coordination Plan – Steering Committee and Post Sandy Planning Assistance Grant Program:**

Mr. Hill introduced Colleen and Craig from FEMA.

Craig stated that he would like to start meeting with the Steering Committee next week. He would like a list of members from Council.

Mr. Hill read the list of who should be on the steering committee.

Ms. Kane said the Citizen Participation Forms are available on line for volunteers. Please send them to Mrs. Cummins or drop them off at the Borough Hall Trailer.

Mr. Francy spoke of the Rutgers grants and Future New Jersey grants. Rutgers has emailed asking if we would like them to attend the DCA session regarding Sandy afflicted communities on June 26<sup>th</sup> on behalf of Highlands.

Mr. Hill will be attending the DCA meeting.

Mr. Francy will email Craig and Colleen the information from Rutgers representative and he will report back to the steering committee.

Ms. Ryan is interested in attending the meeting also.

Mr. T.W. Theodore is the Community Recovery Task Force lead. His role is to work with groups in all the communities. They will also be attending the DCA meeting and to advise us on how to use the grant funds. He further explained. He suggested that Highlands takes control over the application process.

Ms. Kane stated that we are adding one item to Other Business.

**Zoning Process:**

Mr. Francy stated that there was a Zoning Board meeting on June 4<sup>th</sup>. An application was heard and some shortcuts were taken in the process that the council is not happy with the way the Zoning Board conducted itself. Council will send a letter to the Zoning Board Chairman.

Mr. Braswell, from the Zoning Board, feels that it's good to have this on the record.

Mr. Francy will write a letter and send to the Zoning Board before their next meeting.

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**Public Portion:**

Arnie Fuog of 50 Valley Street asked about the status of the clam plant lease.

Mr. Francy stated that the lease is up in 2015. We have time to deal with it. We will be meeting soon.

Arnie Fuog asked why the lease discussion stopped.

Mr. Francy explained they are in the process of accumulating information.

John Bentham of 39 Washington Avenue spoke of the paving of the street. He asked if the residents will be notified when paving will happen.

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Mr. Leubner explained that the contractor will send out notices to the residents before he closes the road.

Mr. Bentham questioned the paving lines.

Mr. Leubner explained.

Mr. Bentham spoke of parking problems on Washington Street. He further complained about the conditions of Captain's Cove and spoke of the off street parking ordinance.

Mr. Francy stated that other things are in process regarding this matter. He feels he will be happy with the end result.

Mr. Bentham spoke of Mr. Rosiak terrorizing the residents. He continued to complain about the lighting, code violations, and parking violations of Captain's Cove.

Mr. Francy said that Mr. Rosiak does not have a mercantile license. We will take care of that after the Washington Street project is finished.

Melissa McAleer of 52 Barberie Avenue asked if the council could give an update on a health hazard house.

John McAleer of 52 Barberie Avenue stated that the house next door has not removed debris and the house is not secured.

Mr. Hill stated that Private Property Debris removal and potential demolition project is moving forward. It does take time. There are 50 to 75 structures. There are some properties that were in bad condition before the storm. He explained the process.

Melissa McAleer asked when she could see the list of properties.

Mr. Hill explained the process. The list could change. We are in the grant and notification process.

Mr. Hill explained the list has been given to the construction official.

John McAleer continued to question debris removal and costs.

Mr. Hill explained that liens would be placed on the property, and we would recoup the money when the property is sold.

Mr. Francy spoke of fines.

Mr. Hill said we can have code enforcement enforce it.

Melissa McAleer spoke of the town website. We need more forms of communication for those who are not internet savvy.

Mrs. Cummins said there is a public bulletin board at the trailers at 42 Shore Drive.

Mr. Hill said we could create an information kiosk.

Ms. Kane asked if Melissa would be interested in volunteering to distribute information.

Arnie Fuog thanked Mr. Hill for helping out with a garbage issue.

Kim Skorka of 315 Shore Drive spoke of the Special Joint Meeting. She said someone in the audience said he was getting plans to back fill the town.

Ms. Kane said the Environmental Commission may have the plans.

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Kim Skorka said she would like to see the back fill plan.

Mr. Francy said the Army Corp has a budget to study solutions along the bayshore. We will put in a request to consider other alternatives.

Veronica Strayhill – left meeting.

Mae Rugg of 215 Shore Drive would like a new sign to curb your dog. The sign is missing.

Ms. Kane said to speak to Jill about it.

Ida Koch of 215 Shore Drive had the same complaint.

Joe Hawley of 215 Shore Drive - passed.

Carol Bucco of 330 Shore Drive said that she has written to every representative in the State. We cannot get a DEP permit. They have been promised sand, but none of come thru. They were rejected by FEMA for a loan. Where are we on the list for help? Our legislators suggested that she seek assistance from her town council. She would like to set up a meeting with the council.

Mrs. Cummins will set up a meeting with Mr. Redmond, Ms. Ryan and Carol Bucco. She will send out an email to confirm date.

Claudette D'Arrigo of 12 Seadrift Avenue stated that she lives next to a condemned house. A church group showed up with a dumpster and began to clean out the house that has a sticker on it from the bank. She said that the town gave them permission to do this.

Ms. Kane asked for the address.

Claudette said it is 10 Seadrift Avenue.

Mr. Francy said they need permits.

Mr. Hill will look into it and follow up. The council did not give permission.

Annamarie Tierney of 31 Shrewsbury Avenue spoke of the liquor license renewals and if there were any restrictions on them.

Mrs. Cummins stated that no negative reports came back from any departments involved.

Ms. Kane stated that approvals go thru the Police Department. There will be a letter sent from the Mayor and Council regarding noise. We are also looking at different signage for the area.

Annamarie Tierney questioned revised noise ordinance and gave her objections to it. There is no limitation on how loud.

Ms. Kane responded that this ordinance is a tool to move forward and get the job done.

Ms. Kane said the letter will be going out this week regarding the noise ordinance.

Ms. Ryan said that this is an ongoing problem. The ordinance is a guideline to help the situation.

Annamarie Tierney continued to express her objections to the commercial land noise ordinance.

Discussion continued on the noise ordinance.

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Annamarie Tierney continued to explain her experience with the noise nuisance.

Irene Campbell of the Highlands Board of Education stated that Chris Rooney, Superintendent of Schools, has resigned. They have started to search for his replacement.

Carla Cefalo-Braswell of Highlands Business Partnership stated that they have been approached to set up a table at the ClamFest to give out information to people about various programs and grants available to the residents. She further explained.

Ms. Kane said to give her a deadline and we will come up with a pamphlet to give out.

Melissa McAleer of 52 Barberie Avenue spoke of the solution center being present at the festival.

John Bentham of 39 Washington Avenue hopes the council realizes that this is an opportunity to better the town. Enforcement should be done.

Mae Rugg asked if there is any truth to the rumor of developing from on Miller Street from Bay Avenue to Shore Drive. There is a house that is condemned and many other houses for sale on Miller Street. She is not sure if she should fix her house on Miller Street. All houses for sale but hers.

Ms. Kane stated that Carla Cefalo-Braswell will speak with her.

Mr. Francy asked Mr. Leubner for a report on the meeting with the Community Rating System.

Mr. Leubner explained that he and Mr. Hill with a representative from the State and FEMA regarding the Community Rating System. They told us we have at least 73 properties in the negative rating. He explained further. There are numerous violations. They would like to do a visual audit of the town. We are moving forward with flood mitigation.

Mr. Francy would like to see the list of the 73 properties.

Mr. Leubner stated that FEMA is generating the list.

Mr. Hill said that FEMA produced the list, not the Borough.

Mr. Francy asked Mr. Hill to send a letter to FEMA requesting the list.

Mr. Leubner will also reach out to the State tomorrow.

John McAleer of 52 Barberie Avenue asked if we do not qualify for the program, will they provide us with a list to do so and to reapply.

Mr. Leubner said they will and the town will review the list.

There were no further questions.

Ms. Kane offered a motion to adjourn, seconded by Mr. Francy and all were in favor.

The Meeting adjourned at 9:39 p.m.

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Debby Dailey, Deputy Clerk

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