

**Borough of Highlands  
Mayor & Council  
Regular Meeting  
September 18, 2013**

**Meeting Location: Highlands Elementary School, 360 Navesink Ave., Highlands 07732**

Mayor Nolan called the meeting to order at 7:00 p.m.

Ms. 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, 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**

Mrs. Cummins read the following Resolution for approval:

Mayor Nolan offered the following Resolution and moved its adoption:

**R-13-196  
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: Capt's Cove Marina**
- 2.Contract:**
- 3.Real Estate:**
- 4. Personnel Matters: Patrick DeBlasio – Riced RE: CFO Position**
- 5. Attorney-Client Privilege: Garbage Bid Specs  
House Collapse  
Post Sandy Planning Assistance  
Community Center  
Sea Bright Service Center**

**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, housing, relocation, insurance and similar program or

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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 collecting 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. Kane and approved on the following roll call vote:

**ROLL CALL:**

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

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Mayor Nolan called the meeting back to order at 8:33 p.m.

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

**ROLL CALL:**

**Present:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane, Mayor Nolan  
**Also Present:** Carolyn Cummins, Borough Clerk  
Tim Hill, Borough Administrator  
Steve Pfeffer, Borough CFO  
Bruce Padula, Borough Attorney  
Dale Leubner

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**Consent Agenda:**

Mayor Nolan asked if anyone had any questions or concerns on any resolutions.

Ms. Kane stated that she will abstain on Resolution R-13-199 for the record.

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

**R-13-198  
RESOLUTION APPROVING SOCIAL AFFAIRS PERMIT & TWO RAFFLE  
LICENSES**

**WHEREAS**, the Highlands Business Partnership has filed an application for a Social Affairs Permit & Raffle License for an event to be held on October 5, 2013 with a rain date October 6, 2013; and

**WHEREAS**, the Highlands Fire Department has submitted a Raffle License Application for November 12<sup>th</sup> drawing;

**WHEREAS**, the Claddagh of Highlands, LLC has submitted an application to extend licensed premises for event on October 4, 2013 with no rain date.

**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 application & Raffle License for Highlands Business Partnership for an event to be held on October 5, 2013 with a rain date of October 6, 2013 and Raffle License for Fire Dept for November 12, 2013. Application to extend licensed premises for Claddagh on October 4, 2013 is hereby approved..

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

**ROLL CALL:**

**AYES: Ms. Ryan, Mr. Redmond, Mr. Franczy, Ms. Kane, Mayor Nolan**

**NAYES: None**

**ABSENT: None**

**ABSTAIN: None**

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

**R-13-199  
RESOLUTION APPROVING LIST OF VOLUNTEER FIRE DEPARTMENT MEMBERS WHO QUALIFY FOR THE  
BOROUGH OF HIGHLANDS LENGTH OF SERVICE AWARD PROGRAM (LOSAP) FOR THE YEAR 2012**

**WHEREAS**, the Borough of Highlands (Sponsoring Agency) has a Length of Service Award Program which provides tax-deferred income benefits to active members of the Borough's volunteer Fire Department company and First Aid Squad; and

**WHEREAS**, the Highlands Fire Department and the Highlands First Aid Squad are required, pursuant to N.J.S.A. 40A:14-191, to annually certify to the Sponsoring Agency a list of all volunteer members who have qualified for credit under the LOSAP for the previous year; and

**WHEREAS**, the Highlands Fire Department has submitted certified list of qualified volunteers for the year 2012; and

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WHEREAS, the Highlands Fire Department list has been posted on the public bulletin board for 30-days and the Chief Financial Officer has reviewed the list and found it to be accurate;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands, that the certified list provided by the Highlands Fire Department of qualified volunteers for the year 2012 is hereby approved and payment is subject to final review and approval of the Chief Financial Officer.

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

**ROLL CALL:**

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

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

**RECAP OF PAYMENT OF BILLS  
09/18/2013**

<b>CURRENT:</b>		\$	23,144.58
Payroll	( 09/15/2013)	\$	112,408.38
<b>Manual Checks</b>		<b>\$</b>	<b>44,194.32</b>
<b>Voided Checks</b>		<b>\$</b>	
<b>SEWER ACCOUNT:</b>		\$	614.10
Payroll	(09/15/2013)	\$	2,886.66
Manual Checks		\$	10.90
Voided Checks		\$	
<b>CAPITAL/GENERAL</b>		\$	10,776.92
<b>CAPITAL-MANUAL CHECKS</b>		\$	
Voided Checks		\$	
<b>WATER CAPITAL ACCOUNT</b>		\$	
<b>TRUST FUND</b>		\$	12.63
Payroll	(09/15/2013)	\$	
Manual Checks		\$	
Voided Checks		\$	
<b>UNEMPLOYMENT ACCT-MANUALS</b>		\$	
<b>DOG FUND</b>		\$	
<b>GRANT FUND</b>		\$	409.55
Payroll	(09/15/2013)	\$	4,983.64
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.**

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**SUPPLEMEN**  
**September 18**

**CURRENT FUND**

Arcadis  
Branin Contracting Co.  
Aqua Pro Tech Laboratories

FEMA Service  
Emergency De  
Bayside Drive

**Total Current Fund**

**CAPITAL FUND**

**Total Capital Fund**

**GRANT FUND**

**Total Grant Fund**

**SEWER UTILITY FUND**

**Total Sewer Utility Fund**

**TRUST FUND**

Total Trust Fund

**Total Supplemental Bill List**

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

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**Other Resolution:**

Mr. Hill stated that the Recreation Department had a vacancy created by a resignation. The position was advertised in May and June of 2013. Based on the experience of the applicants who worked on the summer program this candidate was recommended.

Mr. Francy asked where the place of employment would be.

Mr. Hill stated that there are programs at both schools. One program is Kids on the Move, and there is a need for more than two (2) people on site.

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

**R-13-197  
RESOLUTION APPOINTING  
A PART TIME RECREATION AIDE**

**WHEREAS**, Dillon Vargas, part-time Recreation Aide has resigned from his position; and

**WHEREAS**, this resignation has created a part-time opening for a Recreation Aide; and

**WHEREAS**, interviews were conducted with applicants and it is the recommendation of Jennifer Strehl, Recreation Assistant and Timothy Hill, Borough Administrator that Austin O'Neil be appointed to said position.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands that Austin O'Neil is hereby appointed to the position of Recreation Aide (Part-Time) effective immediately; and

**BE IT FURTHER RESOLVED** that said appointment is to be compensated at an hourly rate of \$8.00 per hour for up to ten hours per week.

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

**ROLL CALL:**

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

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

Mr. Hill stated that this is a matter pending before Civil Service. When Mr. O'Neil was promoted to equipment operator position, Civil Service noted in their files that he was considered provisional since

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his time of employment. This is cleaning up the record, and he is already carrying the other title. This is strictly for clarification purposes.

**R-13-200**

**RESOLUTION CONFIRMING WAYNE P. O'NEIL'S APPOINTMENT AS PUBLIC WORKS REPAIRER**

**WHEREAS**, by Resolution R-13-200, the Borough appointed Wayne P. O'Neil as Public Works Repairer; and

**WHEREAS**, Mr. O'Neil has remain employed by the Borough continuously since that time and without interruption; and

**WHEREAS**, the Civil Service Commission notified the Borough that it did not have a record of Mr. O'Neil as a permanent employee.

**NOW, THEREFORE BE RESOLVED** that the governing body of the Borough of Highlands hereby resolves and confirms that Wayne P. O'Neil is a current employee of the Borough serving in the position of Public Works Repairer; and

**BE IT FURTHER RESOLVED** that Mr. O'Neil was appointed to that position by R-13-200 dated \_\_\_\_\_; and

**BE IT FURTHER RESOLVED** that the Municipal Clerk shall forward a copy of this Resolution to the New Jersey Civil Service Commission.

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

**ROLL CALL:**

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

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

**R-13-201**

**RESOLUTION AUTHORIZING  
SOLICITATION BIDS FOR SOLID  
WASTE, RECYCLING & BULK COLLECTION**

**WHEREAS**, the Borough contract for solid waste, recycling and bulk collection expires December 31<sup>st</sup>, 2013;

**WHEREAS**, The Borough desires to solicit bids for garbage collection;

**NOW THEREFORE BE IT RESOLVED**, that the Borough authorizes the Borough Clerk to advertise and solicit bids for solid waste, recycling and bulk collection in accordance with law and regulation.

Seconded by Mayor Nolan and adopted on the following roll call vote:

**ROLL CALL:**

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

Mayor Nolan clarified that the current contract expires at the end of this year. They did not have a renewal in the contract. The new bid will include a renewal, at the Borough's discretion and we are asking for bulk pick up once a month.

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**Ordinances: 2<sup>nd</sup> Reading, Public Hearing and Adoption:**

**O-13-17 – Wall Reconstruction:**

Ms. Cummins read the title of Ordinance O-13-17 for 2<sup>nd</sup> Reading, Public Hearing. This was published in the August 30<sup>th</sup> edition of the Two River Times and may now be open for public hearing.

Mr. Leubner explained that this is for 8 Bay Street. There is an old retaining wall that is failing. He explained that this Ordinance is for getting the wall replaced.

Carol Bucco of 330 Shore Drive asked about the wall belonging to the property owner.

Mr. Leubner explained the size of the right of way versus the property. The road does not hold the property but holds the road. This is for maintaining the stability of the road.

Carol Bucco asked if we were moving it.

Mr. Leubner said no.

Pat Gabler of 25 Bay Street asked if drainage and gutter system are going to be looked into. She also wants a berm there.

Mr. Leubner stated that he will look at it.

Mr. Hill stated that as part of this project they are looking into a berm.

Kim Skorka of 315 Shore Drive asked why the wall was failing.

Mr. Leubner stated that it is due to age. He further explained the condition of the wall.

Melissa Pederson of 17 Bay Street talked about the flooding in the area and asked how long this project is going to take.

Mr. Leubner stated that once there is a schedule establish, the residents will be informed. There will be alternate access plans in place.

Mayor Nolan stated that the notice and coordination of how it was done with the Gas Company on Portland and South Bay was not done properly.

Rick O'Neil of Navesink Avenue questioned the cost of the project and work.

Mr. Leubner explained the construction of the wall and description of work.

There were no further questions.

Mayor Nolan closed the public hearing.

Mrs. Cummins read the title of Bond Ordinance O-13-17 for final reading and adoption.

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

**O-13-17**

**BOND ORDINANCE PROVIDING FOR WALL RECONSTRUCTION IN AND BY THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$475,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

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:



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Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Highlands, in the County of Monmouth, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$500,000, including the sum of \$25,000 as the down payment required by the Local Bond Law. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$475,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is wall reconstruction along 8 Bay Street, including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation 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 bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation 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 governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, 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 Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement

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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 \$475,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

- (d) An aggregate amount not exceeding \$110,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the ARule@) for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the 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 real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

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

**ROLL CALL:**

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

**O-13-18 – Review of Planning Board Recommendations and Approve Resolution:**

Ms. Cummins read the title of Ordinance O-13-18 on for review of the Planning Boards recommendations.

Mr. Padula stated that the Planning Board found this was consistent with the Master Plan and requested that the Borough review the consistency with the new State statute. He drafted a Resolution for consideration. Mr. Padula read the following Resolution for approval:

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

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R-13-202  
RESOLUTION**

**WHEREAS**, the governing body previously introduce and adopted O-13-18 at first reading; and

**WHEREAS**, the governing body is in receipt of the Resolution of the Planning Board adopted on September 12<sup>th</sup>, 2013, which recommended that the governing body review the proposed amendments for consistency with the Municipal Land Use law and any recent enactments or new rules and regulations promulgated by the State since Hurricane Sandy; and

**WHEREAS**, the governing body is aware of recent legislature, particularly public laws 2013 Chapter 107, which provides similar relief as O-13-18; and

**WHEREAS**, the governing body finds that O-13-18 is of limited scope and applicability as intended to be consistent with public law 2013 Chapter 107, therefore no revisions to O-13-18 are necessary.

**NOW, THEREFORE BE IT RESOLVED**, as follows:

- a. The governing body accepts and acknowledges receipt of the recommendations of the Planning Board for the aforementioned reasons.
- b. The governing body finds that no revisions of O-13-18 are necessary.
- c. Ordinance may be considered for final reading and consideration as introduced and adopted at first reading.

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

**ROLL CALL:**

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

**Ordinances: 2<sup>nd</sup> Reading, Public Hearing and Adoption:**

**O-13-18 – Zoning Ordinance Amendment**

Mrs. Cummins read the title of Ordinance O-13-18 on for 2<sup>nd</sup> Reading and Public Hearing. This was advertised in the August 30<sup>th</sup> edition of the Two River Times and may now be open for public hearing.

Mayor Nolan opened for public hearing.

There were questions from the public.

Mayor Nolan closed the public hearing.

Mrs. Cummins read the title of Ordinance O-13-18 for final reading and adoption.

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

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH  
ORDINANCE NO. O-13-18**

**AN ORDINANCE OF THE BOROUGH OF HIGHLANDS IN THE  
COUNTY OF MONMOUTH AND STATE OF NEW JERSEY,  
AMENDING CHAPTER 21 ZONING AND LAND USE REGULATIONS, OF THE GENERAL ORDINANCES OF  
THE BOROUGH OF HIGHLANDS CONCERNING SETBACK REQUIREMENTS FOR HOUSE LIFTING AS A  
RESULT OF HURRICAN SANDY**

**WHEREAS**, the Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq. delegated the responsibility to local governmental units to adopt regulations designed to promote

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the public health, safety and general welfare of its citizenry; and

**WHEREAS**, by Ordinance O-13-02, the Borough amended the definition of "Variance" to assist residents in rebuilding homes damaged by Hurricane Sandy, which provided for three-foot setbacks from any property line; and

**WHEREAS**, the Zoning Officer has recommended that the Borough limit the setback requirements to side and rear property lines.

**NOW THEREFORE BE IT ORDAINED**, by the Governing Body of the Borough of Highlands, the County of Monmouth, in the State of New Jersey, as follows:

Section 1. Chapter 21, Part 1, Article II, Section 8, "Definitions" shall be amended to add the following (bold/underscore is new section):

VARIANCE — A grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this Chapter. Applications for relief from the requirements of this Chapter shall not be required for repair or reconstruction of a building, including nonconforming buildings, provided that building was damaged between October 29, 2012 and October 31, 2012, and the reconstruction and/or repair arises out of the damage occurring between October 29, 2012 and October 31, 2012. A nonconforming building may only be repaired or rehabilitated to the same size on the same footprint, provided however, that the structure may be modified to conform with the requirements of Part 7, Flood Regulations. Notwithstanding the foregoing, ingress and egress stairs, ramps and landings shall provide a three (3) foot setback from any **side or rear** property line.

Section 2. 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 3. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

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

**ROLL CALL:**

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

**Ordinance O-13-19 – Bond Ordinance for Hazard Mitigation:**

Mrs. Cummins read the title of Ordinance O-13-19 for 2<sup>nd</sup> Reading and Public Hearing. This was advertised in the August 30<sup>th</sup> edition of the Two River Times and may now be open for public hearing.

Mr. Pfeffer explained that this ordinance had to do with regard to Hurricane Irene and we requested waivers of the down-payment on bond ordinances. He stated that there is approval from the local Finance Board on the waivers. This is to be used to get projects underway while awaiting FEMA money and homeowners contributions. He hopes to be reimbursed through FEMA at least 75% of Borough costs.

Eileen Scanlon of 22 Fifth Street she asked for clarification on the project.

Mr. Pfeffer explained that this is for house-lifting from Hurricane Irene.

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Mr. Francy questioned Mr. Pfeffer with regard to the 25% share that the Borough would pay is to raise approximately ten (10) houses. He wanted to know who pays that back.

Mr. Leubner stated that the 25% comes back from the residents.

Mayor Nolan closed the public hearing.

Mrs. Cummins read the title of Ordinance O-13-19 for final reading and adoption.

Mayor Nolan offered the following Ordinance and moved on its adoption and authorized its publication;

**O-13-19  
BOND ORDINANCE PROVIDING FOR THE HAZARD MITIGATION  
PROGRAM IN AND BY THE BOROUGH OF HIGHLANDS, IN THE COUNTY  
OF MONMOUTH, NEW JERSEY, APPROPRIATING \$1,144,000 THEREFOR  
AND AUTHORIZING THE ISSUANCE OF \$1,144,000 BONDS OR NOTES  
OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

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 improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Highlands, in the County of Monmouth, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$1,144,000, including a \$784,000 Federal Emergency Management Agency Hazard Mitigation Grant (the "FEMA Grant"). No down payment is required pursuant to N.J.S.A. 40A:2-11(c) as this bond ordinance authorizes obligations solely for a purpose described in N.J.S.A. 40A:2-7(d).

Section 2. In order to finance the cost of the improvement and in anticipation of receipt of the FEMA Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,144,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the Hazard Mitigation Program, including the elevation of structures in the floodplain, as more fully described in the State-Local Grant Agreement between the State of New Jersey, Office of Emergency Management and the Borough on file in the Office of the Clerk which is hereby incorporated by reference as if set forth at length, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefore.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation 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 bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation 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

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report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, 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 Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the 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 \$1,144,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$250,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

(e) This bond ordinance authorizes obligations of the Borough solely for a purpose described in N.J.S.A. 40A:2-7(d). This purpose is in the public interest and is for the health, welfare, convenience or betterment of the inhabitants of the Borough. The amounts to be expended for this purpose pursuant to this bond ordinance are not unreasonable or exorbitant, and the issuance of the obligations authorized by this bond ordinance will not materially impair the credit of the Borough or substantially reduce its ability to pay punctually the principal of and the interest on its debts and to supply other essential public improvements and services. The Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey has heretofore made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this bond ordinance as passed upon first reading.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the ARule@) for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the

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event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the 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 real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. 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. Francy and adopted on the following roll call vote:

**ROLL CALL:**

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

**O-13-20 – Bond Ordinance – For North Street Pump Station:**

Mrs. Cummins read the title of Ordinance O-13-20 for 2<sup>nd</sup> Reading and Public Hearing. This was advertised in the August 30<sup>th</sup> edition of the Two River Times and may now be open for public hearing.

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

Mr. Francy said he thought we were soliciting Pump services and repairing as is with a cost of approximately \$100,000/\$200,000.

Mr. Leubner stated that he emailed those numbers to him and he has not heard back from him. He stated that there is a design in place.

Discussion continued.

Ms. Ryan asked if this design is the best.

Mr. Leubner explained further that this was designed to withstand storms. The design that was there was not adequate. He further described the properties of the pump. He is hoping to get money back from FEMA and CDBG funding.

Discussion continued.

Mayor Nolan opened the public hearing.

Rick O'Neil of 224 Navesink Avenue feels this is too much money to repair the pump.

Mr. Leubner explained the costs.

Mr. O'Neil continued questions.

Mayor Nolan asked to table to the October 16<sup>th</sup> meeting.

Mr. Pfeffer would like to continue the public hearing, vote and then carry.

Mr. Leubner stated that this does not authorize a solicitation for bids, what it does is put money in place.

Ken Braswell of Gravelly Point Road suggested that spending this money to fix is money out the window. He asked if it is replaced with a new pump, would it fit into the entire storm drain project.

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Mr. Francy stated that the issue with the water from his building getting to the pipes is that the pipes are filled with sand. He stated that the drain system needs to be fixed.

Discussion continued.

Eileen Scanlon of 22 Fifth Street asked how this fits in to the flood mitigation.

Mayor Nolan stated that is why are discussing now.

Maureen Welch of 50 Valley Street questioned if there is a minimum financial threshold and if it is required to go to referendum.

Mr. Pfeffer explained that there is a percentage debt limit. The Borough is required to annually file debt statements. Every time there is an Ordinance that authorizes debt, a Supplemental Bond Ordinance is filed. There is a calculation as to what percentage of debt the Borough is actually at to the maximum limit. The Borough is way under the maximum limit. He went on to explain that even if the Borough were to exceed the maximum limit, it would go to the State, the local finance board, for approval to exceed the maximum. He continued to say that if the residents were to challenge a Bond Ordinance, in the statutes there is a section that details how a Bond Ordinance would be challenged.

Mr. Francy asked how close to the debt limit are we and what is it.

Mr. Pfeffer stated that its 3% of the equalized value. The net value is \$550 million. He explained that with the 4 ordinances on tonight, the maximum limit is 3%. The Borough is currently at 1.91%. Right now our net debt, with the new Ordinances, comes to 13,190,000 in round figures. We could go a whole percent about this. He also stated that one thing that needs to be understood about mitigation, the reconstruction of North Street, and the removal of disaster related debris, they are all going to be funded through FEMA to some level. He continued to explain the process.

Kim Skorka of 215 Shore Drive asked about the ratio, it's the average equalized value over three years of what, tax base?

Mr. Pfeffer explained net value. The Net value is the total of what you are on the books for, taxable net value. The Equalized value is a formula that the County and the State go through to come up with a real market number compared state-wide. They provide the Borough with three years' worth of numbers and the average of those three years is what the Borough uses as a calculation against the debt limit.

Kelly Ward of 270 Route 36 asked if there is a connection with the meeting next week with FEMA and their ability to give funding.

Mr. Pfeffer stated that in terms of this particular Ordinance, no. This is a specific item related to the disaster. The Borough gets reimbursed at 90% for damages incurred.

Jen Olson of 61 Barbarie Avenue asked if the pump has been discussed with the Army Corp of Engineers.

Mr. Leubner stated that several years ago there was talk of building a new station comparable to this. It could still be 8-10 years out.

Ms. Olson stated that this plan sounds more reasonable than lifting the entire town.

Mr. Leubner explained the pump station plans.

Mayor Nolan closed the public portion.

Mr. Francy offered a Motion to table the vote on Bond Ordinance O-13-20 to the October 16<sup>th</sup> Meeting.

Seconded by Mayor Nolan and vote tabled on the following roll call vote:



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**ROLL CALL:**

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

**Ordinance O-12-23-Bond Ordinance for Disaster Debris & Demo:**

Mrs. Cummins read the title of Ordinance O-13-23 for 2<sup>nd</sup> Reading and Public Hearing. This was advertised in the August 30<sup>th</sup> edition of the Two River Times and may now be open for public hearing.

Mr. Pfeffer stated that this is the Ordinance that funds the demolition and debris removal on abandoned homes. The 2.3 million dollar number was developed through ARCADIS through their experience. This Ordinance was approved at the Local Finance Board for the waiver of the 5% down-payment. He further stated that this Ordinance will be funded through FEMA at 90% and subject to liens for the Borough's share of the costs. It was done this way to provide cash up front to begin the project, awaiting FEMA reimbursement. The amount the Borough actually goes to debt on this will be determined with conversations with ARCADIS as to the speed of which FEMA will or won't reimburse the Borough. He further addressed the counsel regarding the Bond Ordinances, except for the retaining wall, anything related to the hurricane, the Monmouth County Improvement Authority and the County Freeholders are working together to help municipalities with a pool put in place to finance all the related debt.

Mr. Francy asked if this Bond Ordinance is funding ARCADIS in the \$560 thousand proposal.

Mr. Pfeffer replied yes.

Mr. Redmond asked if there was a timeline for the demolition.

Mr. Pfeffer stated that if the Ordinance is adopted tonight, and is advertised, the contract will be put on for the next council meeting to be approved and then ARCADIS can start.

Mrs. Cummins recommended this ordinance be done at the October 16<sup>th</sup> meeting.

Mayor Nolan asked how many homes are there.

Mr. Leubner stated that he has not seen the list in a while, 50 or 60.

Mr. Hill stated that some of the properties identified originally have started repair. He feels the number is about 56.

Mayor Nolan opened the discussion to the public.

Carol Bucco of 330 Shore Drive said there seems to be a lot of bond ordinances.

Mr. Pfeffer explained that there was an extensive application process to get qualified. He stated that if it is determined that a house has to come down; it is out of Ordinance 19 and into Ordinance 23. He further explained the program procedure.

Maureen Welch of 50 Valley Drive asked if there was a timeline that this will be completed. She also asked when the list of demo homes going to be available to the public.

Mr. Pfeffer stated that once the contract to hire the professional services is awarded, ARCADIS will return to the council in a public meeting and will go through a more extensive evaluation of the 50 or so homes. The council and public will be briefed continually throughout.

Mr. Hill stated that FEMA has to concur. Until the paperwork is done, a house is not placed on the list. He further explained the process. He stated that the list will be public close to the end of the year. He stated that the Borough is requesting extensions for this particular project due to the number of homes.

Eileen Scanlon of 22 Fifth Street asked about after the properties are removed, what happens after that.

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Mayor Nolan hopes to have some enlightenment on the long term recovery from FEMA. There will be liens on the properties.

Ms. Scanlon asked if the property then belongs to the Borough.

Mr. Francy said no, but now there will be a lien on that property.

Mr. Hill stated that some property owners may be willing to work along with the program.

Melissa McAleer of 52 Barbarie Avenue questioned the Section 20 costs.

Mr. Pfeffer stated that it is the "soft costs" of the project. It is almost everything except the actual construction, professional fees, permits, etc. He further explained soft costs.

Melissa McAleer stated that now that the list is down from 100 houses to 56 houses, the average demolition job is \$8,500, what is the \$46,000 per based on?

Mr. Pfeffer stated that ARCADIS worked up the figures based on experience and FEMA debris forecasting guidance. Does not know where the \$8,500 came from. He stated to disregard what is heard on the street. This municipality is operating completely under different guidelines than from someone off the street.

Mayor Nolan asked if the price increased due to contamination.

Mr. Pfeffer stated yes. He continued to explain the guidelines related to costs.

Kim Skorka of 215 Shore Drive stated that once the house is demolished, there is no assessed value on the structure and the Borough will lose money. The positive is that it becomes a buildable lot.

Ms. Kane stated that the Borough is working on ideas on filling the vacant lots, making them buildable.

John McAleer of 52 Barbarie Avenue asked how the determination is made of what constitutes a house that is going to be taken down.

Mayor Nolan stated that there isn't just one answer.

Mr. Hill stated that FEMA provides a lot of guidance.

Ms. Kane asked if this was reimbursed by FEMA.

Mr. Pfeffer stated that this is 90% reimbursable.

Unknown woman of 51 Barbarie stated that a house that has been sitting for over a year would be filled with mold and structurally damaged.

Mayor Nolan stated that due to mold, etc, that will drive the cost up from approximately \$10,000 to \$40,000.

Maureen Welch asked if the house is more than 50% damaged, is it the Borough's obligation to take it down?

Mr. Leubner stated that the Borough does not have the obligation to take the structure down because it is deemed substantially damaged but not condemned.

Ms. Welch stated that she read that if it is more than 50% damaged, the Borough is responsible.

Mr. Leubner stated that if the property is substantially damaged, 51% or more, the owner is required to meet the guidelines of FEMA/DEP/Borough. The requirement at that point is to mitigate, not necessarily knock down. Right now, the Borough is giving owners to the first of 2017 to mitigate.

Ms. Skorka of 315 Shore Drive asked what the deadline is to remove mold.

Mr. Leubner stated that is short term urgency.

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Ms. Skorka asked what is going to be done to mitigate these houses that may not qualify for ARCADIS program, but are still full of mold.

Mr. Hill stated that the only thing we can do is to pursue current ordinance that is in effect. There needs to be money in place. The houses that don't qualify, the Borough needs to come up with the financial resources to address this problem.

Mayor Nolan closed public portion.

Mrs. Cummins read the title of Bond Ordinance O-13-23 for final reading and adoption. Mayor Nolan offered the following Ordinance and moved on its adoption and authorized its publication;

**O-13-23  
BOND ORDINANCE PROVIDING FOR THE REMOVAL OF DISASTER  
RELATED DEBRIS AND THE DEMOLITION OF VARIOUS STRUCTURES IN  
AND BY THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF  
MONMOUTH, NEW JERSEY, APPROPRIATING \$2,300,000 THEREFOR  
AND AUTHORIZING THE ISSUANCE OF \$2,300,000 BONDS OR NOTES  
OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

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 improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Highlands, in the County of Monmouth, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$2,300,000, including a \$2,070,000 Federal Emergency Management Grant (the "Grant"). No down payment is required pursuant to N.J.S.A. 40A:2-11(c) as this bond ordinance authorizes obligations solely for a purpose described in N.J.S.A. 40A:2-7(d).

Section 2. In order to finance the cost of the improvement and in anticipation of the Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$2,300,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the removal of disaster related debris from private and commercial property and the demolition of various private and commercial structures, which were damaged as a direct result of Hurricane Sandy, pursuant to the Federal Emergency Management Agency's Public Assistance Program, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation 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 bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation 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 governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must

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include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the 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 \$2,300,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$600,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

(e) This bond ordinance authorizes obligations of the Borough solely for a purpose described in N.J.S.A. 40A:2-7(d). This purpose is in the public interest and is for the health, welfare, convenience or betterment of the inhabitants of the Borough. The amounts to be expended for this purpose pursuant to this bond ordinance are not unreasonable or exorbitant, and the issuance of the obligations authorized by this bond ordinance will not materially impair the credit of the Borough or substantially reduce its ability to pay punctually the principal of and the interest on its debts and to supply other essential public improvements and services. The Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey has heretofore made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this bond ordinance as passed upon first reading.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the ARule@) for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

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Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the 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 real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

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

**ROLL CALL:**

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

**Ordinance O-13-24 Amending and Supplementing Section 21-121 and 21-123 Designating Flood Officer:**

Mrs. Cummins read the title of Ordinance O-13-24 for 2<sup>nd</sup> Reading and Public Hearing. This was advertised in the August 30<sup>th</sup> edition of the Two River Times and may now be open for public hearing.

Mr. Padula stated that this Ordinance deals with Mr. Leubner's title.

Mayor Nolan opened for public hearing.

No questions from the public.

Mayor Nolan closed the public hearing.

Mrs. Cummins read the title of Ordinance O-13-24 for final reading and adoption.

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

**O-13-24**

**An Ordinance Amending and Supplementing Section 21-121 and 21-122 of the Code of the Borough of Highlands to Designate the Building Official or other Designee of the Governing Body as the local official to administer and implement the provisions of Article XXIV, "Flood Damage Prevention," of Part 7, "Flood Damage Prevention," of Chapter 21 of the Revised General Ordinances of the Borough of Highlands, New Jersey**

**WHEREAS**, the Borough code provides that the Building Official shall be the local official to administer and implement the provisions of the Floodplain Ordinance of the Borough of Highlands; and

**WHEREAS**, the Borough wishes to provide greater flexibility in the designation of the local official to administer and implement the provisions of the Floodplain Ordinance of the Borough of Highlands, Section 21-109 et seq.

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

**SECTION ONE:** Section 21-121 of the Revised General Ordinances of the Borough of Highlands is hereby amended to read:

The governing body shall, by resolution, appoint the Building Official or other qualified individual to administer and implement this Article by granting or denying development permit applications in accordance with its provisions.

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SECTION TWO: Section 21-121 of the Revised General Ordinances of the Borough of Highlands is hereby amended to read:

Duties of the Building Official or other qualified individual, appointed pursuant to Section 21-121 hereof, shall include, but not be limited to subsections 21-122.1 through 21-122.5.

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.

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

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

**ROLL CALL:**

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

**Ordinance O-13-25 Zoning Board Amendment Modify MH Zone – Review of Planning Board Recommendations and Resolution R-13-203 Acknowledging Recommendations P.H. and Adoption:**

Mr. Padula stated that there are three parts to Ordinance O-13-25.

Mr. Padula read R-13-203 Acknowledging Planning Board Recommendations into the record.

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

**R-13-203  
RESOLUTION  
BOROUGH OF HIGHLANDS PLANNING BOARD  
FINDINGS OF REVIEW OF ORDINANCE O-13-25  
ZONING ORDINANCE AMENDMENTS**

**WHEREAS**, on July 3<sup>rd</sup>, 2013, the Borough introduced Ordinance O-13-16, which among other things amended height and density restrictions in the MH zone; and

**WHEREAS**, that Ordinance was scheduled for public hearing on August 21<sup>st</sup>, 2013; and

**WHEREAS**, pursuant to NJSA 48:55D-64, the ordinance was referred to the Planning Board for review and recommendation; and

**WHEREAS**, the Planning Board requested an extension of time from the restrictions of NJSA 48:55D-26 to consider the ordinance which the governing body by resolution adopted on July 17<sup>th</sup>, 2013 granted that request; and

**WHEREAS**, by resolution adopted on August 8<sup>th</sup>, 2013, the Planning Board reported to the governing body concerning O-13-16; and

**WHEREAS**, at its meeting on August 21<sup>st</sup>, 2013, the governing body accepted and reviewed the comments of the Planning Board and conducted a public hearing on O-13-16 and voted to postpone third and final reading of the ordinance until its meeting on September 4<sup>th</sup>, 2013; and

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**WHEREAS**, at its meeting on September 4<sup>th</sup>, 2013, the governing body introduced O-13-25, which was a substantial revision to O-13-16 and which incorporated the recommendations of the Planning Board; and

**WHEREAS**, in accordance with the Municipal Land Use Law, because O-13-25 contains substantial revisions to O-13-16, the governing body referred O-13-25 to the Planning Board for recommendation and report; and

**WHEREAS**, the Planning Board considered O-13-25 at its meeting on September 12<sup>th</sup>, 2013, and adopted a Resolution finding the following:

- a. The Board finds that the proposed amendments are consistent with the Borough Master Plan.
- b. The Board requests that the Governing Body clarify and limit the maximum height of any structure within the Zone to 120 feet (10 stories) whether or not said structure includes any parking or accessory structure within the residential structure.
- c. Since proposed Ordinance O-13-25 is basically the same as Ordinance o-13-16, previously reviewed by this Board on August 8<sup>th</sup>, 2013, with the exception of the two issues presented above, this Board recommends that the record from both hearings of this Board be considered by the Mayor and Council when reviewing these recommendations.
- d. The prior Resolution adopted by this Planning Board for the review of Ordinance O-13-16 is hereby adopted in full as part of this Resolution and is annexed hereto and made a part hereof. This Board hereby requests that the Mayor and Council consider both resolutions when reviewing the actions of this Board on the proposed amendments; and

**WHEREAS**, at its meeting on September 18<sup>th</sup>, 2013, the Governing Body received and reviewed the Planning Board report concerning O-13-25 previously adopted on September 12<sup>th</sup>, 2013.

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

1. The Governing Body acknowledges receipt and review of the report and recommendation of the Planning Board concerning O-13-16 and O-13-25;
2. The Governing Body has and shall consider the Board's review of O-13-16 and O-13-25, as comprising the record for final consideration of O-13-25;
3. The Governing Body's findings contained in the precatory phrases in O-13-25 clarify that the intent and application of the Ordinance is to prohibit any structure in excess of 120 feet, including residential structures above parking structures. In other words, O-13-25, as written, would prohibit construction of a structure exceeding 120 feet above grade regardless of whether the residential structure is above the parking structure. Thus, no revision to O-13-25 is necessary; and

**FOR THE AFOREMENTIONED REASONS**, the Governing Body finds that no revisions of O-13-25 are necessary and the Governing Body may consider the Ordinance for final reading and consideration as introduced and adopted at first reading.

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

**ROLL CALL:**

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

Mrs. Cummins read the title of Ordinance O-13-25 on for 2<sup>nd</sup> Reading and Public Hearing. This was advertised in the September 7th edition of the Asbury Park Press and may now be open for public hearing.

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Mayor Nolan opened for public hearing.

Lori Dibble-32 Paradise Park-asked if this Ordinance changed the protective clause that was in the previous Ordinance.

Mr. Padula stated that this does not change the relocation section.

Ms. Dibble is concerned that there has been very little consideration for the residents in the mobile park. There seems to be no plan as to where the residents are going to go or if there is housing in place.

Arthur Holzer of 294 Bayside Drive spoke of his concern regarding Bayside Drive and that there is too much trouble with the hill.

Kathy Katzberg of 190 Bayside Drive feels it's reckless to overload the hill.

Carol Hanky of 280 Bayside Drive asked if the Planning Board has an EPA project in their possession.

Mayor Nolan said there is not a project before the Board.

Mr. Padula stated that this is conditional use and would require a site plan.

Mayor Nolan said they would have to go before the Planning Board

Lynn Zergieci of Bayside Drive asked if the ordinance goes thru, he would like conditions on deeds for owners to maintain property grade along the property.

Mr. Padula stated that the Code Enforcer would enforce that.

Eillen Scanlon of 22 5<sup>th</sup> Street asked what the ratable difference is for midrise vs. high-rise.

Mayor Nolan said there is a complete ratable that the tax assessor provided to council.

Joe Allsmith of 1 Scenic Drive asked if the proposal is 120 ft. plus an addition 40' for parking.

Mayor Nolan responded that it is a total of 120'.

Don Manrodt of 268 Bayside Drive spoke of past mudslides, the hill is polluted, and instability of the hill. The last Planning Board public hearing did not address slump block. He feels this is being pushed thru. He also feels this is spot zoning. This will not do anything for the town. The hill is collapsing.

Carol K of 262 Bayside Drive reiterated the slump block concerns. She feels this ordinance has no regard for residents. It will only benefit one property owner. She also feels the process is very rushed.

Pauline Jennings of 27 Ralph Street also feels this is spot zoning.

Maureen Welch of 50 Valley Street feels the numbers are inflated. She feels the current assessment of this site should be revisited.

Arnie Fuog of 50 Valley Street said at the last meeting, the ordinance O-13-16 was tabled.

Mr. Padula stated that O-13-16 was voted down and O-13-25 was a revision of O-13-16 re-introduced tonight. He also asked for a definition of spot zoning.

Mr. Padula read the definition.

Mr. Padula and Arnie Fuog further discussed definitions from the Cox Book. Mr. Padula also stated that Arnie Fuog does not have a 2013 edition of the book.

Dave Mintzer of 1 Scenic Drive spoke of his concerns with density, slides and slumps. He also spoke of the number of units per acre.

Mayor Nolan said it's the same density as Eastpointe.



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Discussions continued regarding liability.

Jennifer \_\_\_\_\_ of 1 Scenic Drive agrees with concerns with the slump block.

Jen Alston of 61 Barbarie Avenue spoke against the high rise.

Doug Card of Shrewsbury Avenue spoke of last planning board meeting where the Mayor said there would be a 30% tax increase.

Mayor Nolan said we are at a 30 – 40% loss of ratables downtown which would increase taxes.

Discussion continued.

Doug Card asked if there is a buyer for the property.

Mayor Nolan said he does not know.

Zia \_\_\_\_\_ of Eastpointe asked if we can guarantee no damage during construction. The vibration will crack the hill and foundations.

Bill Taylor of 1 Scenic Drive questioned the high rise building and how would we do a foundation.

Mr. Leubner stated that we do not have the numbers.

Bill Taylor feels that pilings will disturb the hill.

Mayor Nolan said that Mr. Francy stated the previous application stated no blasting and no pile driving only excavation.

Mr. Francy stated details will be at time of application.

Bill Taylor feels a solid foundation will be required.

\_\_\_\_\_ asked what is in the town now to attract people? He would like the council to reconsider this.

Joe Nicosia of 1 Scenic Drive feels the council is not concerned about the density just ratables.

Mayor Nolan said no, we will do same as Eastpointe. The slide has nothing to do with this ordinance.

Connie Stober of 1 Scenic Drive spoke of a previous lawsuit on this site. The owner of this property stated that he met with members of the council.

Hank Stober of 1 Scenic Drive said the Mayor responded to an email comparing this to Eastpointe. He continued to express concern about the safety of the hill.

John Taylor of 1 Scenic Drive spoke of sand and dirt going down slope on to Bayside Drive. He feels the council should really take another look at the hill.

Annemarie Tierney of Shrewsbury Avenue is disappointed with the Planning Board. She feels the ordinance is irresponsible. It is also inconsistent with the Master Plan.

Melissa MacAleer of 52 Barbarie Avenue stated that she heard the Mayor say the ordinance is what we want; the people want to know who "WE" is.

Mayor Nolan stated that it is hundreds of people that he has met going door to door.

Melissa MacAleer said the ordinance is substantially different.

Mr. Padula stated there were substantial changes and it had to be re-introduced.

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John MacAller of 52 Barbarie Avenue spoke of safety issues. He feels the process with this ordinance is unethical. He stated that there will be litigation on this.

Peter Mullen of 11 Marine Place takes issue with Mr. Padula that the Planning Board found the ordinance inconsistent. He further explained that besides the Mayor, he has not heard from the council members.

Pam Sheraton of 1 Scenic Drive was at the last Planning Board meeting and Jack Serpico said that both ordinances are the same.

Tony Mariello of 1 Scenic Drive asked about what studies were done to come up with this high rise. Where are the people that are for the high rise?

Kim Skorka of 315 Shore Drive spoke of her experience with landslides and how the town did nothing. We will not see ratables for 5-8 years. She also feels that this is being pushed thru. We will fight this.

Bob Ward of 270 Navesink Avenue questioned spot zoning. The property owner said he already has plans and a builder and the council knows all about it.

Mayor Nolan said he has not seen a site plan.

Mr. Redmond stated he has not seen a plan.

Ms. Ryan also said she has not seen a plan.

Kelly Ward stated that she the builder said he won't have to go thru the "process." She is concerned about safety.

Melissa Peterson feels this will not bring in ratable in 7 or 8 years and that we should bring this to a referendum.

Carolyn Brullon of 12 Miller spoke of the two homes that fell. She said architects and engineers signed off of those. What if they are wrong about the hill.

Mayor Nolan closed the public hearing.

Mrs. Cummins read the title of Ordinance O-13-25 for final reading and adoption.

Mayor Nolan offered the following ordinance and moved on its adoption and authorized publication according to law:

**ORDINANCE O-13-25**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 21 OF THE REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED "ZONING" TO MODIFY THE REQUIREMENTS OF THE MH MOBILE HOME RESIDENCE DISTRICT, AND TO FURTHER ALLOW HIGH RISE MULTI-FAMILY DEVELOPMENTS IN THE MH ZONE AS A CONDITIONAL USE, AND TO ESTABLISH REGULATIONS PERTAINING THERETO.**

**WHEREAS**, on July 3, 2013, the Borough introduced Ordinance 13-16 (the "Ordinance") which, among other things, amended height and density restrictions within the MH zone; and

**WHEREAS**, the Ordinance was scheduled for a public hearing on August 21, 2013; and

**WHEREAS**, pursuant to N.J.S.A. 40A:55D-64, the Ordinance was referred to the Planning Board for review and recommendation; and

**WHEREAS**, N.J.S.A. 40A:55D-26 provides in pertinent part that, if the Planning Board does not comment on a referred zoning ordinance within thirty-five (35) days, the governing body may consider the ordinance for adoption without Planning Board comment; and

**WHEREAS**, the Planning Board requested an extension of time to consider the Ordinance, which, by Resolution adopted on July 17, 2013, the governing body granted that extension; and

Carolyn Cummins 9/4/13 11:31 AM

Deleted: -

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**WHEREAS**, by Resolution adopted on August 8, 2013, the Planning Board found that the Ordinance was partially consistent with the Master Plan but also expressed concerns, inter alia, about (a) parking, (b) slope, and (c) maximum height; and

**WHEREAS**, the remaining Planning Board comments were otherwise supportive of the Ordinance; and

**WHEREAS**, at its meeting on August 21, 2013, the governing body accepted and reviewed the comments of the Planning Board and discussed those comments with the Borough Attorney during open and closed executive session on August 21, 2013; and

**WHEREAS**, the governing body conducted a public hearing on the Ordinance at its meeting on August 21, 2013; and

**WHEREAS**, after consideration of public comment on the Ordinance and the comments of the Planning Board as stated in its August 8, 2013, the governing body voted to postpone third and final reading of the Ordinance until its meeting on September 4, 2013; and

**WHEREAS**, the governing body values the comments of the Planning Board and of the public; and

**WHEREAS**, the governing body wishes to introduce this amended ordinance to address the recommendations of the Planning Board; and

**WHEREAS**, the first comment of the Planning Board recommends that the Ordinance address steep slope and slump block issues by considering a sliding set-back provision, based on height to protect the "ridge-line" and steep slope areas; and

**WHEREAS**, this amended ordinance addresses those concerns by adopting a bulk requirement that any high rise developments in the MH Zone District comply with the minimum foundation clearances from the slope requirements of the International Building Code (IBC), 2009 or later, New Jersey edition, and further requiring a minimum setback from the tract perimeter top of slope shall not be less than forty (40) feet; and

**WHEREAS**, this requirement is in addition to the Steep Slope and Slump Block Ordinance, § 21-84B enacted in 2009, which requires:

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

In and adjacent to areas indicated as slump blocks in the Borough's Master Plan, the Board may require further study, including soils and other technical reports, on the stability of the soils and any special construction techniques or limitations to construction required to address the issues of the slump area. (Ord. #O-09-23 § 6); and

**WHEREAS**, the amendments provided herein and the Steep Slope and Slump Block Ordinance adequately address the concerns raised by the public and the Planning Board; and

**WHEREAS**, the governing body has also considered the report of the James P. Minard entitled "Slump Blocks in the Atlantic Highlands of New Jersey," prepared in 1974, ("Minard Report") which, in its conclusions and recommendations, states: "It seems evident that careful thought, planning, investigations, tests, and analyses should be undertaken before construction is begun in any areas on

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definite slump blocks, probable or possible slump blocks, along zones of weakness, or near the edges of the tops of any of the high, steep bluffs;" and

**WHEREAS**, governing body finds that the amendments to the Ordinance and the previously adopted Steep Slope and Slump Block Ordinance, § 21-84B of the Borough Code, support the concerns raised by the Minard Report; and

**WHEREAS**, the second and third recommendations of the Planning Board were that any reference to ten (10) stories be a "maximum," not a "minimum," including any attached parking structure and

**WHEREAS**, any reference to ten-story minimum was for definitional purposes only; and

**WHEREAS**, the governing body declares that it is the intent of the Ordinance, and the amendments including herein, to provide a maximum height of 120 feet and ten (10) stories, including any attached parking structure; no structure exceeding 120 was permitted by the Ordinance or by this Amended Ordinance; and

**WHEREAS**, the recommendations of the Planning Board four (4) through seven (7) and nine (9) are findings of fact and not recommendations related to the Ordinance; and

**WHEREAS**, recommendation eight (8) concerns a recommendation to rezone the adjacent zone containing the Eastpointe Project; and

**WHEREAS**, the governing body shall, in the future consider that recommendation, as well as revisions to the Master Plan; however, the governing body finds that such concerns need not be addressed in the context of this amended ordinance, which addresses the specific concerns raised by the Planning Board; and

**WHEREAS**, the governing body finds that this amended ordinance addresses the recommendations of the Planning Board, is consistent with the Master Plan, and permits uses which are compatible with surrounding uses and compatible with a comprehensive zoning plan; and

**WHEREAS**, the surrounding uses include the Eastpointe high-rise to the northwest and highway commercial along the adjacent State Highway 36;

**WHEREAS**, the governing body of the Borough of Highlands finds, for the aforementioned and other reasons, that it is in the best interest of the municipality to amend Section 21 of the Revised General Ordinances of the Borough as outlined below.

**NOW, THEREFORE, BE IT ORDAINED** that Section 21 of the revised general ordinances of the Borough of Highlands be and hereby is amended in following part only:

**SECTION ONE:** § 21-89 (MH Mobile Home Residence) is hereby amended and supplemented as follows: (Additions noted by underline. Deletions noted by strikeover)

1. Permitted Accessory Uses:

Utility Buildings incidental to residential use.

Clubhouses, swimming pools and other recreational facilities and structures for the exclusive use of the residents.

Tennis Courts.

Other accessory uses and structures incidental to the permitted principal and conditional uses, including but not limited to structured parking for multi-family residences only.

2. Conditional Uses:

Satellite Dish Antennas

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High Rise Multi-family dwellings, and structured parking accessory or appurtenant thereto subject to the requirements of §21-97.M. For purposes of this zone district, high rise multifamily developments shall be defined as any building of greater than six stories and no greater than ten (10) stories .

**SECTION TWO:** §21-97 Conditional Uses is hereby supplemented to add new section M entitled High Rise Multifamily Developments as follows:

M. High Rise Multi-Family Developments in the MH Zone

High Rise Multi-family developments in the MH Zone are subject to RSIS standards, and shall not be required to meet the requirements of Schedule 1 where said requirements are inconsistent with either RSIS or the follow requirements.

1. Density shall not exceed 32 dwelling units per acre
2. Minimum lot size: 10 acres.
3. Minimum front yard setback: 100 feet to a principal building or structured parking facility
4. Minimum side yard setback: 60 feet to a principal building or structured parking facility
5. Minimum rear yard setback: 60 feet to a principal building or structured parking facility
6. Minimum Buffer area along any property line: 25 feet. Driveways and sidewalks shall be permitted to cross buffer areas to provide access to streets and adjacent properties. Pedestrian paths shall be permitted within buffer areas. Development identification signs and gatehouses shall be permitted in buffer areas within 75 feet of driveway entrances providing access to a public street
7. Maximum building coverage: 25 percent
8. Maximum lot coverage: 50 percent
9. Maximum FAR: 1.50. The floor area of structured parking facilities underneath and adjacent to residential buildings shall not be considered as floor area for purposes of the Floor Area Ratio (FAR).
10. Maximum Height:
  - a. Residential buildings: 120 feet, but not greater than ten stories . The height of residential buildings shall be measured from the floor of the building lobby or the first level that contains dwellings whichever is lower. Elevator shaft may exceed this limitation by no more than 15 feet.
  - b. Structured parking: 45 feet. Parking structures may be located underneath and/or adjacent to residential buildings.
  - c. Recreational facilities and other accessory structure: 25 feet.
11. Accessory Structures:
  - a. Recreational facilities. Recreational facilities shall be provided for the use of residents of the high rise multi-family development. Such facilities shall be setback a minimum of 50 feet from any property line.
  - b. Signs. Development identification signs shall be permitted adjacent to the main entrance of a high rise multi-family development. Such signs shall either consist of a monument sign or be mounted on a freestanding wall. The maximum number of signs shall be two faces on a monument sign or two wall-mounted signs. The maximum area per sign face shall not exceed 100 square feet. A development identification sign shall be setback a minimum of 5 feet from any property line.
  - c. A gatehouse or similar structure shall be permitted within 75 feet of driveway entrances providing access to a public street.
12. Steep Slopes and Setback from Slopes.

Development of high rise developments in the MH Zone District shall comply with the minimum foundation (face of footing) clearances from the top of a steep slope, at the

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tract perimeter, of the International Building Code (IBC), 2009 or later, New Jersey edition, as illustrated in Figure 1808.7.1 of the 2009 IBC, NJ edition and with the Steep Slope and Slump Block Ordinance, § 21-84B of this Code. , The minimum clearance of the face of the footing and setback shall apply only to the top of a steep slope at the tract perimeter and shall be the least of the smaller of the height of the slope divided by three (3) or forty (40) feet, in accordance with the IBC, 2009 above and illustrated in Figure 1808.7.1 of the 2009 IBC. Notwithstanding the foregoing, the minimum setback from the top of a steep slope at the tract perimeter shall not be less than forty (40) feet.

This requirement shall be considered as a bulk requirement of the conditional use. Relief for the steep slope and slope setback requirement, above shall be addressed under 40:55D-970.c.

**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.

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

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

**ROLL CALL:**

Mayor Nolan asked each to vote and explain their vote.

Mayor Nolan started by saying this ordinance has been discussed at five meetings at least. He explained how he has met with builders and owners about getting this town going again. He explained loss of ratables since the storm. Mr. Heck, Tax Assessor, explained to council, the increase in ratables. He will vote: **Aye**

Mr. Redmond explained that he would always listen to the people. He voted no to the downtown trailer park. He will vote: **Naye**

Ms. Ryan stated that this has been a long arduous task for all involved. She asked Mayor Nolan to get the numbers for the ratables. She was very pleased with the numbers. She has done her own research. She has listened to everyone, especially about safety. She will vote: **Naye**

Mr. Francy spoke of the town budget. The number of units will increase the working budget such as; police, administration and public works. The amount of ratables will not be as much as originally thought. He spoke of other ratables we should be looking at. He will vote: **Naye**

Ms. Kane said we followed a process. This has not been easy in post-Sandy environment. We do need to bring in new sources of revenue. She has read all correspondence thru email and responded to all. She hopes residents will approach her more. She will vote: **Naye**

**ROLL CALL:**

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

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**Other Business**

**Borough Engineer's Status Report**

Mr. Leubner read thru the following report:

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

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Capital Improvements Projects

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. We are also currently seeking other Federal funding options in an effort to move the project forward.

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

- County has completed the dredging of the creek and removal of the spoils pile from the vacant lot on Shore Drive.
- County has repairs to perform due to damage they caused during the operation.
- Meeting was held with the County on September 16, 2013 to review damaged areas and reject recent repairs.
- NJDEP permit application has been submitted.

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. **FEMA reimbursement for this pump currently is scheduled to expire October 31, 2013.**

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.

**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

- Attorney. Contracts have been approved by the Borough
- Contractor has obtained utility mark-outs and has completed survey layout work.
- Concerns have been raised pertaining to material disposal and water levels within the ditch area. Test results have been received on the material and the material will be disposed of appropriately.
- Contractor has commenced work and is currently preparing for curb installation.

Grants and Loans

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

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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. We are currently researching other avenues of Federal funding to assist in moving the project forward.

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.

**NJDOT LOCAL AID PROGRAM:**

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.

FY 2014 NJDOT Local Aid Applications: The NJDOT has announced that Local Aid Applications are due on September 20, 2013. Applications can be submitted for Municipal Aid, Bikeways, Transit Village and Safe Routes to Transit.

Council discussed various roads they would like to submit for improvement.

Mayor Nolan directed Mr. Leubner to do Shrewsbury Avenue from Veteran's Park to Miller Avenue.

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**Public Portion:**

Kim Skorka of Shore Drive questioned raising the town.

Mayor Nolan stated that he did not push the idea to back fill.

Kim Skorka asked if ever interviewed, please state that it is just an option.

Melissa Peterson spoke of adequate notice. It is not always posted in the paper.

Mrs. Cummins responded that she electronically transmits the notice.

Mr. Padula asked what she was reading the requirements from.

Melissa Peterson said she would like notices 48 hours before the meeting.

Mr. Padula said she is speaking of the agenda that does not have to be noticed in 48 hours.

Mayor Nolan said we will try to have the agenda posted on the website by Monday.

Melissa Peterson spoke her concerns regarding the 2<sup>nd</sup> house that dropped.

Mr. Leubner stated that he cannot comment on it. He said no permits will be issued to the contractor. They are working on more stringent guidelines to lift.

Mr. Francy stated that the plans are signed off by the homeowner's professional engineer and architect. We received signed and sealed drawings.

Discussion continued regarding the house collapse.

Carol Bucco of 330 Shore Drive said she read in the paper that Keansburg is getting money and sand pumped on to their beach. We need sand.

Mr. Leubner said it was probably to repair Army Corp work.



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Don Manrodt of 268 Bayside Drive stated that he never received notice of paving by the construction company.

Mr. Leubner will take care of that in the morning. He did approve the notice.

Mr. Leubner continued discussion with Mr. Manrodt about curbing.

Connie Stober thanked the council for their vote on O-13-25. She spoke about Shadow Lawn taxes going down. Her taxes have not gone down.

Mayor Nolan said residents can appeal their taxes.

Pauline Jennings of Ralph Street thanked the council for their vote on O-13-25.

JC Pattack also thanked the council for their vote on O-13-25.

Carolyn \_\_\_\_\_ of Bayside Drive spoke of her concerns regarding the hill and the contamination.

Mr. Francy responded that we get monthly reports. The water has ground water standards for the last 2 ½ years. He further discussed the many ways it may have been contaminated.

Don Manrodt of 268 Bayside Drive spoke about the odor.

Mr. Francy said that air and water samples are two different things.

Melissa MacAleer of Barbarie Avenue thanked Mayor and Council for their vote tonight on O-13-25.

Annemarie Tierney spoke about problems at Windansea. Police from other towns have had to come in to help our officers. She does not feel enough is being done. She would like a report from Chief Blewett.

Mayor Nolan said we will get that.

Lori Dibble of 32 Paradise Park asked who is preparing the Transit Village Designation application.

Mr. Hill explained the application process. He will be working on it with assistance from the Highlands Business Partnership.

Lori Dibble discussed affordable housing with Mr. Hill.

Mr. Hill asked Ms. Dibble to bring her concerns to him and he will forward to council.

Arnie Fuog of 52 Valley Street thanked council for their vote on O-13-25. He also asked about the Buttermilk Valley Road project and if it is done.

Mr. Leubner could not answer for certain; the Sewerage Authority is taking care of that.

Maureen Welch also thanked council for their vote. She would also like the finance committee to be reinstated.

Leonard Zizerecki thanked council for listening to the people.

Jennifer Olsen of 45 Shrewsbury Avenue said there is another house that was lifted should be looked at near her house. She is also concerned with fire and wires like Seaside.

Mr. Leubner spoke of people getting permits. It's a big concern. We keep checking if permits were issued when we see work being done.

Mr. MacAleer said there are a lot of homes that are not being worked on.

**Borough of Highlands  
Mayor & Council  
Regular Meeting  
September 18, 2013**

Mr. Leubner said that the construction official does have a process.

Mayor Nolan announced a FEMA long term recovery meeting on Wednesday at the High School at 7:30 p.m.

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

The Meeting adjourned at 11:54 p.m.

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Debby Dailey, Deputy Clerk

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