

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

**R-08-34**

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF  
HIGHLANDS ACCEPTING THE REPORT OF SPECIAL COUNSEL**

**WHEREAS**, on May 7<sup>th</sup> 2007, the Borough Council introduced proposed Borough Ordinance “O-07-07” (“Ordinance”) to change the zoning on Lot 1 Block 107 and Lot 18.01 Block 110 so as to permit multi-family developments as a conditional use; and

**WHEREAS**, the public hearing was originally scheduled for July 18<sup>th</sup> and was carried, first to August 3<sup>rd</sup> 2007, and then rescheduled to September 5<sup>th</sup> 2007; and

**WHEREAS**, the notice pursuant to NJSA 40:55(d)-62.1 *et. seq.* for the public hearing on the ordinance was deficient; and

**WHEREAS**, at the meeting of September 5, 2007, the Council moved to defeat the ordinance due to deficient notice, which motion passed unanimously; and

**WHEREAS**, on October 22, 2007, the owner of the subject premises, Highlander Development Group, LLC, filed a Complaint in Lieu of Prerogative Writ seeking to declare the lack of jurisdiction to vote on proposed ordinance resulted in the vote defeating the ordinance to be a nullity and invalid; and

**WHEREAS**, the Council retained the services of Edward J. McKenna, Jr. as special counsel to handle the litigation, review of the protest petitions and the re-noticing and hearing on the proposed ordinance; and

**WHEREAS**, new public notices advising of a public hearing to be held December 19, 2007 were then served upon all the requisite property owners pursuant to the statute; and

**WHEREAS**, protest petitions were filed by affected property owners prior to both public hearing dates; and

**WHEREAS**, a public hearing on the ordinance was held December 19, 2007 and the ordinance was moved, seconded and a vote taken, with 3 votes for and 2 votes against the passage of the ordinance; and

**WHEREAS**, special counsel has reviewed both protest petitions and issued a special report on same; and

**WHEREAS**, the Council has reviewed the report and wishes to accept same;

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**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the Borough of Highlands that it does hereby accept the report of special counsel, Edward J. McKenna, Jr., a copy of which is on file in the Borough Clerk's office.

**BE IT FURTHER RESOLVED** that the governing body hereby determines and finds that both protest petitions are deficient and do not contain the signatures of the owners of 20% of the land within 200 ' of the subject premises.

**BE IT FURTHER RESOLVED** that the governing body hereby certifies the passage of Ordinance O-07-07.

**BE IT FURTHER RESOLVED** that the Borough Clerk provides a certified copy of this Resolution to the Borough Attorney, Special Counsel, the owner of the subject premises, the attorney for the protest petitioners and all interested parties.

Seconded by Mrs. Burton and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Mrs. Burton, Mr. Urbanski, Mr. Nolan, Mayor Little  
**NAYES:** Mr. Caizza  
**ABSENT:** None  
**ABSTAIN:** None

**Date:** February 06, 2008

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**NINA LIGHT FLANNERY**  
**Borough Clerk**

I certify this to be a true copy of the Resolution adopted by the Governing Body of the Borough of Highlands on February 06, 2008.

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**BOROUGH CLERK/DEPUTY CLERK**