

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

**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

R-13-84

**RESOLUTION ESTABLISHING A PUBLIC POLICY REGARDING VIDEO
RECORDING OF GOVERNING BODY MEETINGS BY MEMBERS OF THE PUBLIC**

WHEREAS, New Jersey Constitution's free speech guarantee includes a right of access to public proceedings that protects both the free discussion of governmental affairs and the corresponding right to receive information, and New Jersey case law has consistently upheld the importance of open government and recognized the right of citizens to document what they see and hear at public meetings; and

WHEREAS, the Appellate Division, in its decision in Maurice River Township Board of Education v. Maurice River Township Teachers Ass'n, 187 N.J.Super. 566 (Ch.Div.1982), aff'd, 193 N.J.Super. 488 (App.Div.1984), placed municipalities on notice that citizens have a right to video record public proceedings subject only to reasonable guidelines administered by the governing body; and

WHEREAS, the New Jersey Supreme Court, in its recent decision in Tarus v. Borough of Pine Hill, et al., 189 N.J. 497 (2007) has affirmed the principle that "subject to reasonable restrictions, members of the public have a common law right to video record municipal proceedings in New Jersey:" and

WHEREAS, the Tarus decision affirmed the common law right of members of the general public to video record open public meetings, which includes public meetings by a municipality's governing body, further affirming, however, that the common law right to video record is "neither absolute nor unqualified," that the "exercise of such a right was not absolute, but subject to reasonable governmental regulation and control," and that members of the public wishing to video record the proceeding may not, through recording, physically interfere with the governing body's business or other citizens' access to the proceedings; and

WHEREAS, the members of the governing body of the Borough of Highlands recognize that governing bodies are under no obligation to create guidelines limiting the right to video record, but are permitted to do so to ensure that the right of the public to video record public meetings does not otherwise interfere with the business of the governing body; and

WHEREAS, the members of the governing body of the Borough of Highlands, in Monmouth County, New Jersey, desire to establish guidelines for videotaping of meetings of the governing body;

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Highlands, that:

Members of the general public have the right to video record portions or all of an open public meeting of the governing body – excluding closed or executive session discussions. To

minimize the possibility of disrupting the public meeting of the governing body, any member of the public (a “citizen”) who wishes to record portions or all of the public meeting must do so in accordance with the following guidelines:

- a. The citizen must provide the Clerk of the municipality with no less than ten minutes verbal notice prior to the public meeting of his/her intention to exercise his/her right to record.
- b. The citizen must have completed setup of his/her video recorder and any related equipment by no less than five minutes prior to the official start time of the public meeting. As to the location of the video recorder and equipment, the same may only be set up by the citizen in the rear or side of the meeting room, as such location will be specifically identified to the citizen by the Clerk.
- c. The video recorder and any associated equipment utilized by the citizen must be compact, quiet, and generally unobtrusive. No more than one video recorder, and no added lighting may be used by any citizen. The video recorder and all associated equipment may not take up more than 20 square feet of space. No citizen is permitted to use any video recorder or associated equipment that makes any beeping sounds or other noises. Should beeping sounds or any other noise emanate from the video recorder or associated equipment at any time during the public meeting, the citizen shall be required to cease videotaping immediately.
- d. If the video recorder or associated equipment requires connection to electricity, the connection to electricity may be made only by a standard plug which can easily and properly connect to the nearest electricity socket. If at any time the video recorder or associated equipment “blows a fuse” or causes a loss of power in the meeting room, the citizen must immediately cease recording and shall not be allowed to continue recording with any recorder or equipment that requires connection to electricity.
- e. The citizen may not disrupt the public meeting with his/her recording equipment. The citizen may not set up or use the video recorder or equipment in such a way as to block or obstruct the view of other members of the public of the governing body proceedings. The recording by the citizen may only be done in a manner that does not violate Ordinance 3-17, and must be generally orderly and unobtrusive. The citizen may not continually exit and re-enter the meeting room, or continuously move around within the meeting room, during the public meeting. The citizen must remain with the video recorder and equipment at all times, except for any period of time during which the citizen is making a comment in his turn during any public comment portion of the public meeting. The citizen may not “narrate” the proceeding, or speak into any video recorder or microphone. The citizen may not engage in any verbal conversation, discourse or comment whatsoever, unless the citizen is making a formal comment in his turn during any public comment portion of the public meeting.
- f. The citizen may not record the image of other citizens at the public meeting.
- g. The citizen must provide the Borough with a complete, unedited copy, if requested.
- h. If the citizen chooses to cease recording at any time during the public meeting, he/she may do so; provided that the citizen may not commence removal (except for a hand-held video recorder) or begin to disassemble any video recorder or associated equipment until there is a break of at least five minutes of the public meeting or until the public meeting has concluded.

These guidelines are intended to ensure that the right of the public to record official public meetings of the governing body does not interfere with the business of the governing body or other citizens' right of access to the proceedings;

BE IT FURTHER RESOLVED, that

Should any article, section, subsection, sentence, clause or phrase of this Resolution is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Resolution and they shall remain in full force and effect.

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

ROLL CALL:

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

NAYES:

ABSTAIN: None

ABSTAIN: Mayor Nolan

DATE: April 3, 2013

Carolyn Cummins, Borough Clerk

I hereby certify this to be a true copy of Resolution R-13-84 adopted by the Governing Body of the Borough of Highlands on April 3, 2013.

Borough Clerk/Deputy Clerk