

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

R-14-128

RESOLUTION OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (THE "BOROUGH"), AUTHORIZING SPECIAL EMERGENCY NOTES IN AN AMOUNT NOT TO EXCEED \$100,000 TO FUND THE PREPARATION OF A MASTER PLAN

WHEREAS, the Borough Council of the Borough of Highlands, in the County of Monmouth, State of New Jersey (the "Borough"), finally adopted an ordinance on April 16, 2014 authorizing special emergency appropriations pursuant to N.J.S.A. 40A:4-53, in the aggregate amount of \$100,000 to meet certain expenses incurred, or to be incurred, to fund the engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State of New Jersey (the "State") (the "Project"); and

WHEREAS, N.J.S.A. 40A:4-53 provides that it shall be lawful to make such appropriations specifically for the purposes of the Project and N.J.S.A. 40A:4-55 allows "special emergency notes" (the "Notes") to be issued to finance the costs of such Project, which payment for such Notes shall be provided for in the succeeding annual budgets by the inclusion of an appropriation of at least one-fifth (1/5) of the amount of such Notes; and

WHEREAS, the Borough now seeks to authorize the issuance of Notes in the amount of \$100,000.

NOW THEREFORE, BE IT RESOLVED, BY THE BOROUGH COUNCIL OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (by not less than two-thirds (2/3) of all the members of the governing body affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-55 as follows:

1. Pursuant to the ordinance finally adopted on April 16, 2014, special emergency appropriations have been made for the Project in an amount not to exceed \$100,000.

2. The special emergency appropriations set forth in Section 1 hereof shall be provided for in the budgets of the succeeding years by the inclusion of not less than \$20,000 annually in each of the next five years' succeeding budgets.

3. Special emergency notes (the "Notes"), in an amount not to exceed \$100,000 are hereby authorized, pursuant to N.J.S.A. 40A:4-55 to provide for such special emergency appropriation to fund the costs of the Project. Such Notes may be renewed from time to time, but shall not be issued for a period to exceed one year. At

least 1/5 of all such Notes, and the renewals thereof, shall mature and be paid in each year so that all Notes and renewals shall have matured and be paid no later than the last day of the fifth year following the date of this resolution.

4. Such Notes shall be executed by the Mayor and the Chief Financial Officer of the Borough and the official seal shall be thereunto affixed and attested to by the Clerk of the Borough.

5. All Notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. It is hereby delegated to the Chief Financial Officer of the Borough the authority to determine all matters in connection with the Notes issued, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. The Chief Financial Officer is also hereby authorized to sell part or all of the Notes from time to time at a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon 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 Notes pursuant to this resolution is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the Notes so sold, the price obtained and the name of the purchaser.

6. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on the Notes issued under this resolution.

7. (a) The Borough reasonably expects to reimburse the expenditures toward the costs of the Project described in this resolution incurred and paid for by the Borough prior to the issuance of the Notes authorized by this resolution with the proceeds of such Notes. No funds from sources other than the Notes have been or are reasonably expected to be reserved or allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "controlled group" as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to expenditures of the Borough to be reimbursed.

(b) This paragraph 7 is intended to be and hereby is a declaration of the Borough's official intent to reimburse the expenditures toward the costs of the Project described in this resolution incurred and paid for prior to the issuance of the Notes with the proceeds of such issuance of the Notes by the Borough, in accordance with Treasury Regulation Section 1.150-2(e)(1), and no action (or inaction) will be an artifice or device in accordance with Treasury Regulation Section 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements or to avoid restrictions under Sections 142 through 147 of the Code. The proceeds of the Notes used by the Borough to reimburse itself for expenditures towards the Project described in this resolution incurred and paid for, will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Section 148 of the

Code, (ii) to create or increase the balance of a “sinking fund” within the meaning of Treasury Regulation Section 1.148-1(c)(2) with respect to any obligation of the Borough, or to replace funds that have been, are being or will be used for sinking fund purposes, (iii) to create or increase the balance in a “reserve or replacement fund” within the meaning of Section 148(d) of the Code and Treasury Regulation Section 1.148-2(f) with respect to any obligation of the Borough or to replace funds that have been, are being or will be so used for reserve or replacement fund purposes, or (iv) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same “controlled group” within the meaning of Treasury Regulation Section 1.150-1(e))

(c) The Notes to be issued by the Borough to finance those expenditures towards the Project described in this resolution to be reimbursed will be issued in an amount not to exceed \$100,000, which moneys shall be expended from a fund of the Borough, entitled “Current Account,” which fund contains moneys which can be expended for any lawful project of the Borough.

(d) That the expenditures incurred and paid towards the Project described in this resolution to be reimbursed with the proceeds of the Notes will be “capital expenditures” in accordance with the meaning of Treasury Regulation Section 1.150-2(d)(3).

8. Two (2) certified copies of this resolution will be filed with the Director of the Division of Local Government Services pursuant to N.J.S.A. 40A:4-53.

9. This resolution will take effect immediately.
Seconded by Ms. Kane and adopted on the following roll call vote:

ROLL CALL:

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

NAYS: None

ABSTENTIONS: None

ABSENT: None

DATE: May 7, 2014

Carolyn Cummins, Borough Clerk

CERTIFICATION

I, CAROLYN CUMMINS, Borough Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey (the "Borough"), DO HEREBY CERTIFY that the annexed resolution entitled,

“RESOLUTION OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (THE “BOROUGH”), AUTHORIZING SPECIAL EMERGENCY NOTES IN AN AMOUNT NOT TO EXCEED \$100,000 TO FUND THE PREPARATION OF A MASTER PLAN”,

is a copy of a resolution which was duly adopted by the Borough Council at a meeting duly called and held on May 7, 2014, in full compliance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., at which meeting a quorum was present and acting throughout and which resolution has been compared by me with the original thereof as contained in the minutes as officially recorded in my office in the Minute Book of the Borough and is a true, complete and correct copy thereof and the aforesaid resolution has not been repealed, amended or rescinded but remains in full force and effect on and as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Borough this _____ day of _____, 2014.

(SEAL)

CAROLYN CUMMINS,
Clerk of the Borough of Highlands