

**Borough of Highlands  
Planning Board  
Regular Meeting  
September 12, 2013**

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

Mr. Stockton called the meeting to order at 7:33 P.M.

Mr. Stockton asked all to stand for the pledge of allegiance.

Mrs. Cummins made the following statement: As per requirement of P.L. 1975, Chapter 239 notice is hereby given that this is a regular meeting of the Borough of Highlands Planning Board 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: Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Britton,  
Mr. Stockton, Mr. Danzeisen, Mr. Korn

Absent: Mr. Stockton

Also Present: Carolyn Cummins, Board Secretary  
Jack Serpico, Esq., Board Attorney  
Robert Keady, P.E., Board Engineer

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**Resolution Appointing Vice Chairmen**

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

**BOROUGH OF HIGHLANDS  
PLANNING BOARD RESOLUTION  
DESIGNATING VICE CHAIRPERSON  
FOR THE YEAR 2013**

**BE IT RESOLVED** by the Borough of Highlands Planning Board that Larry Colby be appointed Vice Chairperson of the Planning Board for a term of unexpired one (1) year expiring December 31, 2013.

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

**ROLL CALL:**

**AYES:** Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,  
Mr. Britton, Mr. Danzeisen, Mr. Korn, Mr. Stockton

**NAYES:** None

**ABSTAIN:** None

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**Review of Ordinance O-13-25  
MH Zone District**

Mr. Stockton stated that it's a revised ordinance and that the Governing Body incorporated a majority of the Planning Boards prior recommendations. Slope – setback top definition explained 40 feet.

Mayor – we used language for slope to push setback further.

Mr. Stockton stated the resolution has buildings no greater than 10 stories or 120 feet. Does that include parking structure? Setback and height only issues that we need to discuss.

**Public Hearing**

David Klyne of 1 Scenic Drive #604 was sworn in and questioned conflict of the building height on the fifth Whereas on the third page. It's a conflict with section 2 #10 A & B which he further explained. He stated that he is concerned with underneath parking.

Mr. Stockton stated he does not read the ordinance that way.

Mr. Klyne stated it appears to be a conflict in ordinance it could be 165 foot structure.

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Tony Morogiello of 1 Scenic Drive was sworn in and questioned why is Highlands restricted to 36 feet but on the top of the slope its 120 foot.

Mr. Stockton responded and stated that there are other structures in town over 36 feet such as the Eastpointe Condo building.

Mr. Colby – and the senior citizen building.

Board had discussion on height.

Mayor Nolan stated it's currently 70 foot building height.

Mr. Morogiello continued to questioned height and safety concerns.

Mr. Gallagher disagreed. He stated we are not overlooking safety concerns. We haven't seen any plan and the board will evaluate the safety concerns during a site plan review.

Mr. Stockton the board is not approving a building, it's an ordinance.

Connie Stober of 1 Scenic Drive #404 was sworn in and questioned how did the board come about to change this height in the zone again.

Mr. Stockton the ordinance is here for 120 foot height and slope protection.

Ms. Stober questioned difference between this ordinance and the first version..

Mr. Stockton it's what came from the Governing Body.

Jo Micoski of 1 Scenic Drive was sworn in and questioned if its 120 foot plus parking structure.

Mr. Stockton again explained that the board does not have a development proposal.

Mr. Stockton explained how height would be measured.

Pauline Jennings of 27 Ralph Street was sworn in and questioned the Mayor about the minutes of last week's mee4ting, it would go b back to council in October but in notice its says September 18<sup>th</sup>.

Mrs. Cummins explained that the Council votes on the ordinance public hearing date was for the October meeting.

Ms. Jennings continued to question differences in ordinance between this and ordinance O-13-16.

Mr. Serpico stated that the changes in the ordinance are with regard to the planning board recommendations.

Mr. Colby stated that this is out of order and the discussion is limited to height and slope.

Ms. Jennings wants to get on record and spoke against ordinance.

Mr. Stockton – we are going to have order and limit the discussions to the topic.

Mr. Stockton stated that legally we have already addressed this and we are here for the two changes in the ordinance. We don't have to go beyond scope of two issues.

Eileen Scanlon of 22-24 Fifth Street was sworn in and stated that at the last week's council meeting she thought the Council reset the public hearing date.

Peter Mullen of 11 Marine Place stated not sure this ordinance has addressed all comments and what the board discussed. He then asked about the record of the last meeting.

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Mr. Serpico stated that the public comments are in the ordinance.

Mr. Mullen does not agree.

Mr. Serpico stated that this fits like Eastpointe.

Mr. Mullen stated that Eastpointe is not a permitted use. He then continued to question the ordinance and spoke against ordinance.

Doug Card of 28 Shrewsbury Avenue questioned height and difference in elevation of the site.

Mr. Stockton explained definition of building height.

Doug Card asked for the definition of spot zoning.

Mr. Stockton stated that the board reviewed that issue at the last meeting and it was determined that this is not spot zoning.

Arnie Fuog of 50 Valley Street was sworn in and questioned if this is same ordinance except for the two issues. He stated that they had petition against the original ordinance wanted to know if that petition would be valid for this version of the ordinance.

Mr. Stockton responded, not at the planning board level.

Bill Taylor of 1 Scenic Drive unit #110 was sworn in and questioned how many of the board members live in the subject area.

No one.

Mr. Stockton again stated that there are only two items being discussed with regard to this ordinance. The two items are height and slope.

Bill Taylor questioned height and the permitted height in town of 36 feet.

Mr. Stockton again explained the two topics being discussed.

Connie Stilbert of Unit 404 of Eastpointe stated that six stories was previously the limit and there was a reason for that. Now the Council wants to add four stories.

Mr. Stockton stated that we already deliberated on that.

Ms. Stilbert said it's not clear as to why the increase in stories on building.

Doug Card stated that the elevator shaft should be included in the height.

Dave Klyne stated he is concerned with digging for underground parking. There are shacking safety concerns that he has.

Mr. Stockton informed the public that there is currently no development plan before the board.

Mr. Gallagher stated that we would have expert testimony when and if a site plan comes before the board.

Zia Ptak from Eastpointe Condos was sworn in. She stated that she is concerned with underground parking digging and that it could affect the Eastpointe building. She said this is sneaky approach to add Eastpointe to the ordinance.

Hank Stober of Eastpointe was sworn in and stated that ordinances O-13-16 and ordinance O-13-25 look the same.

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Mr. Stockton stated that ten stories is previous ordinance.

Hank Stober questioned definition of high rise.

Mr. Stockton explained that the definition is consistent with IBC building code.

Hank Stober questioned bullet twelve in ordinance O-13-16.

Mr. Stockton explained that we had discussion on that at previous meeting.

Hank Stober questioned steep slope ordinance.

Mr. Stockton explained that yes, there is a setback at tope and toe of slope.

Hank Stober questioned building height.

Zia Ptak questioned underground parking.

Mr. Gallagher again stated that we don't currently have a development application before the board.

Zia Ptak stated that there were backdoor discussions.

Peter Mullen of 11 Marine Place suggested ordinance have greater setbacks and that the setbacks be related to building height.

Arnie Fuog of 50 Valley Street questioned 120 foot building verses 6 story building and expressed his concern about damage caused to surrounding homes.

Mr. Serpico explained that is already part of the law.

Doug Card questioned how we are liable for setback in ordinance.

Mr. Serpico explained that during site plan they can take us to court.

Doug Card – but taxpayers have to pay for legal fees.

Pauline Jennings of 27 Ralph Street questioned if board has discussed consistency with master plan.

Mr. Serpico – yes, last month.

Pauline Jennings stated that the board is treating ordinance O-13-16 and Ordinance O-13-25 as same ordinance.

Eileen Scanlon of 22 Fifth Street questioned expert testimony and where it comes from.

Mr. Stockton stated that applicants pay for experts.

Mr. Serpico explained review of expert's process during hearing process.

Connie Stober questioned setbacks can be more than 40 feet.

John Kogey of Eastpointe asked if anyone knows about soil contamination in area. He also stated that he has safety concerns.

Eileen Scanlon asked if there will be a public hearing for a site plan.

Mr. Serpico – yes there would have to be and notice would have to be served to property owners within 200 feet.

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Maureen Welch questioned former Planning Board member did study of this development and this it was done by Janet Peterson.

Mr. Serpico explained the history of the process and that they do not consider financial studies.

Zia Ptak stated that the planning board should question Council why.

Mr. Serpico explained ordinance amendment process.

Mr. Mullen said it's not fair no financial study. It was spoken about at the last meeting.

Hank Stober recommends attaching attachments to ordinance that are referenced in ordinance.

Dave Klyne asked if any board members were aware of any plans or proposed plans for use of this property.

Mr. Stockton – no new application at this time.

Dave Klyne asked if board has been approached by landowner or developer for this ordinance because the word on the street is that there is an offer to land owner which is contingent upon the adoption of this ordinance.

No Response

John Nukoga said that the public does not want this.

Mr. Serpico explained that the Planning Board is only making recommendations.

Mayor Nolan said if we don't do this than we will have a 30% tax increase in three years.

Mr. Gallagher offered a motion to close public hearing. Seconded by Mr. Colby all were in favor except Mr. Stockton abstained.

Mr. Gallagher suggested that the board send back to council with note to clarify language of 45 ft parking structure be included.

Board had discussion

Mayor Nolan stated that the board at its last meeting established consistency with master plan.

Discussion

Mr. Britton said he is concerned with impact of setbacks.

Mayor Nolan offered the following Resolution and moved its adoption:

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

**WHEREAS**, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Ordinance O-13-25, which Ordinance will amend the Borough Zoning Ordinance; and

**WHEREAS**, the Municipal Land Use Act, NJSA 40:55D-26 & 64, requires that the Planning Board prepared and transmit a report back to the Governing Body; and

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**WHEREAS**, said statute does further require that the report of the Planning Board shall include an identification of any provision or provisions set forth in the proposed Ordinance amendment which is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters as the Board deems appropriate; and

**WHEREAS**, the Board conducted a review of the proposed amendment on September 12, 2013; and

**WHEREAS**, the Board received comments from Board Members, the Board Engineer, the Board Planner and Attorney and various members of the public, which comments were limited to the new amendments to Ordinance 0-13-16, which Ordinance was reviewed in detail by the Board at a public hearing on August 8, 2013. The new issues presented to the Board for review were the Steep Slope Protection for any development within the Zone and the maximum height of any proposed structure within the Zone.

**NOW, THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Highlands that it hereby makes the following findings and recommendations with regard to the proposed Ordinance amendments to the Mayor and Council:

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 0-13-25 is basically the same as Ordinance 0-13-16, previously reviewed by this Board on August 8, 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 Board for the review of Ordinance 0-13-16 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.

**BE IT FURTHER RESOLVED** that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

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

**ROLL CALL:**

**AYES:** Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,  
Mr. Britton, Mr. Danzeisen, Mr. Korn, Mr. Stockton

**NAYES:** None

**ABSTAIN:** None

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**Review of Zoning Ordinance O-13-18**

Mr. Stockton explained ordinance O-13-18 and spoke of State Law to allow for auto variances.

Board had discussion

Mr. Hill stated the ordinance is specific to storm damaged homes.

Public questions – none

Public comment – none

Public Hearing was closed.

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**Mayor Nolan offered the following resolution and moved on its adoption:**

**RESOLUTION  
BOROUGH OF HIGHLANDS PLANNING BOARD  
FINDINGS OF REVIEW OF ORDINANCE O-13-18  
ZONING ORDINANCE AMENDMENTS**

**WHEREAS**, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Ordinance O-13-18, which Ordinance will amend the Borough Zoning Ordinance; and

**WHEREAS**, the Municipal Land Use Act, NJSA 40:55D-26 & 64, requires that the Planning Board prepared and transmit a report back to the Governing Body; and

**WHEREAS**, said statute does further require that the report of the Planning Board shall include an identification of any provision or provisions set forth in the proposed Ordinance amendment which is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters as the Board deems appropriate; and

**WHEREAS**, the Board conducted a review of the proposed amendment on September 12, 2013; and

**WHEREAS**, the Board received comments from Board Members, the Board Engineer, the Board Planner and Attorney and various members of the public.

**NOW, THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Highlands that it hereby makes the following findings and recommendations with regard to the proposed Ordinance to the Mayor and Council:

a. The Board finds that the proposed amendments are consistent with the Borough Master Plan.

b. The Board recommends that the Governing body make analyze the proposed amendments for consistency with the MLUL and any recent enactments or new rules and regulations issued by the State of New Jersey since hurricane Sandy.

**BE IT FURTHER RESOLVED** that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

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

**ROLL CALL:**

**AYES:** Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,  
Mr. Britton, Mr. Danzeisen, Mr. Korn

**NAYES:** None

**ABSTAIN:** None

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

**RESOLUTION  
BOROUGH OF HIGHLANDS PLANNING BOARD  
FINDINGS OF REVIEW OF BOROUGH RESOLUTION R-13-183,  
TRANSIT VILLAGE INITIATIVE PROGRAM**

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**WHEREAS**, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Resolution R-13-183; and

**WHEREAS**, the Municipal Land Use Act, N.J.S.A. 40:55D-26 & 64, requires that the Planning Board prepared and transmit a report back to the Governing Body; and

**WHEREAS**, said statute does further require that the report of the Planning Board shall include an identification of any provision or provisions set forth in the proposed Resolution which is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters as the Board deems appropriate; and

**WHEREAS**, the Board conducted a review of the proposed Resolution on September 12, 2013; and

**WHEREAS**, the Board received comments from Board Members, the Board Engineer, the Board Planner and Attorney and various members of the public.

**NOW, THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Highlands that it hereby makes the following findings and recommendations with regard to the proposed Resolution to the Mayor and Council:

a. The Board finds that the proposed Resolution is consistent with the Borough Master Plan.

**BE IT FURTHER RESOLVED** that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

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



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**ROLL CALL:**

**AYES:** Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,  
Mr. Britton, Mr. Stockton, Mr. Danzeisen, Mr. Korn

**NAYES:** None

**ABSTAIN:** None

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Review of Ordinance O-13-18

Mayor Nolan offered the following Resolution and moved its adoption:

**RESOLUTION  
BOROUGH OF HIGHLANDS PLANNING BOARD  
FINDINGS OF REVIEW OF ORDINANCE O-13-18  
ZONING ORDINANCE AMENDMENTS**

**WHEREAS**, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Ordinance O-13-18, which Ordinance will amend the Borough Zoning Ordinance; and

**WHEREAS**, the Municipal Land Use Act, NJSA 40:55D-26 & 64, requires that the Planning Board prepared and transmit a report back to the Governing Body; and

**WHEREAS**, said statute does further require that the report of the Planning Board shall include an identification of any provision or provisions set forth in the proposed Ordinance amendment which is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters as the Board deems appropriate; and

**WHEREAS**, the Board conducted a review of the proposed amendment on September 12, 2013; and

**WHEREAS**, the Board received comments from Board Members, the Board Engineer, the Board Planner and Attorney and various members of the public.

**NOW, THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Highlands that it hereby makes the following findings and recommendations with regard to the proposed Ordinance to the Mayor and Council:

a. The Board finds that the proposed amendments are consistent with the Borough Master Plan.

b. The Board recommends that the Governing body make analyze the proposed amendments for consistency with the MLUL and any recent enactments or new rules and regulations issued by the State of New Jersey since hurricane Sandy.

**BE IT FURTHER RESOLVED** that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

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

**ROLL CALL:**

**AYES:** Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,  
Mr. Britton, Mr. Danzeisen, Mr. Korn

**NAYES:** None

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**ABSTAIN:     None**

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Resolution Appointing Vice Chair

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

**BOROUGH OF HIGHLANDS  
PLANNING BOARD RESOLUTION  
DESIGNATING VICE CHAIRPERSON  
FOR THE YEAR 2013**

**BE IT RESOLVED** by the Borough of Highlands Planning Board that Larry Colby be appointed Vice Chairperson of the Planning Board for the unexpired term of one (1) year expiring December 31, 2013.

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

**ROLL CALL:**

**AYES:           Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,  
                  Mr. Britton, Mr. Danzeisen, Mr. Korn, Mr. Stockton**

**NAYES:         None**

**ABSTAIN:      None**

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Review of Council recently adopted Transit Village Resolution

The Board reviewed the Council Transit Village Resolution.

Board discussed

Mr. Serpico stated it's consistent with Master Plan. He then spoke of his Transit Village experience in Asbury Park.

Public comments

Doug Card asked is anyone aware that Seastreak is going bankrupt.

Rick Korn said that would not affect this resolution.

Peter Mullen of 11 Marine Place questioned what the implications to our zoning.

Martin Truscott, P.P. of T & M Associates was sworn in.

Mr. Truscott said that the town would have to look into zoning of transit spots within walking distance.

Mr. Korn – distance is ½ mile.

Mr. Truscott explained that transit village is an incentive for grant.

Mr. Mullen continued to question.

Mayor responded.

Mr. Hill spoke of State being excited about waterborne transportation and bike path.

Mr. Mullen questioned transit village designation.

Mr. Hill explained that we are the first and there are a lot of unanswered questions.

Mayor Nolan stated it's an 18 month application process.

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Eileen Scanlon questioned area around Seastreak and who it's owned by.

Mayor Nolan stated that the lot is owned by Seastreak.

Doug Card questioned if there was eminent domain.

Mayor Nolan – no.

Mr. Mullen asked if the MXD Zone is available for ferry service.

Mr. Gallagher and Mayor Nolan think that it is.

Public Portion closed.

Mr. Stockton read from the Master Plan which speaks about being a transit village.

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

**RESOLUTION  
BOROUGH OF HIGHLANDS PLANNING BOARD  
FINDINGS OF REVIEW OF BOROUGH RESOLUTION R-13-183,  
TRANSIT VILLAGE INITIATIVE PROGRAM**

**WHEREAS**, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Resolution R-13-183; and

**WHEREAS**, the Municipal Land Use Act, NJSA 40:55D-26 & 64, requires that the Planning Board prepared and transmit a report back to the Governing Body; and

**WHEREAS**, said statute does further require that the report of the Planning Board shall include an identification of any provision or provisions set forth in the proposed Resolution which is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters as the Board deems appropriate; and

**WHEREAS**, the Board conducted a review of the proposed Resolution on September 12, 2013; and

**WHEREAS**, the Board received comments from Board Members, the Board Engineer, the Board Planner and Attorney and various members of the public.

**NOW, THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Highlands that it hereby makes the following findings and recommendations with regard to the proposed Resolution to the Mayor and Council:

a. The Board finds that the proposed Resolution is consistent with the Borough Master Plan.

**BE IT FURTHER RESOLVED** that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

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

**ROLL CALL:**

**AYES:** Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,  
Mr. Britton, Mr. Stockton, Mr. Danzeisen, Mr. Korn

**NAYES:** None

**ABSTAIN:** None

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**Recording of Meetings by Public**

Mr. Stockton wanted to know if rules to regulate recordings of meetings could be established. The Governing Body adopted rules via a resolution for procedures.

Board will follow council regulations.

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**Efforts to Fill Downtown Area**

Mr. Stockton spoke of a newspaper article that town officials are raising town 11 feet.

Mr. Serpico does not want board to take action on this because of possible future litigation.

Mayor Nolan explained that we just asked that it be considered.

Board briefly discussed .

Mr. Korn stated it's up to the Army Corp of Engineers.

Mr. Colby stated that Marina on the Bay was filled in.

Mayor Nolan stated a long term recovery plan is being made with FEMA.

Meeting Adjourned.

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Carolyn Cummins, Board Secretary