

**Borough of Highlands  
Zoning Board of Adjustment  
Regular/Reorganization Meeting  
January 3, 2013**

Meeting Location: Atlantic Highlands Municipal Building, 100 First Ave, Atl. Highlands, NJ

Mr. Kutosh called the meeting to order at 7:39 p.m.

Mr. Kutosh asked all to stand for the Pledge of Allegiance.

Mrs. Cummins made the following statement: As per requirement of P.L. 1975, Chapter 231. Notice is hereby given that this is a Regular Meeting of the Borough of Highlands Zoning Board of Adjustment 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:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca

**Late Arrival:** Mr. Fox arrived at 8:05 p.m.

**Absent:** Mr. O'Neil, Mr. Braswell

**Also Present:** Carolyn Cummins, Borough Clerk  
Greg Baxter, Esq., Board Attorney  
Robert Keady, P.E., Board Engineer

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**Reorganization**

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

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

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that Ken Braswell be appointed Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2013.

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

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca

**NAYES:** None

**ABSTAIN:** None

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

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

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that Jim Fox be appointed Vice Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2013.

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

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca

**NAYES:** None

**ABSTAIN:** None

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

**Borough of Highlands  
Zoning Board of Adjustment  
Regular/Reorganization Meeting  
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**RESOLUTION APPOINTING ZONING BOARD ATTORNEY  
FOR THE CALENDAR YEAR 2013  
AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT  
FOR PROFESSIONAL LEGAL SERVICES**

**WHEREAS**, there exists the need for Professional Legal Services to be provided to the Zoning Board for the calendar year 2013; and

**WHEREAS**, such Professional Legal Services can only be provided by licensed professionals and Gregory Baxter, Esq., of the firm of Caruso & Baxter is so recognized; and

**WHEREAS**, the law office of Caruso & Baxter has completed and submitted a Business Entity Disclosure Certification which certifies that the law office of Caruso & Baxter has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit the law office of Caruso & Baxter from making any reportable contributions through the term of the contract, and

**WHEREAS**, the determination of value has been placed on file with this resolution with the Board Secretary; and

**WHEREAS**, has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

**WHEREAS**, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq., requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment of the following:

1. Gregory Baxter, Esq. of the law office of Caruso & Baxter is hereby appointed as Zoning Board Attorney for the period of January 1, 2013 through December 31, 2013 and said appointment is made as a non-fair and open contract.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution shall be placed on file with the Zoning Board Secretary of the Borough of Highlands.
4. The Board Secretary is hereby directed to publish notice of this award as required by law.

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

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca  
**NAYES:** None  
**ABSTAIN:** None

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

**RESOLUTION AWARDING CONTRACT  
A NON-FAIR AND OPEN CONTRACT  
FOR PROFESSIONAL LEGAL SERVICES  
TO GREGORY BAXTER, ESQ. OF THE LAW OFFICE OF CARUSO & BAXTER  
&  
APPROVING 2013 CONTRACT**

**Borough of Highlands  
Zoning Board of Adjustment  
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**WHEREAS**, there exists the need for Professional Legal Services to be provided to the Zoning Board of Adjustment for the period of January 1, 2013 through December 31, 2013; and

**WHEREAS**, such Professional Legal Services can only be provided by licensed professionals and Gregory Baxter, Esq. of the law office of Caruso & Baxter is so recognized; and

**WHEREAS**, Gregory Baxter, Esq. of Caruso & Baxter was appointed as Zoning Board Attorney for the calendar year 2013 on January 3, 2013; and

**WHEREAS**, Gregory Baxter, Esq. of the law office of Caruso & Baxter has submitted the attached 2013 contract for approval; and

**WHEREAS**, the Zoning Board has reviewed and hereby approves of the attached contract.

**WHEREAS**, the law office of Caruso & Baxter has completed and submitted a Business Entity Disclosure Certification which certifies that Caruso & Baxter has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit Caruso & Baxter from making any reportable contributions through the term of the contract, and

**WHEREAS**, the determination of value has been placed on file with this resolution with the Borough Clerk; and

**WHEREAS**, the law office of Caruso & Baxter has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

**WHEREAS**, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq., requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised; and

**WHEREAS**, certification of the availability of funds is hereby made contingent upon the adoption of the 2013 Municipal Budget as follows:

Account #1151 -3755	\$ 10,410.00
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For Legal Services for the Period of January 1, 2013 through December 31, 2013.

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Stephen Pfeffer, CFO

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of the Borough of Highlands of the following:

1. Gregory Baxter, Esq. of the law office of Caruso & Baxter is hereby awarded a non-fair and open contract for professional legal services to be provided to the Zoning Board for the period of January 1, 2013 through December 31, 2013 for an amount not to exceed \$10,410.00 and that the attached contract for 2013 is hereby approved.

**Borough of Highlands  
Zoning Board of Adjustment  
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2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Board Secretary of the Borough of Highlands.
4. The Board Secretary is hereby directed to publish notice of this award as required by law.

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

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca

**NAYES:** None

**ABSTAIN:** None

Mr. Kutosh offered the following Resolution and moved in its adoption:

**RESOLUTION APPOINTING ZONING BOARD ENGINEER FOR THE CALENDAR  
YEAR 2013  
AS A NON-FAIR AND OPEN CONTRACT**

**WHEREAS**, the Borough of Highlands Zoning Board has a need for professional engineering services as a non-fair and open contract to be provided to the Board for the calendar year 2013 pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, such professional engineering services can only be provided by licensed professionals and Robert Keady, P.E. of the firm of T & M Associates, 11 Tindall Road, Middletown, NJ 07748 is so recognized;

**WHEREAS**, the Board Secretary has determined and certified in writing that the value of the contract will exceed \$17,500; and

**WHEREAS**, T & M Associates has completed and submitted a Business Entity Disclosure Certification which certifies that T & M Associates has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit T & M Associates from making any reportable contributions through the term of the contract; and

**WHEREAS**, T & M Associates has completed and submitted a Political Contribution Disclosure Form in accordance with P.L. 2005, c271; and

**WHEREAS**, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Highlands Planning Board as follows:

1. Robert Keady, P.E. of T & M Associates is hereby appointed as Zoning Board Engineer for the calendar 2013 and said appointment is made as a non-fair and open contract.
2. This contract is awarded without competitive bidding as "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession.
4. A copy of the Resolution shall be placed on file with the Board Secretary.
5. The Board Secretary is hereby directed to publish notice of this award as required by law.

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

**Borough of Highlands  
Zoning Board of Adjustment  
Regular/Reorganization Meeting  
January 3, 2013**

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca  
**NAYES:** None  
**ABSTAIN:** None

Mr. Kutosh offered the following Resolution be memorialized and moved on its adoption:

**BOROUGH OF HIGHLANDS  
ZONING BOARD OF ADJUSTMENT  
RESOLUTION APPOINTING BOARD SECRETARY  
FOR THE YEAR 2013**

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that Carolyn Cummins be appointed Secretary of the Zoning Board of Adjustment for a term of one (1) year expiring December 31, 2013.

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

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca  
**NAYES:** None  
**ABSTAIN:** None

Mr. Kutosh offered the following Resolution be memorialized and moved its adoption:

**RESOLUTION SETTING THE SCHEDULE FOR REGULAR  
MEETINGS OF THE  
BOROUGH OF HIGHLANDS ZONING BOARD OF ADJUSTMENT  
FOR THE CALENDAR YEAR 2013**

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that the following schedule is hereby designated as the official Regular Meeting Calendar of the Zoning Board of Adjustment for the year 2013. The official meeting days shall be the first Thursday of each month unless otherwise noted.

February 7, 2013  
March 7, 2013  
April 4, 2013  
May 2, 2013  
June 6, 2013  
**July 18, 2013 (3<sup>rd</sup> Thursday)**  
August 1, 2013  
September 5, 2013  
October 3, 2013  
November 7, 2013  
December 5, 2013  
January 2, 2014 Regular/Reorganization

**BE IT FURTHER RESOLVED** that all meetings will be held at the Highlands Elementary School, 360 Navesink Ave, Highlands, NJ 0772 at 7:30 p.m.

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

**Borough of Highlands  
Zoning Board of Adjustment  
Regular/Reorganization Meeting  
January 3, 2013**

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca  
**NAYES:** None

Mr. Kutosh offered the following Resolution be memorialized and moved on its adoption:

**BOROUGH OF HIGHLANDS  
ZONING BOARD OF ADJUSTMENT RESOLUTION  
DESIGNATING OFFICIAL NEWSPAPERS  
FOR THE YEAR 2013**

**BE IT RESOLVED** by the Borough of Highlands Zoning Board of Adjustment that the **ASBURY PARK PRESS, and THE TWO RIVER TIMES**, are hereby designated as the official Newspapers for the Borough of Highlands Zoning Board for publications which are required by law for a term of one (1) year, expiring December 31, 2013.

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

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Mullen, Mr. Pezzullo, Ms. Maresca  
**NAYES:** Mr. Gallagher  
**ABSTAIN:** None

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**ZB#2012-3 Sandpiper Condo Assoc. – Appeal of Zoning Officers Decision  
RE: Seastreak Ferry, 326 Shore Drive, Block 100 Lot 27**

Mr. Baxter explained that we are waiting for the applicant's attorney and Seastreaks Attorney to get back to him with regard to the resolution wording. Once agreement is made then the board can adopt the resolution.

This matter was carried to the February 7<sup>th</sup> meeting.

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**ZB#2012-5 Camco Resources, Inc.  
62 Fifth Street, Block 66 Lots 12-13.01**

Mr. Baxter stated that the notice had defect. They did not properly serve two property owners with notice.

Mr. Gallagher offered a motion to carry this hearing to the February 7<sup>th</sup> meeting and that the applicant be required to renotice every property owner and republish notice.

Motion failed for lack of a seconded.

Mr. Kutosh offered a motion to carry the public hearing to the February 7<sup>th</sup> meeting and that the applicant only be required to renotice the two missing property owner and republish in the newspaper. Seconded by Mr. Knox and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Mullen, Ms. Pezzullo, Ms. Maresca  
**NAYES:** Mr. Gallagher  
**ABSTAIN:** None

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**ZB#2012-4 Two Rivers Construction  
Private Road, Block 56 Lot 8**

The applicant submitted a letter withdrawing application.

Mr. Gallagher offered a motion to dismiss the application without prejudice. Seconded by Mr. Kutosh and approved on the following roll call vote:

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**ROLL CALL:**

**AYES:** Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo,  
Ms. Maresca

**NAYES:** None

**ABSTAIN:** None

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**Communications:**

**Flood Elevations & Building Height**

The Board had a discussion about flood elevations and building height.

Mr. Gallagher offered a motion to adjourn the meeting, seconded by Mr. Kutosh and all were in favor.

The Meeting adjourned at 8:31 p.m.

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Carolyn Cummins, Board Secretary