



MAYOR AND COUNCIL MEETING MARCH 16, 2006

A Emergency Meeting of the Mayor and Council of the Borough of Atlantic Highlands will be held March 16, 2006 at 8:00 PM in the Borough Hall, 100 First Avenue Atlantic Highlands NJ. This meeting is in compliance with the Open Public Meetings Act. Adequate notice has not been provided because the deadline requirements needed to resolve this emergent situation falls prior to the next Regular meeting of the Governing Body, and failure to act would deny the Borough the opportunity to file a legal appeal. Notice of this Emergency Meeting has been transmitted by fax to the Asbury Park Press and the Courier posted in the Borough Hall on a bulletin board reserved for such announcements and by filing it with the Municipal Clerk of Atlantic Highlands, on 03/15/2006 at 12:07pm. The need for such meeting could not have been foreseen since the COAH opinion was received after the last regular meeting of the Governing Body on March 08, 2006 and action will be required prior to the next regular meeting of the Governing Body on March 22, 2006.

This meeting will be limited to the discussion of the need and possible contracting with counsel, to file an appeal to the COAH decision regarding Restraint on Condemnation.

Formal action will be taken.

1. Roll Call
2. Resolution 065-2006 - Calling for an Emergency Meeting
3. Resolution 066-2006 - Authorizing the Appeal of the COAH Decision
4. Adjourn



MINUTES OF THE MAYOR & COUNCIL EMERGENCY MEETING OF MARCH 16, 2006

A Emergency Meeting of the Mayor and Council of the Borough of Atlantic Highlands was held March 16, 2006 at 8:00 PM in the Borough Hall, 100 First Avenue Atlantic Highlands NJ. This meeting was in compliance with the Open Public Meetings Act

This meeting was limited to the discussion of the need and possible contracting with counsel, to file an appeal to the COAH decision regarding Restraint on Condemnation.

Adequate notice has not been provided because the deadline requirements needed to resolve this emergent situation falls prior to the next Regular meeting of the Governing Body, and failure to act would deny the Borough the opportunity to file a legal appeal. Notice of this Emergency Meeting has been transmitted by fax to the Asbury Park Press and the Courier posted in the Borough Hall on a bulletin board reserved for such announcements and by filing it with the Municipal Clerk of Atlantic Highlands, on 03/15/2006 at 12:07pm.

Mayor Donoghue called the meeting to order at 8:16pm. The following roll call was taken: Council members Archibald, Fligor, Ladiana, Nolan and Spatola. Borough Attorney Reilly, Borough Administrator Hubeny and Municipal Clerk Harris were also present. Council member Doyle was absent.

RESOLUTION 0065-2006, CALLING FOR AN EMERGENCY MEETING

WHEREAS, this emergency meeting has been called for the following purpose:

To discuss engaging the services of Jeffrey Surenian to appeal the COAH decision regarding the Emergent Order of Restraint on Condemnation and;

WHEREAS, the normal requirements of the law regarding 48 hours notice have not been met due to lack of time and subject matter, however notices of this Emergency Meeting were faxed to the Asbury Park Press and the Courier on March 15, 2006 at 12:07pm and posted on the bulletin board at Borough Hall; and

WHEREAS, the nature of this emergency is the Governing Body needs to engage the services of Jeffrey Surenian to prepare an appeal, prior to the next Regular Meeting of the Governing Body on March 22, 2006, of the COAH decision regarding the Emergent Order of Restraint on Condemnation, which must be filed with the court no later than March 23, 2006.

WHEREAS, any delay in holding the meeting would prevent the Borough from filing a timely appeal and bind us to the decision from COAH that would restrain the Borough from proceeding with condemnation.

NOW, THEREFORE, BE IT RESOLVED that there should be a vote on this Emergency Meeting which must be affirmed by no less than 5 of the members of the Governing Body:

This resolution was offered and moved for adoption by Council member Archibald and seconded by Council member Ladiana.

Council members;

Archibald:	Yes <u>X</u>	No _____	Nolan:	Yes <u>X</u>	No _____
Spatola:	Yes <u>X</u>	No _____	Ladiana:	Yes <u>X</u>	No _____
Doyle:	Absent				
Fligor:	Yes <u>X</u>	No _____			

Upon receiving the required number of votes, Municipal Clerk Harris announced that the meeting was allowed to proceed.

Mayor Donoghue called for a recess until Mr. Surenian had arrived.

The Governing Body came out of recess at 8:52pm.

RESOLUTION TO ENTER EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and,

WHEREAS, this public body is of the opinion that such circumstances presently exist; and,

WHEREAS, the Governing Body wishes to discuss:

1. Item-.Pending litigation COA

Minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes will be made public.

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council to go into Executive Session to discuss the above items and the public is excluded form this meeting.

This resolution was offered and moved for adoption by Council member Archibald and seconded by Council member Nolan.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

Councilmember Doyle arrived at 8:50pm.

RECONVENE - At 9:25 PM the meeting was resumed.

RESOLUTION 066-2006, AUTHORIZING THE APPEAL TO THE COAH DECISION

This resolution was offered and moved for adoption by Council member Fligor and seconded by Council member Doyle.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ADJOURN - There being no further business before the Mayor & Council, Councilmember Nolan moved to adjourn the meeting at 9:25 PM; Councilmember Doyle seconded the motion and it was unanimously approved.

The Governing Body approved these minutes at their regular meeting on March 22, 2006.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 065-2006

CALLING FOR AN EMERGENCY MEETING

WHEREAS, this emergency meeting has been called for the following purpose:

To discuss engaging the services of Jeffrey Surenian to appeal the COAH decision regarding the Emergent Order of Restraint on Condemnation and;

WHEREAS, the normal requirements of the law regarding 48 hours notice have not been met due to lack of time and subject matter, however notices of this Emergency Meeting were faxed to the Asbury Park Press and the Courier on March 15, 2006 at 12:07pm and posted on the bulletin board at Borough Hall; and

WHEREAS, the nature of this emergency is the Governing Body needs to engage the services of Jeffrey Surenian to prepare an appeal, prior to the next Regular Meeting of the Governing Body on March 22, 2006, of the COAH decision regarding the Emergent Order of Restraint on Condemnation, which must be filed with the court no later than March 23, 2006.

WHEREAS, any delay in holding the meeting would prevent the Borough from filing a timely appeal and bind us to the decision from COAH that would restrain the Borough from proceeding with condemnation.

NOW, THEREFORE, BE IT RESOLVED that there should be a vote on this Emergency Meeting which must be affirmed by no less than 5 of the members of the Governing Body:

Council members;

Archibald:	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Doyle:	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Fligor:	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Ladiana:	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Nolan:	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Spatola:	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

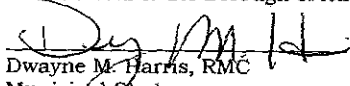
This Resolution was offered and moved by Council member Ladiana, seconded by Council member Archibald and adopted on March 16, 2006 as follows:

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M, Harris, Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body at its meeting held March 16, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 17th day of March 2006.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 066-2006

AUTHORIZING THE APPEAL OF THE COAH DECISION RESTRAINING THE BOROUGH FROM TAKING CERTAIN ACTION ON THE McCONNELL TRACT

WHEREAS, on January 19, 2006, the Council on Affordable Housing heard a motion of K. Hovnanian who sought emergent relief restraining the Borough of Atlantic Highlands from condemning or taking further steps towards the condemnation of property known as the McConnell tract and further restraining the Borough from granting any development approvals on property within the Borough; and,

WHEREAS, after hearing the matter COAH voted to grant the motion in part and restrain the Borough from condemning, purchasing or taking any irreversible steps towards condemnation of the McConnell tract and further ordered that neither party take any adverse action with regard to the application currently pending before the Atlantic Highland's Planning Board; and,

WHEREAS, the Borough must have representation by an attorney who is an expert in the field of affordable housing law to appeal this decision by COAH; and,

WHEREAS, Jeffrey R. Surenian, Esquire, has distinguished himself academically and in practice in the affordable housing arena since 1984, and has already been working to represent the Borough of Atlantic Highlands against K. Hovnanian Shore Acquisitions, LLC; and,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, that the Borough approves and authorizes Jeffrey R. Surenian, Esquire, to represent the Borough of Atlantic Highlands and file all required documents appealing the decision of the Council on Affordable Housing restraining the Borough from condemning, purchasing or taking any irreversible steps towards condemnation of the McConnell tract.

This Resolution was offered and moved by Council member Fligor, seconded by Council member Doyle and adopted on March 16, 2006 as follows:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body at its meeting held March 16, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 17th day of March 2006.


Dwayne M. Harris, RMC
Municipal Clerk