



MAYOR AND COUNCIL MEETING

JULY 29, 2009

This Regular Meeting of the Mayor and Council of the Borough of Atlantic Highlands is called pursuant to the provisions of the Open Public Meetings Law. Adequate notice has been provided by transmitting the Resolution of Annual Meetings to the Asbury Park Press and the Two River Times and by posting it, in the Borough Hall on a bulletin board reserved for such announcements, and by filing it with the Municipal Clerk on 1/05/2009. This agenda is complete to the extent known and formal action will be taken.

1. Silent prayer
2. Pledge of allegiance
3. Roll call
4. Approval of previous meeting minutes:
Regular Meeting – June 24, 2009
5. Proclamations - Honoring John Amici and Thomas Porter
6. Reports – Council, Administration, Professional, Other
7. Public Comment Session - **[Please Stand, State your name and address and Speak loudly]**
8. Unfinished Business:
 - a. Ordinance 13-2009 - Flood Damage Prevention
Public Hearing/Possible Adoption
9. New Business
 - a. Resolution 121-2009 - Award Contract - 7th Avenue Under Drain
 - b. Resolution 122-2009 - Award Contract - Streetscape Phase III
 - c. Resolution 123-2009 - Approve Change Order #4 - Bayshore Trail Phase II
 - d. Resolution 124-2009 - Executing Agreement - Use of Fireman's Field
10. Resolution 132-2009 - Awarding Contract - 2009 Road Improvement Program
11. **Consent Agenda:** These items will be enacted by one motion. If detailed deliberation is desired on any item, Council may remove that item from the consent agenda and consider it separately:
 - a. Resolution 125-2009 - Authorizing 2009 Sidewalk Improvement Bid Advertising
 - b. Resolution 126-2009 - Providing grace Period - Third Quarter Taxes
 - c. Resolution 127-2009 - Refunding of Overpaid Taxes
 - d. Resolution 128-2009 - Support of the 2010 Municipal Alliance Program
 - e. Resolution 129-2009 - Support of the Jessica Lunsford Act
 - f. Resolution 130-2009 - Approval of Raffle License
 - g. Resolution 131-2009 - Payment of Bills
12. Public Comment Session - **[Please Stand, State your name and address and Speak loudly]**
13. Executive Session
14. Adjourn



MINUTES OF THE MAYOR AND COUNCIL REGULAR MEETING OF JULY 29, 2009

The Regular Meeting of the Mayor and Council, of the Borough of Atlantic Highlands, was held on July 29, 2009 in the public meeting room of Borough Hall, 100 First Avenue Atlantic Highlands NJ.

Mayor Rast called the meeting to order at 7:00 PM. After a silent prayer and the Pledge of Allegiance, the following roll call was taken: Council members Archibald, Dellosso, Doyle, Fligor, Hoffmann and Sutton. Council member Archibald and Doyle were not present. Administrator Hubeny, Borough Attorney Reilly, Borough Engineer David Marks of T & M Associates and Municipal Clerk Harris were also present.

Mr. Harris stated that notice of this meeting has been transmitted to the Asbury Park Press and the Two River Times, continuously posted in the Borough Hall on a bulletin board reserved for such announcements, and filed with the Municipal Clerk of Atlantic Highlands, on 1/05/2009. He read the "Open Public Meetings Act" compliance statement and stated that formal action would be taken.

APPROVAL OF MINUTES

Regular Meeting – June 24, 2009

A motion was made by council member Fligor to approve these minutes. It was seconded by council member Dellosso. The motion carried by the following roll call vote:

AYES: Council members Dellosso, Fligor, Hoffmann and Sutton

NAYS: None

ABSTAIN: None

ABSENT: Council members Archibald and Doyle

RESOLUTIONS - HONORING JOHN AMICI AND THOMAS PORTER

Mayor Rast read the following Resolutions:

R E S O L U T I O N

*Of the Mayor and Council of Atlantic Highlands
Recognizing
Captain John A. Amici*

On his Retirement after 29 Years of Police Service

WHEREAS John A. Amici began his Police career with the Borough of Atlantic Highlands in August of 1980 with a high sense of duty and a pro-active interest in law enforcement; and,

WHEREAS in 1985, Patrolman Amici was promoted to the rank of Detective Sergeant, where he successfully organized and conducted extensive investigations of crimes committed within the Borough. He subsequently served a one year term running the Bayshore Task Force, and in 1989 was the first officer to bring the D.A.R.E. program into a Monmouth County School System; and,

WHEREAS in 1994, Detective Sergeant Amici further enhanced his career by being assigned as a Patrol Sergeant, where he utilized his experience and expertise to insure proper procedures and guidelines were followed within the department and offer guidance as needed; and,

WHEREAS in 2001 Sergeant Amici was appointed "Safety Coordinator" in the Borough of Atlantic Highlands which, along with his years of dedication and experience led to his being promoted to the rank of Captain, two positions which he most ably and professionally filled for the past eight years; and,

WHEREAS on May 31, 2009 Captain John A. Amici, honorably retired from the Borough of Atlantic Highlands Police Department after 29 years of dedicated service protecting the health, safety and well being of those who reside, work and visit in the Borough of Atlantic Highlands.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey that the residents of Atlantic Highlands acknowledge the career of Captain John A. Amici and thank him for his efforts in keeping with the highest of police standards and traditions and wish him continued success during his retirement from active Police duty.

July 29, 2009

R E S O L U T I O N

*Of the Mayor and Council of Atlantic Highlands
Recognizing
Sergeant Thomas J. Porter*

On his Retirement after 25 Years of Police Service

WHEREAS, in May of 1984, Thomas J. Porter began his Police career in the City of Asbury Park, as a uniformed and undercover officer who had many successes in significantly reducing crime in this active urban department; and,

WHEREAS, in July of 1988 Patrolman Porter came to the Atlantic Highlands Police Department where he continued his career as a Police Officer and received many citations recognizing his professionalism, his heroism, his teamwork and his leadership abilities; and,

WHEREAS, during his tenure in Atlantic Highlands, Thomas J. Porter regularly provided effective leadership as a shift commander, he ensured a high level of staff professionalism by serving as Senior Firearms and Police Instructor, he enabled the AHPD to maximize its technical effectiveness by serving as the TAC Officer researching, recommending and implementing new technologies; and,

WHEREAS in May of 2001, Patrolman Porter was promoted to the position of Sergeant where he continued to foster a positive departmental image through his continued leadership and utilization of his human relations skills,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey that the residents of Atlantic Highlands acknowledge the work of Sergeant Thomas J. Porter and thank him for his efforts in keeping with the highest of police standards and traditions as he protected the health, safety and well being of all who reside, work and visited in the Borough of Atlantic Highlands, and we wish him well during his retirement from active police duty.

Councilman Doyle arrived at 7:21pm and took his seat on the dais.

REPORTS – COUNCIL, ADMINISTRATION, PROFESSIONAL, OTHER

Council member Dellosso reported on the Library circulation for the month of June being 3,737 which represents an increase of 17% over last year. He also reported on the summer programs that would be occurring in July and August. He also mentioned that Mrs. Scherfen's daughter had a baby girl a few weeks ago.

Council member Sutton reported that we would be awarding a contract on the Seventh Avenue Under Drain project tonight. Hopefully this work will reduce our cost to TOMSA by about \$90,000.00 per year. He highlighted some items from the Police Chiefs report, on behalf of Councilman Archibald who was not present.

Council member Fligor reported that on October 3rd would be the second Annual Mayor's Ball. He reported that the quarterly newsletter would be going out and items would need to be in September 12th. Everything is going well in the Sewerage Authority. He mentioned the Mark Spatola Memorial Blood Drive would be held August 18 at the St. Agnes Parish Center. He mentioned they have been meeting with NJNG and would be discussing contracts regarding that in Executive Session.

Council member Hoffmann reported the Harbor is in the process of restructuring their rates for next year and will be presented at the next meeting for approval. He mentioned the Farmer's Market had been relocated to Veteran's park and appears to be doing very well. He reported that the Fire Department received a boat from the Coast Guard, to replace the boat that they had prior to this one. They are in the process of putting it together.

Administrator Hubeny reported that the Tax bills have been mailed and they are due August 24th. He reported that on August 12th the Green Acres Diversion hearing would be held at Borough Hall. The two trees not on Green Acres property, in front of Borough Hall will be removed next week to move the building project forward. He reported on the following items:

- The Bid for the Fireman's Filed House is out and due back July 31, 2009 @10:00am.
- The Kinder Gym program will be relocated to the senior center.
- Potential Catastrophe at Lenape Woods West with trees coming down
- Center Ave Park- The final paper work is being completed
- COAH - We are working through COAH obligations and the suit against COAH
- DEP - Borough improvements have caught their attention and we will be meeting to discuss some improvement plans in the Borough
- Tree Trimming along Ocean Blvd and the Overlook Bridge
- The Geday lawsuit case has been settled
- He submitted a \$7,500 Recycling Grant to cover cost of the new compactor
- He also led a considerable discussion on a memo sent to the governing body regarding the construction manager for Borough Hall

July 29, 2009

Clerk Harris reported that the Third Quarter newsletter is in preparation and the deadline for article submission is August 12th. He reported that the preliminary review of the Borough Codification has arrived and we have begun the considerable task of reviewing this document. We have until January of 2010 to complete the review. He also mentioned that he has met with the Monmouth County Board of Elections to relocate district 2 and district 3 polling location to the Emergency Services building.

Attorney reilly commented on a Bid protest that has been raised regarding the Streetscape Bid and recommends it be deferred until after they have had an opportunity to discuss it in Executive Session.

PUBLIC COMMENT SESSION:

William Phillips - asked to whom the construction manager would report. He further supported the need for a construction manager and agrees with what Mr. Hubeny is saying. He also thanked everyone for their participation in the Fireman's fair and invited everyone to a picnic on August 1 at the Fireman's Field.

Mike Rybeck - North Avenue commented on his experiences with the Port Authority of New York and New Jersey, as an Auditor, who utilizes construction managers on all of their projects, because they found they have someone on sit, on a daily basis to control costs.

Jane Frotton - 12 Memorial Pkwy commented complimented Dwayne on the Borough Web site. She asked when they do the advertising for the new polling locations that the appropriate signage be put on First Ave.

Mayor Rast closed the public session.

UNFINISHED BUSINESS:

ORDINANCE 13-2009 - FLOOD DAMAGE PREVENTION

A motion to open the Public Hearing was made by Council member Sutton; it was seconded by Council member Dellosso and was unanimously approved.

Administrator Hubeny gave an explanation of this Ordinance and explained that it had to be adopted in regards to the new FEMA Flood maps allowing residents to continue in the National Flood Insurance Program.

William Phillips commented on a question about what the people who were here previously had presented to the Borough.

Clerk Harris clarified some points in how the Ordinance will be regulating how the Borough will be handling future development when it comes to the prevention of Flood Damage.

Paul Barbados - 22 Lawrie Rd commented that it is difficult to get Flood insurance because we are in a flood zone. Would this allow us to participate in this program in addition to other flood insurance?

Joseph Hawley - Ocean Blvd questioned if the Ordinance would prevent the Planning Board from approving construction in certain areas within the Borough.

A Motion to close the Public Hearing was made by Council member Sutton; it was seconded by Council member Dellosso and was unanimously approved

After a Public Hearing and Second Reading, Council member Dellosso moved for Final Adoption of this Ordinance. It was seconded by Council member Fligor and adopted by the following vote:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS: None

ABSTAIN: None

ABSENT: Council member Archibald

NEW BUSINESS

July 29, 2009

RESOLUTION 121-2009 - AWARD CONTRACT - 7TH AVENUE UNDER DRAIN

This Resolution was offered and moved by Council member Hoffmann, seconded by Council member Doyle and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS:

ABSTAIN:

RESOLUTION 123-2009 - APPROVE CHANGE ORDER #4 - BAYSHORE TRAIL PHASE II

This Resolution was offered and moved by Council member Sutton, seconded by Council member Doyle and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS:

ABSTAIN:

RESOLUTION 124-2009 - EXECUTING AGREEMENT - USE OF FIREMAN'S FIELD

This Resolution was offered and moved by Council member Hoffmann, seconded by Council member Doyle and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS:

ABSTAIN:

RESOLUTION 132-2009 - AWARDED CONTRACT - 2009 ROAD IMPROVEMENT PROGRAM

This Resolution was offered and moved by Council member Dellosso, seconded by Council member Doyle and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS:

ABSTAIN:

CONSENT AGENDA: THESE ITEMS WERE ENACTED BY ONE MOTION

Resolution 125-2009 - Authorizing 2009 Sidewalk Improvement Bid Advertising
Resolution 126-2009 - Providing grace Period - Third Quarter Taxes
Resolution 127-2009 - Refunding of Overpaid Taxes
Resolution 128-2009 - Support of the 2010 Municipal Alliance Program
Resolution 129-2009 - Support of the Jessica Lunsford Act
Resolution 130-2009 - Approval of Raffle License
Resolution 131-2009 - Payment of Bills

These Resolutions were offered and moved by Council member Dellosso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS:

ABSTAIN:

PUBLIC COMMENT SESSION:

Joseph Hawley - Ocean Blvd commented on the construction manager at Borough Hall and noted that Henry Hudson had a construction manager on their project. Ultimately Bart Hawley unofficially served in that position.

Councilman Doyle commented on the Arts Council on their "One Minute" film festival and feels they have put together a quality program.

William Phillips - asked about metering on the 7th Avenue under drain program.

James Krauss - 77 Bayside Drive agrees with the preconstruction review of plans for the new Borough Hall.

July 29, 2009

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- Personnel - Police

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 from this meeting.

This Resolution was offered and moved by Council member Fligor, seconded by Council member Dellosso and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS:

ABSTAIN:

RECONVENE - At 10:20 PM the meeting was resumed.

Attorney Reilly commented on Resolution 122-2009. He suggested some revisions on the Resolution and feels it can be approved in the modified form understanding that litigation could result.

RESOLUTION 122-2009 - AWARD CONTRACT - STREETScape PHASE III

This Resolution was offered and moved by Council member Dellosso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS:

ABSTAIN:

ADJOURN - There being no further business before the Mayor and Council, Council member Dellosso moved to adjourn the meeting at 10:20 PM; the motion was seconded by Council member Fligor and was unanimously approved.

A motion was made by council member Fligor to approve these minutes. It was seconded by council member Sutton. The motion carried by the following roll call vote:

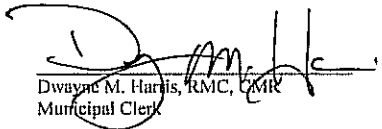
AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

NAYS: None

ABSTAIN: None

ABSENT: Council member Archibald

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 September 09, 2009.


Dwayne M. Harris, RMC, CMR
Municipal Clerk



ORDINANCE 13-2009

THE FLOOD DAMAGE PREVENTION ORDINANCE

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1 et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Council of the Borough of Atlantic Highlands, of Monmouth County, New Jersey does ordain as follows:

1.2 FINDINGS OF FACT

[1] The flood hazard areas of the Borough of Atlantic Highlands are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- [1] To protect human life and health;
- [2] To minimize expenditure of public money for costly flood control projects;
- [3] To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- [4] To minimize prolonged business interruptions;
- [5] To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- [6] To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- [7] To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- [8] To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- [1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- [2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- [3] Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- [4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- [5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 2.0

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Appeal" means a request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Areas of special flood related erosion hazard" is the land within a community which is most likely to be subject to severe flood related erosion losses. After a detailed evaluation of the special flood related erosion hazard area will be designated a Zone E on the Flood Insurance Rate Map.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

"Development" means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

"Digital Flood Insurance Rate Map" (DFIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Elevated building" means a non-basement building (i) built in the case of a building in a Coastal High Hazard Area to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

"Erosion" means the process of the gradual wearing away of landmasses.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- [1] The overflow of inland or tidal waters and/or
- [2] The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Study" (FIS) means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

[a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

[b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

[c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

[d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved State program as determined by the Secretary of the Interior; or
- (2) Directly by the Secretary of the Interior in States without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

"Recreational vehicle" means a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of Construction" for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means

the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- [1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- [2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Variance" means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

Section 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Atlantic Highlands, Monmouth County, New Jersey.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Atlantic Highlands, Community No. 340286, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- 1.) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009.
 - (a) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009
 - (b) Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34025C0066F, 34025C0067F, 34025C0068F, 34025C0069F; whose effective date is September 25, 2009

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at 100 First Avenue, Atlantic Highlands, New Jersey 07716-.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 2,000 [Two Thousand Dollars] or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Atlantic Highlands from taking such other lawful action as is necessary to prevent or remedy any violation. involved in the case. Nothing herein contained shall prevent the Borough of Atlantic Highlands from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- [1] Considered as minimum requirements;
- [2] Liberally construed in favor of the governing body; and,
- [3] Deemed neither to limit nor repeal any other powers granted under State statutes.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Atlantic Highlands, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 4.0

ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

- [1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- [2] Elevation in relation to mean sea level to which any structure has been floodproofed.
- [3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and,
- [4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Official shall include, but not be limited to:

4.3-1 PERMIT REVIEW

[1] Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

[2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

[3] Review all development permits to determine if the proposed development is located in the floodway.

[4] Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.

[5] Review plans for walls to be used to enclose space below the base flood level in accordance with Section 5.3-2 (4).

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 5.2-1, SPECIFIC STANDARDS, Residential Construction, and 5.2-2, SPECIFIC STANDARDS, Nonresidential Construction.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

[1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

[i] verify and record the actual elevation (in relation to mean sea level); and

[ii] maintain the floodproofing certifications required in Section 4.1 (3).

[3] In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 5.3-2(1) and 5.3-2(2)(i) and (ii) are met.

[4] Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 ALTERATION OF WATERCOURSES

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

4.4 VARIANCE PROCEDURE

4.4-1 APPEAL BOARD

[1] The Planning Board as established by the Borough of Atlantic Highlands shall hear and decide appeals and requests for variances from the requirements of this ordinance.

[2] The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this ordinance.

[3] Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, Law Division, Monmouth County as provided in the Rules of Court at Rule 4:69-1 through Rule 4:69-7.

[4] In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

(i) the danger that materials may be swept onto other lands to the injury of others;

- (ii) the danger to life and property due to flooding or erosion damage;
- (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) the importance of the services provided by the proposed facility to the community;
- (v) the necessity to the facility of a waterfront location, where applicable;
- (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) the compatibility of the proposed use with existing and anticipated development;
- (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[5] Upon consideration of the factors of Section 4.4-1 [4] and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

[6] The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

4.4-2 CONDITIONS FOR VARIANCES

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 4.4-1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in SECTION 4.4-1[4], or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 5.0

PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or

frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-4 SUBDIVISION PROPOSALS

[1] All subdivision proposals shall be consistent with the need to minimize flood damage;

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

5.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

[1] New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated to or above base flood elevation;

[2] within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

5.2-2 NONRESIDENTIAL CONSTRUCTION

In an Area Of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall:

[1] either have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated to the level of the base flood elevation; and

[2] within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

[1] be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

[2] have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

[3] be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in SECTION 4.3-3 [2] [ii].

5.2-3 MANUFACTURED HOMES

[1] Manufactured homes shall be anchored in accordance with Section 5.1-1(2).

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

5.3 COASTAL HIGH HAZARD AREA

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in Section 3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

5.3-1 LOCATION OF STRUCTURES

[1] All buildings or structures shall be located landward of the reach of the mean high tide.

[2] The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

5.3-2 CONSTRUCTION METHODS

[1] ELEVATION

All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in SECTION 5.3-2(4).

[2] STRUCTURAL SUPPORT

(i) All new construction and substantial improvements shall be securely anchored on piling or columns.

(ii) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(iii) There shall be no fill used for structural support.

[3] CERTIFICATION

A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of SECTION 5.3-2 [1] and 5.3-2 [2] (i) and (ii).

[4] SPACE BELOW THE LOWEST FLOOR

(i) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.

(ii) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.

(a) breakaway wall collapse shall result from a water load less than that which would occur during the base flood and,

(b) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

(iii) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

(iv) Prior to construction, plans for any breakaway wall must be submitted to the (local administrator) for approval.

5.3-3 SAND DUNES

Prohibit man-made alteration of sand dunes within Zones VE and V on the community's DFIRM which would increase potential flood damage.

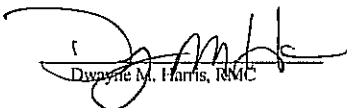
Council member Archibald introduced this Ordinance and, after First Reading, moved for approval. It was seconded by Council member Dellosso and approved by the following vote.

AYES: Council members Archibald, Dellosso, Doyle, Fligor and Hoffmann
NAYS: NONE
ABSTAIN: NONE
ABSENT: Council member Sutton

The Second Reading, Public Hearing and possible adoption is scheduled for July 29, 2009.

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 July 15, 2009.

WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 16th day of July 2009.



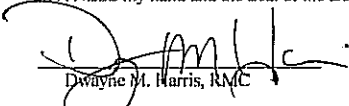
Dwayne M. Harris, RMC

On July 29, 2009, after a Public Hearing and Second Reading, Council member Dellosso moved for Final Adoption of this Ordinance. It was seconded by Council member Fligor and adopted by the following vote:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton
NAYS: None
ABSTAIN: None
ABSENT: Council member Archibald

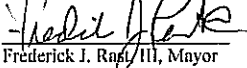
I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body at its meeting held July 29, 2009.

WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.



Dwayne M. Harris, RMC

DATE OF MAYORS APPROVAL: July 30, 2009



Frederick J. Rago III, Mayor



RESOLUTION 121-2009

AWARDING CONTRACT FOR THE SEVENTH AVENUE UNDER DRAIN REPLACEMENT

WHEREAS, the Borough of Atlantic Highlands proposes to undertake construction of a public improvement within the Municipality commonly referred to as the 7th Avenue Under Drain Project; and,

WHEREAS, N.J.S.A. 40A: 11-4 requires that every contract awarded by the contracting agent, for the provision of goods or services, the cost of which in the aggregate exceeds the bid threshold shall be awarded by resolution of the governing body of the contracting unit to the lowest responsible bidder after public advertising of bids and bidding therefore: and,

WHEREAS, bids were advertised and later opened on June 09, 2009 for the above referenced project; and,

WHEREAS, nine [9] bids were received and opened, and the lowest four bidders were as follows:

Mark Woszczak Mechanical Contractors	\$ 114,625.00
Ace Manzo, Inc.	\$ 154,085.22
A. Montone Construction	\$ 169,990.42
D&D Utility Contractors	\$ 171,795.23

; and

WHEREAS, the Engineer and Borough Administrator have reviewed the bids and finds that all meet the specifications, that the bidders are qualified and have provided the required security bonds for the job; and recommends the contract be awarded to Mark Woszczak Mechanical Contractors; and,

WHEREAS, Gerard T. Gagliano, Temporary Chief Financial Officer for the Borough of Atlantic Highlands, does hereby certify that funds are available for this contract in

29-215-55-361-011 and 29-225-55-590-010



Gerard Gagliano, Temp. CFO

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 Administrator is authorized and directed to enter into an contract with Mark Woszczak Mechanical Contractors to undertake construction of a public improvement within the Municipality commonly referred to as the 7th Avenue Under Drain Project in the Borough of Atlantic Highlands, in an amount not to exceed \$ 114,625.00.

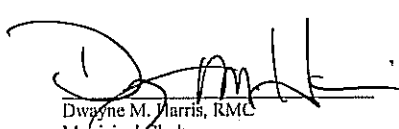
This Resolution was offered and moved by Council member Hoffmann, seconded by Council member Doyle and adopted on July 29, 2009 as follows:

AYES: Council members Delloso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.



Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 122-2009

AWARDING CONTRACT FOR THE FIRST AVENUE STREETSCAPE PHASE III PROJECT

WHEREAS, the Borough of Atlantic Highlands proposes to undertake construction of a public improvement within the Municipality commonly referred to as the First Avenue Streetscape Project Phase III; and,

WHEREAS, N.J.S.A. 40A: 11-4 requires that every contract awarded by the contracting agent, for the provision of goods or services, the cost of which in the aggregate exceeds the bid threshold shall be awarded by resolution of the governing body of the contracting unit to the lowest responsible bidder after public advertising of bids and bidding therefore; and,

WHEREAS, bids were advertised and later opened on July 24, 2009 for the above referenced project; and,

WHEREAS, nine (9) bids were received and opened, and the lowest three bidders, inclusive of alternates one (1) and two (2) were as follows:

Jads Construction Co.	\$ 333,035.00
A. Montone Construction	\$ 372,743.77
Lucas Construction	\$ 384,262.00

; and

WHEREAS, the Engineer and Borough Administrator and have reviewed the bids and recommends the contract be awarded to Jads Construction Co.; and,

WHEREAS, Gerard T. Gagliano, Temporary Chief Financial Officer for the Borough of Atlantic Highlands, does hereby certify that funds are available for this contract in

04-215-55-907-012



Gerard Gagliano, Temp. CFO

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 Administrator is authorized and directed to enter into an contract with Jads Construction Co. to undertake construction of a public improvement within the Municipality commonly referred to as the First Avenue Streetscape Project Phase III, inclusive of alternates one (1) and two (2), in the Borough of Atlantic Highlands, in the amount of \$333,035.00.

BE IT FURTHER RESOLVED that the award of this contract is subject to review and approval from the NJ Department of Transportation.

This Resolution was offered and moved by Council member Delosso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Delosso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.



Dwayne M. Harris, M.C.
Municipal Clerk



RESOLUTION 123-2009

APPROVAL OF CHANGE ORDER #4 THE CONSTRUCTION OF THE BAYSHORE TRAIL – PHASE II

WHEREAS, the Borough of Atlantic Highlands has undertaken the construction of a public improvement within the Municipality commonly referred to as the Bayshore Trail – Phase II; and,

WHEREAS, the governing body has decided to make improvements to Hilton Station and Henry Hudson Springs to provide additional access points to the Bayshore Trail; and,

WHEREAS these changes will decrease the contract price of \$1,147,142.00, as modified by Change Order No.3 dated March 18, 2009, by \$24,528.95, to a revised contract price \$1,122,613.05 as modified by Change Order No.4, dated July 20, 2009,

WHEREAS, N.J.A.C.5: 30-11.3c requires that changes in payment for activities within the scope of activities of the contract shall be effectuated by a written change order authorized by the Governing Body,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey that Change Order #4 dated July 20, 2009, modifying the contract with Compass Construction Inc, for the Bayshore Trail – Phase II is hereby approved.


This Resolution was offered and moved by Council member Sutton, seconded by Council member Doyle and adopted on July 29, 2009 as follows:

AYES: Council members Delloso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 124-2009

EXECUTING AGREEMENT FOR THE USE OF FIREMAN'S FIELD

WHEREAS the Atlantic Highlands Fire Department, Inc is the owner of a certain tract of land, in the Borough of Atlantic Highlands, commonly referred to as the Fireman's Field; and,

WHEREAS, the Borough of Atlantic Highlands desires to enter into an agreement with the Atlantic Highlands Fire Department, Inc, for the fifteen year period commencing February 2, 2008 and ending December 31, 2022, regarding the use of the Fireman's Field; and,

WHEREAS, the agreement provides for certain improvements to be made by or on behalf of the Borough of Atlantic Highlands, as outlined in Schedule A of the "Agreement For Use of Fireman's Field "in consideration for such use.

WHEREAS the Governing Body of the Borough of Atlantic Highlands, in consideration of the mutual covenants contained in the "Agreement for Use of Fireman's Field", hereby agrees to the terms, conditions and covenants outlined therein,

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 Administrator is authorized to execute and enter into the Agreement For Use of Fireman's Field for the fifteen year period commencing February 2, 2008 and ending December 31, 2022 .

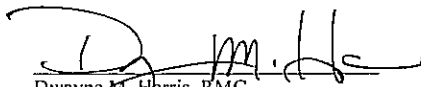
This Resolution was offered and moved by Council member Hoffmann, seconded by Council member Doyle and adopted on July 29, 2009 as follows:

AYES: Council members Delloso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 125-2009

AUTHORIZING 2009 SIDEWALK IMPROVEMENT PROGRAM BID ADVERTISING AND RECEIPT

WHEREAS, the Borough of Atlantic Highlands desires to further advance the 2009 Sidewalk Improvement Program which would provide for the repair of sidewalks throughout the Borough; and,

WHEREAS, this Program exceeds the Borough's bid threshold and requires the contract, as outlined in N.J.S.A. 40A: 11-4a to be awarded by resolution of the Governing Body, to the lowest responsible bidder, after public advertising for bids and bidding therefore,

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, that the advertisement for the receipt of bids, for the 2009 Sidewalk Improvement Program in the Borough, is authorized and sealed bids will be received at the Borough Hall, 100 First Ave, at or before 10:00am on August 11, 2009, at which time they will be publicly unsealed and the contents announced.

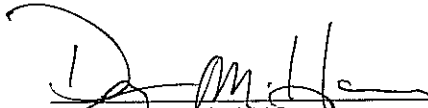
This Resolution was offered and moved by Council member Delosso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Delosso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.



Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 126-2009

PROVIDING A GRACE PERIOD FOR THE PAYMENT OF THIRD QUARTER TAXES

WHEREAS, N.J.S.A. 54:4-64 provides that third quarter tax bills were to be mailed at least 47 days prior to the due date of August 1, 2009; and,

WHEREAS, because of delays the bills could not be mailed prior to this deadline; and,

WHEREAS, N.J.S.A. 54:4-66.3d provides that when third quarter tax bills cannot be mailed by June 14, taxes shall not be subject to interest until at least 25 days after the tax bills are mailed,

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey that the interest charged as per Resolution 017-2009, shall be waived if payment is received by August 24, 2009. Any payments not made within this time shall be charged interest from the State set due date of August 1, 2009.

BE IT FURTHER RESOLVED that the Municipal Clerk shall publish a copy of this resolution in the Two River Times and provide a certified copy of this resolution to the Tax Collector, Borough Attorney and Borough Auditor.

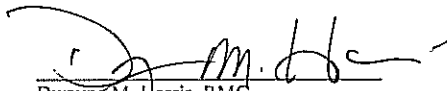
This Resolution was offered and moved by Council member Dellosso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 127-2009

REFUNDING OF OVERPAID TAXES

WHEREAS, Thomas Lesbirel, property owner in the Borough of Atlantic Highlands, submitted and filed a Property Tax Appeal for property located on Block 117, Lot 6.01; and,

WHEREAS, the Tax Court of New Jersey has stipulated that the assessment of the property be adjusted; and,

WHEREAS, the results of the judgment has caused an overpayment of November taxes for the year 2008, in the amount of \$3,649.24,

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey, that the Tax Collector is hereby authorized and directed to refund the overpayment of taxes on Block 117 Lot 6.01 in the amount of \$3,649.24.

BE IT FURTHER RESOLVED that payment is to be forwarded to Michael A. Vespasiano, Esq., 331 Main Street, Chatham, NJ 07928 by August 29, 2009.

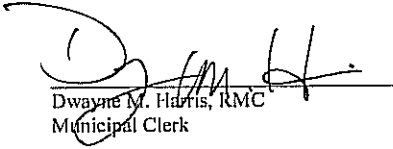
This Resolution was offered and moved by Council member Delosso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Delosso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 128-2009

SUPPORT OF THE 2010 MUNICIPAL ALLIANCE PROGRAM

WHEREAS, the Municipal Alliance Program has provided a wide range of services to the people of the Boroughs of Atlantic Highlands and Highlands, supporting programs such as D.A.R.E., parent education programs, drug free recreational programs such as Project Graduation and Project Prom, senior citizens programs and other services to all students and residents in need; and,

WHEREAS, for 2010, with a contribution of 25% matching funds from the Boroughs of Atlantic Highlands and Highlands, this Program is eligible for a 75% Municipal Alliance Grant for most costs; and,

WHEREAS, this contribution has been split evenly, 12.5% from each Borough, and will be used for programs that directly benefit students and residents with no portion of these funds being used for the compensation of any staff; and,

WHEREAS, Karen Van Natten, the Substance Awareness Coordinator, requests the same amount of funding as last year, and approval to file the Municipal Alliance Grant Application for 2010 which is now underway and due; and,

WHEREAS, the Borough had contributed an additional \$4,246.00 last year for continued support of this Program,

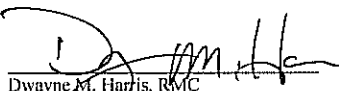
NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, that the request for matching funds of \$4,410.00 and additional funds of \$4,246.00 totaling \$8,656.00, for 2010 is approved.

BE IT FURTHER RESOLVED that the request to prepare and file the Municipal Alliance Grant Application for 2010 is approved, and the Mayor and Borough Administrator and Municipal Clerk are authorized to sign the Statement of Assurances concerning the Municipal Alliance Grant.

This Resolution was offered and moved by Council member Delloso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Delloso, Doyle, Fligor, Hoffmann and Sutton
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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 29th day of July 2009.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 129-2009

ENCOURAGING THE NEW JERSEY STATE LEGISLATURE TO PASS AND ENACT OF THE "JESSICA LUNSFORD ACT" IN THE STATE OF NEW JERSEY

WHEREAS, Jessica Marie Lunsford (October 6, 1995 – February 27, 2005) was a nine-year-old girl who was abducted from her home in Homosassa, Florida in the early morning of February 24, 2005 and was held captive over the weekend, was raped and later murdered by 47-year-old who was living nearby; and,

WHEREAS, following her death, her father, Mark Lunsford, pursued new legislation known as The Jessica Lunsford Act, named after his daughter, which would provide more stringent tracking of released sex offenders; and,

WHEREAS, The Jessica Lunsford Act revises the sentencing of certain sex offenders and persons who harbor them, requires electronic monitoring for sex offenders who prey on minors and creates child protection zones; and,

WHEREAS, The Jessica Lunsford Act requires the Chairman of the State Parole Board to provide for lifetime tracking of such offenders upon their release from incarceration; and,

WHEREAS, The Jessica Lunsford Act expands Megan's Law to restrict sex offenders from residing within 2500 feet of an elementary or secondary school, playground or child care center; and,

WHEREAS, The Jessica Lunsford Act imposes increased penalties on persons who commit sex crimes against minors, requiring a minimum of 25 years imprisonment before being eligible for parole, and also increases the penalties for harboring or concealing a sex offender; and,

WHEREAS, New Jersey is one of only eight States that have not passed and enacted The Jessica Lunsford Act and the residents of the Borough of Atlantic Highlands feel it that it is time to pass and enact The Jessica Lunsford Act, especially since the New Jersey Supreme Court has ruled that municipalities cannot prohibit registered sexual predators from residing near or loitering in places where children regularly frequent.

WHEREAS, the Governing Body of the Borough of Atlantic Highlands feel that the parents and children of Atlantic Highlands are:

- Worthy of such legislation that would seek tougher penalties on those harboring and abetting registered sex offenders.
- Entitled to have designated safety zones, such as playgrounds, schools, schoolyards and day care centers.
- Deserving of mandatory sentences for criminals who viciously attack, rape and even kill innocent children.
- First and foremost concerned with the safety of the children, which should supersede the rights of any known sex offender.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, that we are in full support of The Jessica Lunsford Act and feel, now more than ever, that this is the time to pass and enact this vital piece of legislation, in the State of New Jersey, so our children and families have these protections and recourses which are duly deserved.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to Governor Jon Corzine and the members of the New Jersey General Assembly and New Jersey State Senate who represent the Borough of Atlantic Highlands.

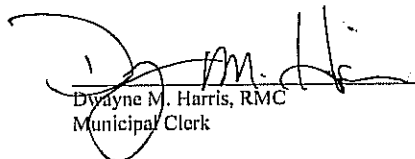
This Resolution was offered and moved by Council member Dellosso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Dellosso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.



Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 130-2009

APPROVING RAFFLE LICENSE APPLICATIONS

WHEREAS, Raffle Applications have been filed with the Municipal Clerk; and,

WHEREAS, the applicants are qualified to be licensed according to all standards established in accordance with *N.J.A.C. 13:45* regulations promulgated there under, and pertinent Borough Ordinances,

WHEREAS, the submitted raffle application forms are complete in all respects, the appropriate fees have been paid and a Finding and Determinations has been issued approving the issuance of a license.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, that the following Raffle License[s] is/are approved:

License #	Organization	Raffle Type	Date	Location
RL2048	AH Fire dept.	Off -Premise 50/50	November 18, 2009	AH Elementary School
RL2049	ARC of Monmouth	Off Premise Raffle	December 04, 2009	Shore Casino
RL2050	ARC of Monmouth	Off Premise 50/50	December 04, 2009	Shore Casino

This Resolution was offered and moved by Council member Delloso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members Delloso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 131-2009

PAYMENT OF BILLS

WHEREAS, certain numbered vouchers have been submitted to the Borough of Atlantic Highlands for payment from a list prepared and dated July 23, 2009 which totals as follows:

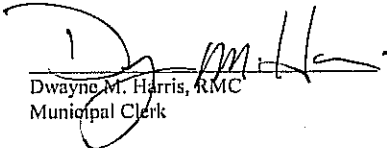
Current Fund	\$1,425,675.45
Capital Fund	\$108,311.93
Trust-Other	\$2,342.00
Water/Sewer Operating Fund	\$77,631.22
Water /Sewer Utility Capital	\$
Harbor Operating Fund	\$112,646.90
Harbor Utility Capital Fund	\$250.00
Federal/State Grants	\$
NJ Unemployment Trust Fund	\$
Animal	\$
Salary	\$0
TOTAL	<u>\$1,726,857.50</u>

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, that these vouchers, totaling **\$1,726,857.50** be paid to the person[s] named, for the amounts set opposite their respective name[s], and endorsed and approved on said vouchers. An individual listing of all bills submitted has been posted on the bulletin board and is also on file in the Municipal Clerk's office for reference.

This Resolution was offered and moved by Council member DeFosso, seconded by Council member Sutton and adopted on July 29, 2009 as follows:

AYES: Council members DeFosso, Doyle, Fligor, Hoffmann and Sutton
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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 132-2009

RESOLUTION AUTHORIZING THE PERFORMANCE OF ENGINEERING SERVICES FOR THE 2009 ROAD IMPROVEMENT PROGRAM

WHEREAS, the Borough of Atlantic Highlands has a need to contract for engineering services, associated with the 2009 Road Improvement Program, in the Borough of Atlantic Highlands, and,

WHEREAS, the Borough Administrator has determined that the value of these services will exceed the Borough's bid threshold of \$21,000.00; and,

WHEREAS, this contract is for "Professional Services", a service performed by a person in a recognized profession that is regulated by law, and may be awarded without competitive bidding in accordance with the Local Public Contracts Law, N.J.S.A. 40A: 11 et seq and the anticipated term of this contract is for 1 year and may be extended, upon the approval of the governing body; and,

WHEREAS, on January 24, 2007, ROBERT W. BUCCO, JR. an engineer licensed by the State of New Jersey who is experienced with municipal law and meets all of the requirements as set forth in the Borough's request for proposal, was appointed through the "Fair and Open" process, pursuant to N.J.S.A. 19:44A-20.4 et seq.; and,

WHEREAS the Governing Body of the Borough of Atlantic Highlands amended Resolution 031-2007, and the Contract for Engineering Services approved there under, to substitute the name and appointment of David Marks P.E. and T&M Associates, as the Borough Engineer for the balance of the remaining, unexpired term ending December 31, 2009, or until their successor is appointed and confirmed; and,

WHEREAS based on the scope of services, time table and work previously completed, T&M proposes a base engineering fee not to exceed \$129,500.00 to be billed monthly in accordance with the contract for Borough Engineer. The engineering fees associated with the Construction Administration and Inspection services are subject to increase if the add alternate roads are awarded as detailed in proposal number AHLD-G0901 dated July 27, 2009 ;and,

WHEREAS, this fee is subject to renegotiation if the scope of the work is expanded, or reduced, by the Borough, or had to be changed due to unanticipated field conditions. No services will be provided beyond the scope described in the proposal without authorization by the Borough.

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Atlantic Highlands authorizes the Borough Engineer to perform the engineering services, pursuant to NJAC 5:30-11.10, associated with the 2009 Road Improvement Program, in the Borough of Atlantic Highlands.

BE IT FURTHER RESOLVED THAT, all purchase orders placed by the Borough of Atlantic Highlands for engineering services, will be subject to such controls or approvals as required by the governing body or other administrative agency.

BE IT FURTHER RESOLVED THAT, the Chief Financial Officer for the Borough of Atlantic Highlands shall ensure that funds are available for such purposes through an encumbrance or certification of availability of funds, each time a purchase order is placed.

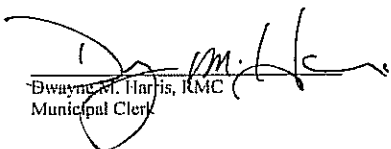
This Resolution was offered and moved by Council member Delosso, seconded by Council member Doyle and adopted on July 29, 2009 as follows:

AYES: Council members Delosso, Doyle, Fligor, Hoffmann and Sutton

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 July 29, 2009. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 30th day of July 2009.


Dwayne M. Harris, RMC
Municipal Clerk

