

# BOROUGH OF HIGHLANDS, N. J.

INCORPORATED 1900

171 BAY AVENUE  
07732  
COUNTY OF MONMOUTH  
PHONE: 732-872-1224  
FAX: 732-872-0670  
WWW.HIGHLANDSNJ.US



HISTORIC "TWIN LIGHTS"

FRANK L. NOLAN  
MAYOR

CAROLYN M. CUMMINS  
BOROUGH CLERK

**MAYOR AND COUNCIL  
REGULAR/WORK SHOP MEETING  
WEDNESDAY, JANUARY 20, 2016  
7:00 P.M.**

**Meeting Location: Robert D. Wilson Memorial Community Center, 22 Snug Harbor Avenue, Highlands, NJ**

Call to Order  
Meeting Statement  
Roll Call  
Executive Session Resolution

**EXECUTIVE SESSION:** 7:00 p.m.

|                                 |   |
|---------------------------------|---|
| Litigation:                     | <b>Baymens Lease</b>  |
| Contract Negotiation:           | <b>Monmouth County Health Dept,<br/>COAH RFP's</b>  |
| Real Estate:                    | <b>Municipal Facility Property Location</b>   |
| Personnel:                      | <b>Charlie Heck, David Parker,<br/>Barry Leaser All RICED</b>                               |
| Investigation:                  |   |
| Attorney-Client Communications: | <b>Cat Ordinance Amendments<br/>Renew R-6-51 Agreement<br/>Tilt Up NJDEP Warning Notice</b> |

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Call to Order  
Pledge of Allegiance  
Opening Prayer  
Roll Call  
Public Comment Period

**REGULAR MEETING:** 8:00 p.m.

**\*\* Presentation from Cross River Fiber\*\***

**Consent Agenda:**

1. R-16-35 Resolution Approving Agreement w/ Mon County
2. R-16-39 Resolution Authorizing BID For Lease of Property
3. R-16-40 Resolution Rescinding Liquor License Renewal for Grimaldi

4. R-16-41 Resolution Approving Change Order #1 Fiore Paving
5. R-16-42 Resolution Approving Raffle Licenses
6. R-16-44 Resolution Approving Professional Engineering Services
7. Payment of Bills
8. Minutes: Regular & Executive Session – Dec 28, 2015 & Jan 1, 2016

**Other Resolutions:**

1. R-16-34 Resolution Appointing Green Team Members
2. R-16-36 Resolution Approving Agreement with Cross River Fiber
3. R-16-37 Resolution Introducing the HBP 2016 Budget
4. R-16-38 Resolution Opting Out of Assessment Demonstration Program
5. R-16-43 Resolution Appointing Recreation Commission Members
6. R-16-45 Resolution Appointing Open Space Committee Members

**Ordinances: Introduction & Setting of a Public Hearing Date for February 17th**

1. O-16-2 Ordinance Amending Duties of Clerk
2. O-16-3 Ordinance for Mayor & Council to Serve without Compensation

**Ordinances: Public Hearing & Adoption**

1. Ordinance Combing Planning & Zoning Board

**Committee Reports**

1. Finance
2. Public Safety
3. Fire Department
4. Administration
5. Board of Education
6. Highlands Business Partnership
7. Shared Services

**Other Business:**

1. Engineers Status Report
2. Planning Board Status of Zone Change Request
3. Tilt Up Project –NJDEP Warning Notice
4. Review of 2015 Zoning Board Annual Report
5. Request for Funds for the Highlands Garden Club

1.

**PUBLIC PORTION: Please sign up prior to the meeting**

**Adjourn:**

1/15/2016 3:26 PM

**NOTE: Formal Action May Be Taken on Any and All Agenda Items**



December 3, 2015

Tim Hill  
Business Administrator  
Highlands Borough  
42 Shore Drive  
Highlands, NJ 07732

**Re: Request for Municipal Consent**

Dear Tim,

I am writing to request municipal consent from Highlands Borough for our company, Cross River Fiber to use the public right-of-way in order to attach or install our telecommunications fiber optic cable to existing utility poles or conduits. Enclosed you will find copies of a sample resolution, our BPU approval as well as a copy of applicable federal and state statutes that govern our industry.

As a telecommunications utility, we have been authorized by the Board of Public Utilities to provide local telecommunications services throughout the State of New Jersey. Pursuant to such authority, we may locate, place, attach, install, operate and maintain fiber optic facilities within the municipal, county and state right-of-way for the purpose of providing telecommunications services. As such, in accordance with N.J.S.A. 48:3-19, we request the consent of Highlands Borough to locate, operate and maintain fiber optic cable within the municipal right-of-way throughout the Borough for us by our commercial customer. We are respectfully requesting that this permission be granted within 60 days of receipt of this letter.

Our efforts to expand our existing fiber optic infrastructure throughout the State of New Jersey and through Highlands Borough will allow us to offer additional competitive services of all commercial and municipal customers. Our customers include other telecommunications carriers, enterprise and commercial businesses, municipal governments, hospitals and local school districts. We provide our customers with a network infrastructure which aggregates voice, internet and private data on high bandwidth fiber optic cable that spans from corporate campuses to metropolitan and inner-city networks

My office will be contacting you to follow up on your receipt of this information and to discuss the next steps to receive your municipal consent. In the meantime, should you have any questions, do not hesitate to contact me at 732-643-0115. We will be happy to make an informal presentation to you and your board at an appropriate upcoming meeting and to answer any questions they may have at that time.

Sincerely,

Fred Brody,  
Government Affairs  
732-643-0115

[CITY / TOWNSHIP / BOROUGH OF \_\_\_\_\_]  
RESOLUTION# \_\_\_\_\_

RESOLUTION APPROVING RIGHT-OF-WAY USE TO CROSS RIVER FIBER

WHEREAS, Cross River Fiber LLC ("Cross River Fiber"), seeks to place its telecommunication facilities aerially on existing utility poles or in an underground conduit in the Public Rights-of-Way within the [City / Township / Borough of \_\_\_\_\_] for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

WHEREAS, Cross River Fiber was approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State; and

WHEREAS, N.J.S.A. 48:3-19 requires Cross River Fiber to obtain the consent of the [City / Township / Borough of \_\_\_\_\_] for the joint use of any existing utility poles; and

WHEREAS, N.J.S.A. 54:30A-124(a) provides that a municipality may not impose any fees, taxes, levies or assessments in the nature of a local franchise, right of way, or gross receipts fee, tax, levy or assessment against telecommunications companies but that a municipality may impose reasonable fees for actual services made by any municipal, regional or county governmental agency; and

WHEREAS, it is in the best interests of the [City / Township / Borough of \_\_\_\_\_] and its citizens to grant consent to Cross River Fiber; and

WHEREAS, the consent granted is for the non-exclusive use of the Public Rights-of-Ways for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system subject to the terms and conditions of the attached Use Agreement with Cross River Fiber.

NOW THEREFORE BE IT RESOLVED, by the [City / Township / Borough Council] of the [City / Township / Borough of \_\_\_\_\_], that [City / Township / Borough of \_\_\_\_\_] is hereby authorized to grant Cross River Fiber a non-exclusive use of the Public Rights-of-Ways for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

BE IT FURTHER RESOLVED, that the Mayor and Clerk are hereby authorized to execute any and all documents necessary to effectuate this Resolution.

## RIGHTS-OF-WAY USE AGREEMENT

THIS RIGHTS-OF-WAY USE AGREEMENT ("Use Agreement") is dated \_\_\_\_\_ (the "Effective Date"), and entered into by and between the Borough of Highlands ("Borough"), a New Jersey Borough corporation, having its address at 171 Bay Avenue, Highlands, NJ 07732 and Cross River Fiber LLC ("Cross River Fiber") with offices located at 461 Headquarters Plaza, Morristown, NJ 07960.

### RECITALS

WHEREAS, Cross River Fiber was approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State of New Jersey by Order of Approval in Docket No. TE11050320 on July 14, 2011, Docket No. TE12040297 on June 18, 2012 and Docket No. TM14080906 and intends to provide telecommunication services in accordance with that Order and the rules and regulations of the Federal Communications Commission and the New Jersey Board of Public Utilities; and

WHEREAS, Pursuant to such authority granted by the New Jersey Board of Public Utilities, Cross River Fiber may locate, place, attach, install, operate and maintain facilities within Public Rights-of-Way for purposes of providing telecommunications services; and

WHEREAS, Cross River Fiber proposes to place its telecommunication facilities aerially on existing utility poles or in underground conduit in the Public Rights-of-Way within the Borough for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system.

WHEREAS, it is in the best interests of the Borough and its citizenry for the Borough to

grant consent to Cross River Fiber to occupy said Public Rights-of-Way within the Borough for this purpose.

WHEREAS, the consent granted herein is for the non-exclusive use of the Public Rights-of-Way within the Borough for the purpose of owning, constructing, installing, operating, and maintaining a telecommunications system.

NOW THEREFORE, in consideration of the mutual covenants and obligations hereinafter set forth, the Borough and Cross River Fiber hereby agree to and with each other as follows:

**Section 1. Definitions**

- a. "BPU" is the New Jersey Board of Public Utilities.
- b. "Cross River Fiber" is the grantee of rights under this Use Agreement and is known as Cross River Fiber, their successors and assigns.
- c. "Borough" is the grantor of rights under this Use Agreement and is known as the Borough of \_\_\_\_\_, State of New Jersey.
- d. "Public Utility" means any public utility defined in N.J.S.A. 48:2-13.
- e. "Public Rights-of-Way" means the space in, upon, above, along, across,, over, and through any public land, road, street or highway of the Borough, including lands with public utility facilities as the same now or hereafter may exist, that are under the jurisdiction of the Borough. This term shall not include Borough, state, or federal rights-of-way or any property owned by any person or agency other than the Borough, except as provided by applicable Laws or pursuant to an agreement between the Borough and any such person or agency.
- f. "Utility Pole" means, in addition to its commonly accepted meaning, any wires or cable connected thereto and any replacement thereof which are similar in construction and use.

**Section 2. Grant of Consent.**

The Borough hereby grants Cross River Fiber its Borough consent for the non-exclusive use

of the Public Rights-of-Way within the Borough for the purpose of owning, constructing, installing, operating, and maintaining a telecommunications system.

**Section 3. Public Purpose.**

It is deemed to be in the best interests of the Borough and its citizenry, particularly including commercial and industrial citizens, for the Borough to grant consent to Cross River Fiber to occupy said Public Rights-of-Way within the Borough for this purpose.

**Section 4. Scope of Use Agreement.**

Any and all rights expressly granted to Cross River Fiber under this Use Agreement, which shall be exercised at Cross River Fiber's sole cost and expense, shall be subject to the prior and continuing right of the Borough under applicable laws to use any and all parts of the Public Rights-of-Way exclusively or concurrently with any other person or persons, and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect such Public Rights-of-Way. Nothing in this Use Agreement shall be deemed to grant, convey, create or vest in Cross River Fiber a real property interest in land, including any fee, leasehold interest, easement, or any other form of interest or ownership.

The Borough hereby authorizes and permits Cross River Fiber to enter upon the Public Rights-of-Way and to attach, install, operate, maintain, remove, reattach, reinstall, relocate and replace its telecommunications facilities, in or on Utility Poles or other structures owned by public utility companies, or others, or to be constructed by Cross River Fiber located within the Public Rights-of-Way as may be permitted by the property owner, as the case may be.

**Section 5. Compliance with Ordinance**

Cross River Fiber shall comply with all applicable existing ordinances of the Borough as

may be amended from time to time and with all future ordinances as may be enacted to the extent such ordinances are consistent with state and federal law.

**Section 6. Duration of Consent**

The non-exclusive Borough consent granted herein shall expire fifty (50) years from the Effective Date of this Use Agreement.

**Section 7. Indemnification**

Cross River Fiber, its successors, assigns, sub-contractors, agents, servants, officers, employees, designees, guests and invitees, hereby indemnify, defend and hold harmless the Borough, its successors and assigns, elected officials, officers, employees, servants, contractors, designees and invitees from and against any and all personal injury and property damage claims, demands, suits, actions at law or equity or otherwise, judgments, arbitration determinations, damages, liabilities, decrees of any person(s) or entities claiming to be or being harmed as a result of Cross River Fiber actions under this Use Agreement and costs in connection therewith. This indemnification shall specifically include, but not be limited to, any and all costs, reasonable attorneys fees, court costs and any other expenses that may be incurred by the Borough in connection with any and all claims, demands, suits, actions at law or equity or otherwise and/or arbitration proceedings which may arise in connection with Cross River Fiber activities pursuant to the rights granted in this Use Agreement.

**Section 8. LIMITATION OF LIABILITY**

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES. ALL DAMAGES ARISING FROM ANY CLAIM OR CAUSE OF ACTION SHALL BE LIMITED TO PROVEN DIRECT DAMAGES.**



**Section 9: Notices**

All notices or other correspondence required or permitted to be given in connection with this Use Agreement shall be in writing and delivered personally, by telecopy, by overnight carrier service or by registered or certified mail to the parties at the following addresses:

To Cross River Fiber at:                      Cross River Fiber LLC  
461 Headquarters Plaza  
Morristown, NJ 07960.  
Attn: Robert Sokota, Chief Administrative Officer and  
General Counsel

To the Borough of Highlands at:                      The  
  
Attn: Borough Clerk

**Section 10. Liability Insurance**

Cross River Fiber shall at all times maintain a comprehensive liability insurance policy with a single amount of at least One Million Dollars (\$1,000,000.00) covering liability for any death, personal injury, property damage or other liability arising out of the construction and operation contemplated herein, and an excess liability policy (or "umbrella") policy amount in the amount of Five Million Dollars (\$5,000,000.00).

Prior to the commencement of any work pursuant to this Use Agreement, Cross River Fiber shall file with the Borough Certificates of Insurance with endorsements evidencing the coverage provided by said liability and excess liability policies.

The Borough shall notify Cross River Fiber within fifteen (15) days after the presentation of any claim or demand to the Borough, either by suit or otherwise, made against the Borough on account of any of Cross River Fiber or its sub-contractors, agents, employees, officers, servants, designees, guests and invitees, activities pursuant to the rights granted in this Use Agreement.

**Section 11. Assignment.**

Cross River Fiber may not assign this Use Agreement without the written consent of the Borough, which consent shall not be unreasonably withheld or delayed, except that Cross River Fiber shall have the right, upon notice to the Borough, to assign this Use Agreement without the Borough's consent if such assignment is approved by the BPU.

**Section 12. Successors and Assigns.**

The terms and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

**Section 13. Governing Law.**

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New Jersey.

**Section 14. Incorporation of Prior Agreements.**

This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof, and no prior other written or oral agreement or undertaking pertaining to any such matter shall be effective for any purpose.

**Section 15. Modification of Agreement.**

This Agreement may not be amended or modified, nor may any obligation hereunder be waived orally, and no such amendment, modification or waiver shall be effective for any purpose unless it is in writing and signed by the party against whom enforcement thereof is sought.

**Section 16. Invalidity.**

If any provision hereof shall be declared invalid by any court or in any administrative proceedings, then the provisions of this Agreement shall be construed in such manner so as to preserve the validity hereof and the substance of the transaction herein contemplated to the extent possible.

The headings are provided for purposes of convenience of reference only and are not intended to limit, define the scope of or aid in interpretation of any of the provisions hereof.

**Section 17. Counterparts.**

This Agreement may be executed and delivered in several counterparts, each of which, when so executed and delivered, shall constitute an original, fully enforceable counterpart for all purposes.

IN WITNESS WHEREOF, this Use Agreement has been executed as of the date set forth below.

Cross River Fiber LLC

\_\_\_\_\_

Robert Sokota, Chief Administrative Officer and General Counsel

Dated: \_\_\_\_\_

The Borough of \_\_\_\_\_

\_\_\_\_\_

Tim Hill, Borough Administrator: \_\_\_\_\_

Dated: \_\_\_\_\_

R-16-34

RESOLUTION ESTABLISHING A GREEN TEAM

WHEREAS, the Borough of Highlands is desirous of establishing a Green Team for the purpose of promoting sustainability in the Borough of Highlands; and

WHEREAS, the responsibilities of the Green Team can also be assumed by the existing municipal Environmental Commission, and

WHEREAS, as it is also desirable to include the following departments within the Borough on the Green Team,

Members of the team:

- Public Works
- Nancy Burton - Recycling
- Steve Szolecki - Environmental
- Recreation
- Ken Braswell - Zoning Board
- Carla Braswell - HBP Representative
- Rosemary Ryan - School Board
- Tim Hill - Business Administrator
- Carolyn Broulon - Council Liaison
- Frank Nolan - Mayor
- Carolyn Broulon - (1)Resident

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the establishment of a Green Team is hereby authorized effective January 20, 2016 through December 31, 2016

|                   | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|-------------------|------------|----------|-----|-----|---------|--------|
| BROULLON          |            |          |     |     |         |        |
| CARD              |            |          |     |     |         |        |
| D'ARRIGO          |            |          |     |     |         |        |
| WELLS             |            |          |     |     |         |        |
| NOLAN             |            |          |     |     |         |        |
|                   |            |          |     |     |         |        |
|                   |            |          |     |     |         |        |
| ON CONSENT AGENDA |            |          | YES | NO  |         |        |

DATE: January 20, 2016

CAROLYN CUMMINS, BOROUGH CLERK

**RESOLUTION R-16-35**

**RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE BAY AVENUE STREETScape PROJECT BETWEEN THE BOROUGH OF HIGHLANDS AND MONMOUTH COUNTY**

**WHEREAS**, the Borough of Highlands Bay Avenue Streetscape Project is in the middle of construction of improvements to portions of Bay Avenue; and

**WHEREAS**, the plans and specifications referred to in an agreement as "Improvement Plan" have been examined and approved by the Monmouth County Engineer.; and

**WHEREAS**, the County of Monmouth has prepared a written agreement and wishes to enter into an agreement for their approval of the project; and

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Highlands, in the County of Monmouth and State of New Jersey, that the appropriate municipal officials are hereby authorized to execute an Agreement between the Borough of Highlands and the County of Monmouth substantially the form attached hereto.

|                                  | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|----------------------------------|------------|----------|-----|-----|---------|--------|
| BROULLON                         |            |          |     |     |         |        |
| CARD                             |            |          |     |     |         |        |
| D'ARRIGO                         |            |          |     |     |         |        |
| WELLS                            |            |          |     |     |         |        |
| NOLAN                            |            |          |     |     |         |        |
|                                  |            |          |     |     |         |        |
|                                  |            |          |     |     |         |        |
| ON CONSENT AGENDA ___ YES ___ NO |            |          |     |     |         |        |



## AGREEMENT

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the County of Monmouth, a Municipal Corporation of the State of New Jersey, hereinafter designated as the "**County**"; the Borough of Highlands, a Municipal Corporation of the State of New Jersey, hereinafter designated as the "**Borough**".

### PREAMBLE

The **County** and the **Borough** agree that the public interest requires improvements be made to County Route 8 (Bay Avenue) between Central Avenue and Washington Avenue and between Valley Street and Shrewsbury Avenue.

The plans and specifications, hereinafter designated as **Improvement Plans**, are incorporated into this agreement as if set forth at length herein. The improvements depicted upon the **Improvement Plans** shall be hereinafter referred to as the **Project**.

The above referenced **Improvement Plans** have been examined and approved by the Monmouth County Engineer. Execution of this agreement, by and between the **County** and the **Borough** shall conclusively evidence their acceptance and approval of the **Improvement Plans** and agreement, which are specifically incorporated herein as if set forth at length. Should a provision(s) of this agreement differ from the provisions of the **Improvement Plans**, the provisions of this agreement shall govern and control.

**IN CONSIDERATION** of the mutual covenants and conditions herein contained, and for other good and valuable consideration, IT IS MUTUALLY AGREED upon, by and between the parties as follows:





1. The construction and installation of the **Project** by the **Borough** shall be in accordance with the approved **Improvement Plans** and shall be in accordance with the regulations of the New Jersey Department of Transportation together with approvals from such other governmental regulatory agencies which may be entitled to pass upon and approve said installations, and the same shall be installed in a good and workmanlike manner so as to complete the **Project**. Notwithstanding the foregoing, should conditions arise during the course of construction of the **Project**, which necessitates a modification to the **Improvement Plans**; and the **Borough** will endorse such changes only if agreed upon by the County Engineer.
2. Every notice, approval, consent or other communication authorized or required by this Agreement shall not be effected unless the same shall be in writing and sent, by United States registered or certified mail, return receipt requested, directed to the other party at its address hereinafter mentioned, or such other address as either party may designate by notice given from time to time in accordance with this paragraph. Every notice shall be deemed to have been given on the date on which the envelope in which such notice is enclosed was postmarked as being mailed, as above provided, in a United States mailbox or post office, except as expressly otherwise provided.
3. Following **Project** completion, the **County** shall be responsible for roadway maintenance of the curb to curb regular asphalt pavement surface and storm sewers along County Route 8 (Bay Avenue) which are located within **County** right-of-way. All other improvements, of whatsoever type and description, located within or outside of the County right-of-way, including all curbing, sidewalk, landscaping, stamped concrete

sidewalk, and textured crosswalks and pavement treatments shall be the responsibility of the **Borough**.

4. The **Borough** shall be responsible for the restoration of textured crosswalks in the future **County** resurfacing program.
5. Future utility roadway opening application shall be submitted to the **County** and **Borough** for approval. **Borough** shall be responsible for the inspection of the restoration of textured crosswalks by utility companies.
6. Notices necessary and provided in this **Agreement** shall be mailed to:

**To the Borough:**  
Borough of Highlands  
Attention: Timothy Hill, Administrator  
171 Bay Avenue  
Highlands, NJ 07732

**Copy to the Borough Clerk:**  
Borough of Highlands  
Attention: Carolyn Cummins  
171 Bay Avenue  
Highlands, NJ 07732

**Copy to the Borough Attorney:**  
Engineer:

Bruce Padula, Esq.  
Cleary, Giacobbe, Alfieri,  
Jacobs, LLC  
5 Ravine Drive  
Matawan, NJ 07747

**Copy to the Borough's Consulting**

Robert R. Keady, Jr., P.E., P.P.  
T&M Associates  
11 Tindall Road  
Middletown, NJ 07748

And

**To the County Engineer:**  
Joseph M. Ettore, P.E., P.P.  
Monmouth County Engineer  
County of Monmouth  
Hall of Records Annex  
One East Main Street  
Freehold, NJ 07728

**Copy to County Attorney:**  
Andrea I. Bazer, Esq.  
Monmouth County Counsel  
Hall of Records  
One East Main Street  
Freehold, NJ 07728

**Copy to County Administrator:**  
Teri O'Connor  
Monmouth County Administrator  
Hall of Records  
One East Main Street  
Freehold, NJ 07728

7. If any term, covenant, condition or provisions of this Agreement, or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
8. The **Borough** does hereby indemnify and save harmless the **County** from and against any and all loss, damage, claims, actions, liability and expense, in contract or in tort, in connection with the loss of life, bodily injury and/or property damage, if occasioned in whole or in part by any act of any **Borough** employee, or agent of the **Borough**, or by any defect in workmanship, installation, construction, design, operation, inspection, maintenance or material for the improvement installed by the **Borough**, its contractors, subcontractors or by any agents, servants, employees or materialmen of the **Borough**. The **Borough** shall cause any general contractor to maintain liability insurance pursuant to the contract specifications and name **County** as additional insured.
9. The **County** shall indemnify, defend, and hold harmless the **Borough** against any and all claims arising out of the performance of any of the County's obligations under this contract except as noted in Paragraph 8 above.
10. This Agreement sets forth all of the promises, agreements, conditions and understandings between the parties relative to the subject matter hereof which shall bind and insure to the benefit of the parties and their respective heirs, executors, administrators, conditions and assigns, and there are no promises, agreements, conditions, or understandings either

written or oral, expressed or implied, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alterations, amendments, changes or additions to the Agreement shall be binding upon any of the parties unless reduced to writing and signed by all parties.

11. Miscellaneous Agreement Provisions:

- i. CAPTIONS/HEADINGS: All captions and headings are for purposes of reference only and shall not affect interpretation or construction of any provision of this Agreement.
- ii. GOVERNING LAW: This Agreement and the performance hereof shall be governed by interpreted, construed and enforced in accordance with the laws of the State of New Jersey.
- iii. GENDER AND NUMBERS: In all references herein to any party, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.
- iv. COUNTERPARTS: This Agreement may be executed in one or more counterparts, any or all of which shall constitute one and the same instrument. This Agreement may be delivered by any Party by facsimile transmission to the other Party with the same force and effect as if originally executed versions of this Agreement were delivered. If this agreement is executed in counterparts or delivered by facsimile transmission, any Party may require at any time thereafter that all Parties circulate sufficient additional copies of this Agreement for execution so that each Party may retain two (2) fully executed originals of this Agreement.
- v. NO ORAL CHANGES: This Agreement may not be altered or modified orally, but only a written agreement executed by the parties hereto.
- vi. DATE OF AGREEMENT: The date of this Agreement shall be the date on which it is executed by all parties or, if not executed simultaneously, the date on which it is executed by the last of the parties, which date will be inserted at the top of the first page hereof.

- vii. WAIVER: No waiver of either party or any failure of, or refusal, by, the other party to comply with its obligations under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal or refusal to so comply.

**IN WITNESS WHEREOF**, the parties of this agreement have caused these present to be signed by their duly authorized officers and their corporate seal to be hereunto affixed the day and year first above written.

**ATTEST:**

**BOROUGH OF HIGHLANDS**

\_\_\_\_\_  
Carolyn Cummins, Borough Clerk

\_\_\_\_\_  
Timothy Hill, Borough Administrator

**ATTEST**

\_\_\_\_\_  
James S. Gray, Clerk  
Board of Chosen Freeholders  
Monmouth County

\_\_\_\_\_  
Gary J. Rich, Sr.  
Board of Chosen Freeholders  
Monmouth County



**RESOLUTION APPROVING RIGHT-OF-WAY USE TO CROSS RIVER FIBER**

**WHEREAS**, Cross River Fiber LLC is a provider to provide local exchange and interexchange telecommunication services subject to the regulations of the New Jersey Board of Public Utilities (“BPU”) and the Federal Communications Commission (“FCC”), which authorize Cross River Fiber LLC to provide local exchange and interexchange telecommunications services; and

**WHEREAS**, the BPU recognizes Cross River Fiber LLC as a local exchange carrier that provides local telephone and associated services in its service territory in New Jersey through a telecommunications network that it owns and operates; and

**WHEREAS**, Cross River Fiber LLC has represented that it has entered into agreements with parties that have the lawful right to maintain poles in the public right-of-way pursuant to which Cross River LLC may jointly use such poles erected within the public right-of-way in the Borough of Highlands (the “Borough”); and

**WHEREAS**, Cross River Fiber LLC proposes to provide telecommunications services in accordance with the Order and the rules and regulations of the FCC and the BPU; and

**WHEREAS**, Cross River Fiber LLC intends to access and use the Borough’s public rights-of-way to locate, place, attach, install, operate and/or maintain telecommunication facilities on existing utility poles as well as new and/or existing underground conduit systems in Borough of Highlands public rights-of-way; and

**WHEREAS**, N.J.S.A. 48:3-19 requires Cross River Fiber to obtain the consent of the Borough for the use of any existing utility poles; and

**WHEREAS**, pursuant to such authority granted by the BPU and FCC, Cross River Fiber LLC may locate, place, attach, install, operate and maintain facilities with public rights-of-way for purposes of providing telecommunications services; and

**WHEREAS**, the existing utility poles are owned and maintained by private telecommunications and utility providers; and

**WHEREAS**, Cross River Fiber LLC shall obtain the permission of the owner(s) of said existing utility poles and provide proof of said consent and/or license to the Borough before any work is commenced; and

**WHEREAS**, N.J.S.A. 54:30A-124(A) provides that a municipality may not impose any fees, taxes, levies or assessments in the nature of a local franchise, right-of-way, or gross receipt fee, tax, levy or assessment against telecommunications companies but that a municipality may impose reasonable fees for actual services made by any municipal, regional or county governmental agency; and

**WHEREAS**, it is the best interest of the Borough and its residents for the Borough to grant consent to Cross River Fiber LLC to occupy and access said public rights-of-way within the Borough for this purpose.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Highlands that Cross River Fiber LLC is hereby granted a non-exclusive use of public rights-of-ways for the purposes of owning, constructing, installing, operating, repairing and maintaining a telecommunications system subject to the terms and conditions of the Borough's Rights-of-Way Agreement with Cross River Fiber LLC; and

**BE IT FURTHER RESOLVED** that the Borough Administrator and the Borough Clerk are hereby authorized to execute any and all documents necessary to effectuate this Resolution; and

**BE IT FURTHER RESOLVED** that once executed the referenced Rights-of-Way Agreement with Cross River Fiber shall be kept on file by the Borough Clerk; and

**BE IT FURTHER RESOLVED** that certified copies of this resolution be forwarded to:

1. Bruce W. Padula, Esq., Borough Attorney
2. Timothy Hill, Borough Administrator

|                   | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|-------------------|------------|----------|-----|-----|---------|--------|
| BROULLON          |            |          |     |     |         |        |
| CARD              |            |          |     |     |         |        |
| D'ARRIGO          |            |          |     |     |         |        |
| WELLS             |            |          |     |     |         |        |
| NOLAN             |            |          |     |     |         |        |
|                   |            |          |     |     |         |        |
|                   |            |          |     |     |         |        |
| ON CONSENT AGENDA |            |          | YES | NO  |         |        |

DATE: January 20, 2016

\_\_\_\_\_  
Carolyn Cummins, Borough Clerk

I hereby certify this to be a true copy of the R-16-36 adopted by the Governing Body of the Borough of Highlands on January 20, 2016.

\_\_\_\_\_



\_\_\_\_\_ offered the following Resolution and moved on its introduction and setting of a public hearing date of February 17, 2016 at 8:00 P.M.:

**R-16-37**

**RESOLUTION APPROVING INTRODUCTION OF THE HBP 2016  
BUDGET AND  
HIGHLANDS BUSINESS IMPROVEMENT DISTRICT  
District Management Corporation  
Highlands Business Partnership  
January 1, 2016– December 31, 2016**

| <b>COMMERCIAL DISTRICT<br/>PROGRAM BUDGET</b>                              | <b>2016<br/>EXPENSE</b> |
|--|-------------------------|
| <b>Visual Improvement.....</b>   | <b>\$20,000.00</b>      |
| <input type="checkbox"/> Beautification                                    |                         |
| <input type="checkbox"/> Maintenance                                       |                         |
| <input type="checkbox"/> Holiday & Seasonal                                |                         |
| <input type="checkbox"/> Street Banners                                    |                         |
| <b>Special Events Calendar.....</b>  | <b>\$50,000.00</b>      |
| <input type="checkbox"/> Creation of events                                |                         |
| <b>Marketing &amp; Communications.....</b>                                 | <b>\$25,000.00</b>      |
| <input type="checkbox"/> Ad campaigns – online, newspaper, magazine, shows |                         |
| <input type="checkbox"/> Tourism   |                         |
| <input type="checkbox"/> Public Relations                                  |                         |
| <input type="checkbox"/> Image Building                                    |                         |
| <input type="checkbox"/> Visitor Guide                                     |                         |
| <input type="checkbox"/> Audio & Video Media                               |                         |
| <input type="checkbox"/> Maintain Website & Database & Graphic Ad Design   |                         |
| <b>Economic Development.....</b>   | <b>\$15,000.00</b>      |
| • Business Recruitment/Retention & Redevelopment                           |                         |
| <b>Administrative Budget</b>   |                         |
| <b>Personnel.....</b>  | <b>\$40,000.00</b>      |
| <b>Miscellaneous.....</b>  | <b>\$10,000.00</b>      |
| <input type="checkbox"/> Legal and Audit                                   |                         |
| <input type="checkbox"/> Insurance   |                         |

- Office Supplies
- Utilities – Telephone, fax & electric
- License & fees

**TOTAL Expenses.....\$160,000.00**

**HIGHLANDS BUSINESS IMPROVEMENT DISTRICT  
District Management Corporation  
Highlands Business Partnership  
January 1, 2016 – December 31, 2016**

**COMMERCIAL DISTRICT  
PROGRAM BUDGET**

**2016  
Income**

**Special Events Income.....\$80,000.00**

- Vendor Fees Income
- Event Income (Social Affairs & Raffle Permit income)

**Marketing & Communications.....\$10,000.00**

- Sponsorship Income
- Barter Goods & Services (approx. \$12k)

**TOTAL Income .....\$90,000.00**

**TOTAL ASSESSMENT INCOME REQUIRED TO OPERATE - \$60,000.00**

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**RESOLUTION ADVISING THE MONMOUTH COUNTY BOARD OF TAXATION  
THAT THE BOROUGH OF HIGHLANDS IS OPTING OUT OF THE MONMOUTH  
COUNTY BOARD OF TAXATION ASSESSMENT DEMONSTRATION PROGRAM**

**WHEREAS**, the Legislature adopted a statute establishing the Assessment Demonstration Program (“ADP” or the “Program”) requiring all municipalities in Monmouth County, including the Borough of Highlands, to perform a revaluation of all properties within their municipal boundaries, and to thereafter, perform an annual assessment of the entire municipality with the inspections of twenty percent (20%) of all the properties per year over a five year period; and

**WHEREAS**, it has been reported in the press there is an ongoing criminal inquiry into the relationships surrounding the implementation of the ADP and there have been concerns expressed about the preliminary results of a revaluation performed by Realty Data Systems, LLC in the Borough and the fact the Freeze Act does not apply under ADP; and

**WHEREAS**, the Monmouth County Board of Taxation issued a letter to all Monmouth County municipalities including the Borough of Highlands advising the Borough that in response to demand from taxpayers and political leaders the County Board of Taxation adopted a resolution permitting municipalities to opt out of performing annual assessments as required by the Program; and

**WHEREAS**, the Mayor and Council believes it is in the best interest of the residents of Highlands to opt out of ADP given the concerns expressed about the integrity of ADP and other concerns expressed concerning the implementation of the ADP.

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the Borough will opt-out of the Assessment Development Program permitting it not to perform annual assessments beginning in 2017 and to otherwise return to the residential tax appeal system in effect prior to the implementation of the ADP as permitted by applicable law.

**BE IT FURTHER RESOLVED** that the Council hereby authorizes the Mayor to take such further action necessary in response to any further additional information received from the Monmouth County Board of Taxation and that a copy of this ordinance be sent to the following:

1. Monmouth County Board of Taxation
2. Monmouth County Legislative Representatives
3. Clerks, Monmouth County Municipalities

**R-16-40**  
**RESOLUTION RESCINDING RENEWAL OF**  
**LIQUOR LICENSE 1317-33-004-012**  
**GRIMALDIS**

**WHEREAS**, the Borough of Highlands adopted Resolution R-15-177 on September 2, 2015 a Resolution Renewing Liquor Licenses which included the renewal of License No. 1317-33-004-002 owned by Grimaldis for the License period of July 1, 2015 through June 30, 2016; and

**WHEREAS**, renewal application and approval were filed with the State of New Jersey Division of Alcohol and Beverage Control; and

**WHEREAS**, it has been brought to the attention of the Borough that based on changes within the renewal application it has now been determined that the application will be required to apply for a Petition for a Special ruling because the license has been inactive since October 2012.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the Renewal of Liquor License for License No. 1317-33-004-002 is hereby rescinded for the period of July 1, 2015 through June 30, 2016.

**R-16-41  
RESOLUTION APPROVING CHANGE ORDER #1  
FIORE PAVING COMPANY, INC.  
INCREASE OF \$17,000  
SHORE DRIVE PHASE II PROJECT**

**WHEREAS**, Resolution R-15-138 was adopted on June 25, 2015 awarding a contract to Fiore Paving Company for the Shore Drive Phase II Project as follows:

|          |               |              |
|----------|---------------|--------------|
| R-15-138 | June 25, 2015 | \$233,000.07 |
|----------|---------------|--------------|

**WHEREAS**, change order # 1 dated January 12, 2016 prepared by T & M Associates, professional engineers, sets forth reasons for said change order ( Bay Street Asphalt Berm and Gutter Paving ),

**NOW, THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of Highlands that change order #1 increasing the original contract amount by \$17,000.00 is hereby authorized for the Shore Drive Phase II Project. The contract amount is hereby amended to \$250,000.07.

Certification of Funds:

I hereby certify that funds are available for this contract from Bond Ordinance #\_\_\_\_\_.

\_\_\_\_\_  
Patrick DeBlasio  
Chief Financial Officer

**Date: January 20, 2016**

-----  
**CAROLYN CUMMINS, BOROUGH CLERK**

**R-16-42  
RESOLUTION  
APPROVING RAFFLE LICENSE APPLICATION**

**WHEREAS**, the Hi-Mar Striper Club has submitted a Raffle License Application No. RA1317-16-01; and

**WHEREAS**, the Henry Hudson Regional School PTO has submitted a Raffle License Application No. 1317-16-02; and

**WHEREAS**, the Highlands Business Partnership has submitted a Raffle License Application No. 1317-16-03; and

**WHEREAS**, all paperwork appears to be in order.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands does hereby approve Raffle License Applications RA#1317-16-01, 02, 03 and the Borough Clerk is authorized to sign off on licenses.

|                                | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|--------------------------------|------------|----------|-----|-----|---------|--------|
| BROULLON                       |            |          |     |     |         |        |
| CARD                           |            |          |     |     |         |        |
| D'ARRIGO                       |            |          |     |     |         |        |
| WELLS                          |            |          |     |     |         |        |
| NOLAN                          |            |          |     |     |         |        |
|                                |            |          |     |     |         |        |
|                                |            |          |     |     |         |        |
| ON CONSENT AGENDA    YES    NO |            |          |     |     |         |        |

**DATE:            January 20, 2016**

\_\_\_\_\_  
**CAROLYN CUMMINS, BOROUGH CLERK**

I hereby certify this to be a true copy of the Resolution adopted by the Mayor and Council of the Borough of Highlands on January 20, 2016.

\_\_\_\_\_  
**BOROUGH CLERK/DEPUTY CLERK**

**R-16-43**  
**RESOLUTION APPOINTING**  
**RECREATION COMMITTEE**  
**MEMBERS**

**WHEREAS**, Section 2-23 of the Borough of Highlands General Code creates a RECREATION COMMITTEE, (ADVISORY) which states there shall be an advisory recreation committee in the borough consisting of not less than five nor more than nine members. All appointments shall be for one year and members shall serve until their respective successors are appointed and qualified. The recreation committee shall advise the mayor and council on the recreation program of the borough; and

**WHEREAS**, it is the desire of the Governing Body to appoint and implement the Recreation Committee and would appoint the following Member:

1. Greg Wells
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of Highlands that the above named persons are hereby appointed to the Recreation Committee for a one year term to expire December 31, 2016.

DATE: January 20, 2016

## **Parks and Recreation Committee.**

### **2-10.4 Relationship to Mayor and Borough Council.**

- a. The recreation committee shall work with the mayor and borough council through its ex officio member to plan and execute, through the recreation director and staff, a balanced recreation program for the citizens of the borough.
- b. The mayor and borough council shall annually appropriate in its budget funds which may be expended through established administrative channels to provide for balanced recreation programs.
- c. Neither the recreation committee, nor any member thereof, nor the recreation director or staff, shall have the power or right, express or implied, to bind or obligate the Borough of Highlands or the mayor and borough council of the Borough of Highlands directly or indirectly.

### **2-10.5 Organization.**

The recreation committee shall organize each year within ten days of January 1 of each year and choose from among its members such officers as it deems advisable, adopt rules and bylaws for the proper conduct of its meetings and formulate such committees for the oversight of its programs.

### **2-10.6 Powers and Duties.**

The purpose of this section shall be to create the Borough of Highlands Recreation Committee, which shall be charged with the responsibility to plan, promote and organize a recreational program within the borough and administer same in the interests of the entire community. The recreation committee shall not be deemed to be a recreation commission pursuant to N.J.S.A. 40:61-17 et seq. or 40:12-1 et seq., but said committee shall have only those powers and duties that have been more particularly provided in this section or by resolution of the mayor and council.

The recreation committee shall fix and determine the duties of and recommend to the mayor and council the appointment of a recreation director and aides and such other supervisory or custodial personnel as it deems necessary for the successful completion and operation of the recreational program. The recreation committee shall, from time to time, study the advisability of the acquisition of additional park and recreational lands; formulate plans for the development and improvement of the public park and playground lands now or hereafter owned by the borough; propose methods or arrangements for the proper maintenance and care of such lands and the improvement thereof and formulate rules and regulations for the public use of such park and playground lands and improvements. The mayor and council at its discretion shall refer to the recreation committee for its consideration and recommendation any proposals for recreational programs or acquisitions of equipment, facilities or property that may be under consideration by the mayor and council. The committee shall study such matters referred to it by the mayor and council and shall report its findings and conclusions thereon, in writing, to the mayor and council as soon as may be reasonably possible.

### **2-10.7 Annual Budget.**

The recreation committee shall submit to the mayor and council the subsequent year's proposed comprehensive budget for the annual recreation program prior to November 1 of each year. The mayor and council shall annually appropriate such sums as it may deem necessary for such purposes, and those funds will thereafter be administered and disbursed by normal borough financial control procedures.



**2-10.8 Fees.**

The Recreation Committee shall charge a registration fee and a late fee after the specified deadline for registrations in accordance with the schedule below. The schedule of fees may be revised from time to time.

**2-10.9 Annual Report.**

The committee shall submit an annual report to the mayor and council by December 31, setting forth in detail its operations, activities and accomplishments for the preceding year.

**2-10.10 Liability.**

Nothing in this section shall be construed to hold the committee or any committee member liable for the death, injury or illness of any person in connection with any recreational activity.

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH**

**R-16-44**

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN  
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES  
T & M ASSOCIATES**

**WHEREAS**, the Borough of Highlands had a need for professional engineering services as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5. This contract is to provide professional engineering services for the additional work the 8 Bay Street Retaining Wall Project, Reconstruction of Bay Street Project and the Dredging of Jones Creek; and

**WHEREAS**, such professional engineering services can only be provided by licensed professionals and the firm of T & M Associates, Eleven Tindall Road, Middletown, N.J. 07748-2792 is so recognized; and

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

**WHEREAS**, this contract is to be awarded for an amount not to exceed \$13,775. 68 plus reimbursable expenses for Professional Engineering Services to provide professional engineering services to the Borough of Highlands during the year 2015 and

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

**WHEREAS**, T & M Associates has completed and submitted a Political Contribution Disclosure form in accordance with P.L. 2005, c 271; and

**WHEREAS**, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands:

I hereby certify funds are available as follows:

# \_\_\_\_\_

-----  
Patrick DeBlasio, Chief Financial Office



YOUR GOALS. OUR MISSION.

HGHL-G1501

December 10, 2015

Timothy Hill  
Borough Administrator  
Borough of Highlands  
42 Shore Drive  
Highlands, New Jersey 07732-1405

*Via Email & First Class Mail*

**Re: Project Closeout and Additional Costs**

Dear Mr. Hill:

As previously discussed, we have several projects that we are closing out, but have incurred additional costs. Below is a list of those projects including cost overruns and the reasons why.

**8 Bay Street Retaining Wall:**

As you recall, the final scope of this project had increased beyond the original authorization due to several factors:

- Additional slope design/stabilization measures including removing the retaining wall found along the midpoint of the slope and replacing the failed wall at the toe of the slope adjacent to the patio.
- Additional restoration considerations and end treatments along the roadway edge.
- Investigation of additional bituminous curbing south of the project site.

As such, we incurred an additional \$4,664.46 in fees associated with the above items.

**The Reconstruction of Bay Street:**

As you are aware, the original authorization was to perform a complete survey of the roadway, as well as preliminarily investigate potential solutions for interim repairs. However, we have met numerous times with Borough Officials and devised several potential repair solutions, including the repair that the Contractor will be making the week of December 7, 2015.

As such, we incurred an additional \$2,445.75 in fees associated with these additional tasks.

**The Dredging of Jones Creek:**

As you recall, in 2013 Monmouth County forces dredged Jones Creek as part of a shared service agreement with the Borough. The County also had to return to the site to perform additional dredging in an effort to open the channel to the full width. As a result of their efforts, several components of the existing bulkhead were damaged and required repair. T&M Associates met



**Le:** Timothy Hill, Borough Administrator  
Borough of Highlands

**Re:** Project Closeouts and Additional Costs

several times with County forces in an effort to rectify the damages caused to the bulkhead. Although several areas were repaired, not all damages were addressed. We recommend that the Governing Body follow up with the County on this matter.

As such, we incurred an additional \$6,665.47 in fees associated with the extra efforts noted above.

If you have any questions or require additional information on any of the above items, please contact me at your earliest convenience.

Very truly yours,

T&M ASSOCIATES

DALE R. LEUBNER  
CLIENT SERVICES MANAGER

DRL:lkc

c: Honorable Frank Nolan, Mayor  
Borough Council and Council Elects (Individually)  
Carolyn Cummins, Borough Clerk  
Bruce Padula, Borough Attorney  
Pat DeBlasio, Borough CFO  
Kim Gonzalez, Borough QPA

**R-16-45**  
**RESOLUTION APPOINTING MEMBERS**  
**OF THE OPEN SPACE COMMITTEE**

**BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the following appointments be made to the Open Space Committee:

1. Council Representative Member  
1 year term expiring 12/31/16
2. Regular Member 3 year term  
to expire 12/31/18

|                   | INTRODUCED | SECONDED | AYE | NAY | ABSTAIN | ABSENT |
|-------------------|------------|----------|-----|-----|---------|--------|
| CARD              |            |          |     |     |         |        |
| KANE              |            |          |     |     |         |        |
| REDMOND           |            |          |     |     |         |        |
| RYAN              |            |          |     |     |         |        |
| NOLAN             |            |          |     |     |         |        |
|                   |            |          |     |     |         |        |
|                   |            |          |     |     |         |        |
| ON CONSENT AGENDA |            |          | YES | NO  |         |        |

**Date: January 20, 2016**

**CAROLYN CUMMINS, BOROUGH CLERK**

I, \_\_\_\_\_, Clerk/Deputy Clerk, do hereby certify this to be a true copy of the Resolution adopted by the Governing Body of the Borough of Highlands on January 20, 2016.

**Borough of Highlands  
Public Notice**

Please take notice that the following ordinance was introduced and passed upon first reading at a meeting of the Governing Body of the Borough of Highlands, in the County of Monmouth, State of New Jersey, on January 1, 2016. Notice is hereby given that the following ordinance will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Robert D. Wilson Memorial Community Center located at 22 Snug Harbor Avenue, Highlands, NJ 07732, on Wednesday, January 20, 2016 at 8:00 PM. At that time, the public is invited to participate in the discussion of the Ordinance. Copies of the Ordinance are available in the Municipal Clerk's Office located at 42 Shore Drive, Highlands, NJ and are posted on the Display Board at the Municipal Building. Copies are available at no charge to the general public.

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH  
O-16-1**

**AN ORDINANCE AMENDING CHAPTER 21 OF  
THE CODE OF THE BOROUGH OF HIGHLANDS  
AND COMBINING THE FUNCTIONS OF THE  
ZONING BOARD OF ADJUSTMENT AND THE  
PLANNING BOARD**

WHEREAS, the Borough has established a Planning Board and Zoning Board of Adjustment; and

WHEREAS, the governing body of the Borough of Highlands finds that it is in the best interest of the Borough to establish a combined Land Use Board to perform the functions of both of the aforementioned boards.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Borough of Highlands as follows:

SECTION ONE: There is hereby established in the Code of the Borough of Highlands Sections 21-17A.1 through 21-17A.8. It is the intent of this ordinance to combine the land use powers of the Planning Board and Zoning Board of Adjustment into a single board to be known as the "Land Use Board," which shall exercise all of the powers and duties of the individual boards according to the Municipal Land Use Law. The new section of the Borough Code shall read as follows:

**§ 21-17A.1. Nine-member Land Use Board.**

There is hereby established a nine-member Borough of Highlands Land Use Board, which shall exercise, to the same extent and subject to the same restrictions, all of the powers of a Planning Board and a Zoning

Board of Adjustment as set forth in the Municipal Land Use Law and the Code of the Borough of Highlands. Any reference to the Planning Board or Zoning Board of Adjustment in any existing Borough of Highlands Ordinance shall be deemed to refer to the Land Use Board.

**§ 21-17A.2. Land Use Board members.**

All members of the Land Use Board shall be municipal residents and, pursuant to the Municipal Land Use Law, members shall be appointed and shall consist of the four following classes as set forth below:

A. Class I. The Mayor or Mayor's designee in the absence of the Mayor.

B. Class II. One of the officials of the Borough other than a member of the governing body, to be appointed by the Mayor.

C. Class III. A member of the governing body to be appointed by it.

D. Class IV. Six other citizens of the Borough, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position or employment except that one member may be a member of the Board of Education. For purposes of this section, a membership on a municipal board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.

E. Alternate members. Four alternates meeting qualifications of Class IV members and appointed by the Mayor and designated as, respectively, "Alternate No. 1, 2, 3 and 4." Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote and if Alternate No. 1 is unavailable, then in descending order of numerical designation.

F. Pursuant to N.J.S.A. 40:55D-10.2, a member of the Land Use Board who was absent for one or more of the meetings for which a hearing was held or was not a member of the Land Use Board at that time shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his or her absence from one or more of the meetings; provided, however, that such Board member has available to him or her the transcript or recording of all of the hearings from which he

or she was absent or was not a member, and certifies in writing to the Board that he or she has read such transcript or listened to such recording.

**§ 21-17A.3. Terms of Land Use Board members.**

A. Class I. The term of the member composing Class I shall correspond to the Mayor's official tenure or, if the member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure.

B. Class II. The term of the member composing Class II shall be for one year or terminate at the completion of that member's term of office, whichever occurs first.

C. Class III. The term of the member composing Class III shall be for one year or terminate at the completion of that member's respective term of office, whichever occurs first.

D. Class IV. The terms of the members of Class IV shall be four years. The term of a Class IV member who is also a member of the Board of Education shall terminate whenever that member is no longer a member of such other body or at the completion of the Class IV term, whichever occurs first. The terms of all Class IV members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after the appointments.

E. Alternates. The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than two alternate members shall expire in any one year. In no instance shall the terms of the alternate members first appointed exceed two years.

F. General membership terms and provisions.

(1) If a vacancy in any class shall occur otherwise than by expiration of the Land Use Board term, it shall be filled by appointment as provided by regular members, for the unexpired term.

(2) No member of the Land Use Board shall be permitted to act on any matter on which the member has, either directly or indirectly, any personal or financial interest.

(3) Any member other than a Class I member, after a public hearing if the member requests one, may be removed by the governing body for cause.



(4) The governing body may provide that the term of appointment of any class of member commence on January 1.

**§ 21-17A.4. Land Use Board officers and professionals.**

A. The Land Use Board shall elect a Chairman and Vice Chairman from the members of Class IV. The Land Use Board may also select a Secretary, who may or may not be a member of the Land Use Board or a municipal employee, and fill such other offices as established by ordinance.

B. The Land Use Board may employ or contract for and fix compensation of an Attorney, an Engineer, and such other experts and staff as it may deem necessary. The Land Use Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the Borough governing body for its use. The appointments of all staff members, including that of the Land Use Board Attorney and Engineer shall be made at the organization meeting of the Land Use Board and shall continue for one year until the next organization meeting of the Land Use Board, at which time said appointments shall expire and may be renewed.

C. The Mayor may appoint one or more persons as a Citizens' Advisory Committee to assist or collaborate with the Land Use Board in its duties, but such person or persons shall have no power to vote or take other action required of the Land Use Board. Such person or persons shall serve at the pleasure of the Mayor.

**§ 21-17A.5. Powers and duties of the Land Use Board.**

A. The Land Use Board is authorized to adopt bylaws, rules and regulations governing its procedural operations which shall be consistent with Municipal Land Use Law, ordinances of the Borough, and other applicable law.

B. The Land Use Board shall also have the powers and duties as set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., for planning boards and zoning boards of adjustment.

C. The Land Use Board shall perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers not inconsistent with the purposes and intent of N.J.S.A. 40:55D-1 et seq. and such other applicable general law.

D. Any approvals granted by the Land Use Board shall be subject to and conditioned upon approval of any other federal, state or local agency as may be applicable.

**§ 21-17A.6. Application, submission and approval procedures.**

A. Unless otherwise specified by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., ordinance or governing body resolution, procedures for any development application, subdivision approval, site plan approval, variance or appeal from an administrative officer shall be as set forth in rules and regulations adopted by the Borough Land Use Board.

B. Regular meetings of the Land Use Board shall be scheduled no less than once a month and shall comply with the Open Public Meetings Act, as applicable.

C. A verbatim recording shall be made of all hearings before the Land Use Board.

D. Twenty copies of any applications shall be filed with the appropriate designated administrative officer.

E. Every application for development shall be accompanied by a certification from the Tax Collector of the Borough that no taxes or assessments for local improvements are due or delinquent on the property for which any application is made.

**§ 21-17A.7. Inconsistent ordinance provisions repealed.**

Any section or provision of the Code of the Borough of Highlands which contains provisions contrary to the provisions of this chapter shall be and hereby is repealed to the extent of any such inconsistency.

**§ 21-17A.8. Notice.**

All applications or matters which come before the Borough of Highlands Land Use Board shall be subject to the notice requirements of N.J.S.A. 40:55D-12 et seq. and shall be submitted not later than 21 days prior to the next hearing date.

SECTION TWO. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION THREE. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION FOUR. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

**Carolyn Cummins**  
**Borough Clerk**

\_\_\_\_\_ offered the following ordinance and moved on its introduction and setting of a public hearing date on February 17, 2016 at 8:00 P.M.

**BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH  
O-16-2**

**AN ORDINANCE SUPPLEMENTING SECTION 2-5.7 OF  
THE CODE OF THE BOROUGH OF HIGHLANDS  
DESIGNATING THE DUTIES OF SECRETARY OF THE  
ZONING BOARD OF ADJUSTMENT AND PLANNING  
BOARD (OR ANY COMBINED LAND USE BOARD) TO  
THE BOROUGH CLERK**

WHEREAS, the Borough Clerk has performed the duties of secretary to the Zoning Board of Adjustment and the Planning Board; and

WHEREAS, the Clerk's salary is based, in part, on performing those duties; and

WHEREAS, the governing body wishes to formally include those duties in the Borough Code.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Borough of Highlands as follows:

SECTION ONE: Section 2-5.7 of the Borough Code, "Other Laws and Ordinances," shall be supplemented as follows (additions are underscored):

In addition to such other functions, powers and duties as may be prescribed by ordinance, and subject to the supervision and direction of the mayor and council, the clerk shall:

- a. Perform all of the functions required of municipal clerks by the General Election Law (Title 19 of the Revised Statutes) and any other law or ordinance.
- b. Serve as registrar of dog licenses.
- c. Administer the provisions of borough ordinances with reference to the licensing of occupations and activities for which licenses are required by law or ordinance to be obtained from the clerk.
- d. Perform the duties of Secretary of the Zoning Board of Adjustment and Planning Board, or combined Land Use Board, as the case may be.

e. Have such other, different and additional functions, powers and duties as may be prescribed by law or ordinance or delegated to him by the mayor and council.

SECTION TWO. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION THREE. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION FOUR. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

\_\_\_\_\_ offered a motion and moved on the introduction of the following ordinance and set a public hearing date of February 17, 2016:

**O-16-3**  
**BOROUGH OF HIGHLANDS**  
**COUNTY OF MONMOUTH**

**AN ORDINANCE SUPPLEMENTING SECTION 2-3.1 TO  
PROVIDE THAT THE MAYOR AND COUNCIL SHALL  
SERVE WITHOUT COMPENSATION**

WHEREAS, the governing body finds that volunteer service is a valuable community service and wishes to serve without compensation.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Borough of Highlands as follows:

SECTION ONE: Section 2-3.1 shall be supplemented as follows (additions are underscored):

2-3.1       Composition, Election, Term.

The council shall consist of the mayor and four councilmen. The mayor and members of the council shall be elected at large by the voters of the municipality and shall serve for a term of three years, beginning on the first day of January next following their election. The mayor and council shall serve without compensation.

SECTION TWO. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION THREE. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION FOUR. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

**CERTIFICATE OF DETERMINATION AND AWARD**

**BOROUGH OF HIGHLANDS  
IN THE COUNTY OF MONMOUTH  
STATE OF NEW JERSEY**

**\$948,980 BOND ANTICIPATION NOTE**

Pursuant to the authority conferred upon me by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented, and bond ordinances heretofore adopted by the Borough Council of the Borough of Highlands, in the County of Monmouth, State of New Jersey (the "Borough"), I hereby award the \$948,980 Bond Anticipation Note dated January 15, 2016 (the "Note") to the Sewer Utility Fund of the Borough, the purchaser, at the bid price of \$948,980. The Note shall bear interest at the rate of zero and zero hundredths percentum (0.00%) per annum.

No grants have been received, no paydowns have been made and no cancellations have been enacted that would reduce the debt authorization below the amount of notes outstanding under the bond ordinances described on the attached Schedule B except as noted on such Schedule B.

No notes or other obligations in anticipation of the issuance of bonds have heretofore been issued pursuant to the bond ordinances referred to on the attached Schedule B which now remain outstanding and unpaid except as noted on such Schedule B.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 15th day of January, 2016.

  
\_\_\_\_\_  
**PATRICK DEBLASIO,**  
**Chief Financial Officer**

# BOROUGH OF HIGHLANDS, N.J.

INCORPORATED 1900

171 BAY AVENUE  
07732  
COUNTY OF MONMOUTH  
PHONE: 732-872-1224  
FAX: 732-872-0670  
WWW.HIGHLANDSNJ.COM



HISTORIC "TWIN LIGHTS"

FRANK L. NOLAN  
MAYOR  
CAROLYN M. CUMMINS  
BOROUGH CLERK  
TIMOTHY HILL  
BOROUGH ADMINISTRATOR

January 8, 2016

Mayor and Council  
Borough of Highlands  
42 Shore Dr.  
Highlands, NJ 07732

Re: Zoning Board of Adjustment  
**Annual Report & Recommendation**

Dear Mayor and Councilmembers:

Enclosed is the annual report of the Highlands Zoning Board of Adjustment. This report details each of the cases heard in 2015 by the board.

Also enclosed is an email from our Board Attorney to the Board Secretary/Borough Clerk setting forth several items to consider in determining whether or not the borough should consolidate its land use boards. The board is aware of an ordinance having been introduced on January 1, 2016, to consolidate the boards, and the zoning board had a full discussion of that issue at its January 7 meeting.

The zoning board unanimously voted to recommend to the governing body that it not adopt the ordinance to consolidate the land use boards. Many of the reasons for the board's position are enumerated in Mr. Baxter's attached email. The board is hopeful that the governing body will consider these issues and decline to move forward with the consolidation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ken Braswell'.

KENNETH BRASWELL, Chairman  
Zoning Board of Adjustment

enclosures



## 2015 ZONING BOARD ANNUAL REPORT

Date: December 30, 2015

Prepared by Carolyn Cummins, Board Secretary

**ZB#2014-8 Williams, Christopher** **Approved 1/15/15**  
**Block 80 Lot 5.01**  
**70 Barberie Avenue**

The Board approved the application to add a second driveway. Bulk variances were granted for lot area of 3,500 square feet, where 3,750 is required; front yard setback of 2.4 feet, where 20 feet is required; side yard setback of 1.8/28.6 feet, where 6/8 feet is required; side yard setback for accessory structure of 2 feet, where 3 feet is required.

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**ZB#2014-20 Rivera, Paschal** **Approved 1/15/15**  
**Block 90 Lot 10**  
**31 Waterwitch Avenue**

The Board approved an application to add a second driveway and extend the roof at the rear to a total of 10 feet in depth. Bulk variances were granted for lot area of 3,000 square feet, where 3,750 is required; lot frontage of 37.5 feet, where 50 feet is required and front yard setback of 5 feet, where 20 feet is required.

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**ZB#2014-20 Wikander, Richard** **Approved 2/5/2015**  
**Block 93 Lot 13.01**  
**21-23 Snug Harbor Avenue**

The Board approved the application to add raise his two-family home and add a front deck for access to the dwelling. Bulk variances were granted for front yard setback of 10.26 feet, where 20 feet is required; side yard setbacks of 5.42/14.35 feet, where 6/8 feet is required; side yard setback for the shed of 2.96 feet, where 3 feet is required; front setback for front deck of 1.5 feet, where 3 feet is required. A design waiver was granted to permit a second driveway.

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**ZB#2010-A Quick Chek** **Approved 3/12/2015**  
**Block 108 Lot 1.01**  
**440 State Highway 36**

The Board approved the application to install a permanent generator and granted bulk variance relief and an amendment to its final site plan approval for its convenience store and gas station operation. Variance approval was granted for the accessory structure distance from street line. The front yard setback from Ocean Blvd of 20.5 feet for the building, 25 feet for the canopy, and 12 feet for the trash enclosure, where 50 is required. Front yard setback from Route 36 for accessory structure (generator) of 25.2 feet, where 50 feet is required. Distance from accessory structure (generator) to street line of 25.2 feet, where 50 feet is required.

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**ZB#2013-4 Allen, Christopher** **Approved 5/7/2015**  
**Block 99 Lot 16**  
**5 Ocean Avenue**

The Board approved the application to install two decks in the rear of the property, each 16' x 19 feet. Variances were for building coverage of 47.35%, where 30% is permitted. Side yard setbacks for rear deck on the second floor of 3/3 feet, where 6/8 feet is required.

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**ZB#2015-1 O'Neil, Wayne & Patricia  
Block 99 Lot 25  
27 Ocean Avenue**

**Approved 5/7/2015**

The Board approved the application to elevate and relocate their home back 10 feet and allow for an access stairway and off-street parking. Bulk variances were granted lot area of 2,500 square feet, where 5,000 is required; lot frontage of 25 feet, where 50 feet is required; side yard setbacks of 3.5/3.5 feet, where 6/8 feet is required; building coverage of 38.9%, where 30% is permitted.

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**ZB#2015-2 Flynn, Christine  
Block 72 Lot 36  
9 Seadrift Avenue**

**Denied 7/2/2015**

The Board denied the application to rebuild home at a height of 35.3 feet (2.8 feet above what is allowed by ordinance), together with variances for the pre-existing conditions.

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**ZB#2015-3 Digaletos, John  
Block 77 Lot 9.01  
2 Seadrift Avenue**

**Approved 7/2/2015**

The Board approved an application to rebuild a single-family. Bulk variances were granted lot area of 1,750 square feet, where 3,750 is required; lot frontage of 25 feet, where 50 is required; lot depth of 70 feet, where 75 is required; front yard setback of 3/4 feet, where 6/8 is required; building coverage of 39.77%, where 33% is permitted; front yard setback of 10 feet, where 20 feet is required; side yard setbacks for the second story front deck of 3/4 feet, where 6/8 is required; front yard setback for the first story front deck of 10 feet, where 20 feet is required and side yard setback for the first story front deck of 3/4 feet, where 6/8 is required.

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**ZB#2015-4 Fitzpatrick, Christina & Andrew  
Block 100 Lot 26.3  
30 Gravelly Point Road**

**Approved 8/6/2015**

The Board approved the application to rebuild their existing flood-damaged single-family home and construct a new dwelling. A use variance was granted for the height of 25.85 feet and a bulk variance for the side yard setback for the front stairs of 2.8 feet, where 3 feet is required.

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**ZB#2015-5 Branin, Keri  
Block 59 Lot 8  
66 Miller Street**

**Approved 8/6/2015**

The Board approved the application to provide a new mixed use residential and commercial building a residential use on the second floor of building A; and an ice cream, novelty food and soups, with outdoor seating for building B and site plan approval.

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**ZB#2015-5 Branin, Keri  
Block 59 Lot 8  
66 Miller Street**

**Approved 9/3/2015**

The Board approved an application for bulk variances, together with preliminary and final site plan approval. Bulk variances were granted for lot area of 3,510 square feet, where 5,000 is required; lot depth of 60 feet, where 100 is required; front yard setback of .95 feet for building B and 17.5 feet for building A, where 20 feet is required; rear yard setback of -.45 feet for building A, where 20 feet is required; side yard setback of 1 foot for building B, where 6/8 is required; building coverage of 37.42%, where 30% is permitted; a parking variance for 9 spaces; a sign variance for the sign of building B; sign location on building B.

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**ZB# 2015-6**

**Anasoulis, Sandra  
Block 103 Lot 8  
357 Shore Drive**

**Approved 10/1/2015**

The Board approved an application to rebuild existing flood-damaged single-family home and construct a new dwelling. Bulk variances were granted for lot area of 1,811 square feet, where 5,000 is required; lot frontage of 30 feet, where 50 is required; lot depth of 60 feet, where 100 is required; front yard setback of 11.73 feet, where 20 is required; rear yard setback of 6.0 feet, where 20 feet is required; side yard setback of 1.89 (left) 5.76 (right) feet, where 6/8 feet is required; building coverage of 48.59%, where 30% is required; side yard setback for accessory structure (front stairs) of 1.89 feet, where 3 is required; side yard setback for accessory structure (side stairs/deck) 1.5 feet, where 3 feet is required.

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**ZB#2015-7**

**Abbot, Dolores  
Block 95 Lot 13  
65 Snug Harbor Ave**

**Approved 12/3/2015**

The Board approved an application to raise a single-family home and construct a minor building addition in the rear. Bulk variances were granted for lot area of 2,600 square feet, where 3,750 is required; lot frontage of 32.5 feet, where 50 is required; front yard setback of 3.0 feet, where 20 is required; side yard setbacks of 1.4/2.0 feet, where 20 is required; rear yard setback of 6.9 feet, where 20 is required; building coverage of 54.4%, where 33% is permitted; lot coverage of 82%, where 75% is permitted

**Carolyn Cummins**

Garden Club

**From:** Becky <bkane007@aol.com>  
**Sent:** Wednesday, January 13, 2016 9:38 AM  
**To:** dbower2000@verizon.net; ccummins@highlandsborough.org  
**Cc:** fnolan@highlandsborough.org; dcard@highlandsborough.org;  
Cdarrigo@highlandsborough.org; Cbroullon@highlandsborough.org;  
thill@highlandsborough.org  
**Subject:** Re: HGC 2016 funding

CC - Please add this to the agenda as other business.

Dodie - Thank you for your continued support to Highlands.

Regards,  
Councilwoman Kane-Wells

-----Original Message-----

**From:** dbower2000 <dbower2000@verizon.net>  
**To:** ccummins <ccummins@highlandsborough.org>  
**Cc:** fnolan <fnolan@highlandsborough.org>; bkane007 <bkane007@aol.com>; dcard <dcard@highlandsborough.org>;  
Cdarrigo <Cdarrigo@highlandsborough.org>; Cbroullon <Cbroullon@highlandsborough.org>  
**Sent:** Wed, Jan 13, 2016 9:34 am  
**Subject:** HGC 2016 funding

We are beginning to plan our 2016 budget and ask the council to provide us with the same financial support of \$3500.00 as in past years. Please include our request in the next appropriate council agenda so they can consider helping us pay for our yearly expenses.