

Mr. Card offered a motion and moved on the adoption of the following ordinance:

**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 on February 8, 2016.

Seconded by Ms. Broullon and adopted on the following roll call vote:

ROLL CALL:

AYE: Ms. Broullon, Mr. Card, Ms. D'Arrigo
NAY: Mrs. Wells
ABSENT: Mayor Nolan
ABSTAIN: None

DATE: January 20, 2016

Carolyn Cummins, Borough Clerk

I hereby certify this to be a true copy of Ordinance O-16-1 adopted by the Governing Body of the Borough of Highlands on January 20, 2016.

Borough Clerk/Deputy Clerk