

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019– Meeting Minutes**

**This meeting of October 16, 2019 is called pursuant to the provisions of the Open Public Meetings Law and was included in a list of meetings notice transmitted to the Two River Times and the Asbury Park Press and posted on the bulletin board in the Municipal Building on October 14, 2019. The meeting notice has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Municipal Clerk. Official action may be taken at this meeting.**

**CABLE FRANCHISE PUBLIC FORUM 6:00 PM**

Council held a Public Forum for the benefit of providing information to residents

Call to Order

Pledge of Allegiance

Roll Call

Councilmember Braswell, Councilmember Broullon, Councilmember Mazzola, Council President Ryan and Mayor O’Neil were all Present

Also in attendance were Attorney Andrew Ball, Esq. and Clerk Conlon

Attorney Ball gave a legal overview of the current cable franchise legal status. Attorney Ball indicated the agreement is due to renew in February of 2021. Attorney Ball reviewed the steps necessary to review the hearing. Attorney Ball noted that there would be a formal Public Hearing on November 13, 2019. Attorney Ball noted that the Borough had conducted a survey reviewing the Borough’s satisfaction with the current franchise. Attorney Ball noted that this hearing is not about rates with the exception of certain types of accounts.

Attorney Ball turned the meeting over to Councilmember Broullon who reviewed the results of the Cable Franchise Satisfaction Survey. Councilmember Broullon reviewed the results of the Survey and noted that the survey was primarily about television service; however, she indicated that she received numerous comments regarding internet service.

Councilmember Broullon noted that of the 117 surveys received more than 40% were strongly positive about Comcast service. She indicated that most people were generally happy with the service and that there were not many unhappy surveys to warrant a change of service.

Councilmember Broullon noted that Verizon Fios is a completely different service from Comcast and technically not part of the cable franchise agreement.

Council discussed several available options which also corresponded to the Franchise agreement including free drops for the Borough, possible sound systems for the new Borough Hall, the ability to broadcast council meetings on a public access channel and other items which would be potentially requested of Comcast and incorporated into the franchise agreement.

Council noted that competition for Comcast is somewhat unavailable. Council also discussed the possible length of the agreement and any adjustments which might be available with regard to the term.

Mr. Greg Wells of Bayside drive noted that he believed that the agreements could be as little as three years and that he believed it was a good idea to request certain items of media technology improvement from Comcast as part of the Agreement.

A motion to adjourn the informational forum was brought by Council President Ryan and Seconded by Councilmember Mazzola

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON			X			
MAZZOLA		X	X			
RYAN	X		X			
O’NEIL			X			

Motion to Adjourn the Informational Forum on the Borough of Highlands Cable Franchise Renewal

Date of Vote  
October 16, 2019

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
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**EXECUTIVE SESSION 7:00 PM**

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Call to Order

Roll Call

Councilmember Braswell, Councilmember Broullon, Councilmember Mazzola, Council President Ryan and Mayor O’Neil were all Present

Also in attendance were Administrator Gonzales, Borough Attorney Brian Chabarek, Borough Attorney Andrew Ball, Engineer Douglas Rohrmeyer and Clerk Matthew Conlon

**EXECUTIVE SESSION**

**BE IT RESOLVED** that the following portion of this meeting shall not be open to the public,

**BE FURTHER RESOLVED** that private consideration is deemed required and is permitted because of the following noted exceptions set forth in the Act:

1. Pending or Anticipated Litigation:
2. Contract Negotiations: - **TOMSA**
3. Purchase, Lease or Sale of Real Estate:
4. Matters of Personnel
5. Attorney/Client Privilege: - **Alcoholic Beverage Control Identification Cards**  
- **Grading Review Ordinance**

**BE IT FURTHER RESOLVED** that it is anticipated that the matters to be considered in private may be disclosed to the public at a later date when the need for privacy no longer exists.

Motion by: Council President Ryan

Second by: Councilmember Broullon

All in favor (Councilmembers Braswell, Broullon, Mazzola, Ryan and Mayor O’Neil)

None opposed

Council Entered Executive Session at 7:01 PM

Council Exited Executive Session at 8:08 PM

**Motion to Enter Executive Session**

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON			X			
MAZZOLA		X	X			
RYAN	X		X			
O’NEIL			X			

**REGULAR MEETING: 8:00PM (8:15 PM)**

**Call to Order**

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**Flag Salute**

**Roll Call**

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

Council Member Braswell, Councilmember Broullon, Councilmember Mazzola and Council President Ryan and Mayor O'Neil were all Present

Also in attendance were Borough Attorney Brian Chabarek, Police Chief Robert Burton, Chief Financial Officer Pat DeBlasio, Engineer Douglas Rohrmeyer and Clerk Conlon

**Proclamations**

A proclamation in recognition of Ms. Phoebe Allen

Mayor O'Neil read the following Proclamation into the record:

**THE BOROUGH OF HIGHLANDS PROCLAMATION  
HONORING MS. PHOEBE ALLEN  
HIGHLANDS "SOAP GIRL" FOR HER LEADERSHIP AND ENTREPRENEURIAL SPIRIT**

Whereas, Highlands New Jersey Suffered devastating effects from Hurricane Sandy including the destruction of many residential homes; and

Whereas, Among the homes lost was the Allen Family Home in Highlands; and

Whereas, In the wake of Hurricane Sandy, Ms. Phoebe Allen, at the age of Eleven, embraced the Spirit of Enterprise and started a homemade soap and beauty supply business to assist her family with the costs of rebuilding their home; and

Whereas, Ms. Allen was recently recognized in the local media for the success of her business, Mother Nature's Beauty; and

Whereas, Ms. Allen has demonstrated the best qualities of Leadership, Enterprise, Citizenship and Love of Family;

Now, Therefore be it Proclaimed, That the Mayor and Council of the Borough of Highlands proclaim their recognition of Ms. Phoebe Allen as a credit to the Borough for her excellent example of Citizenship and extend the best wishes for her continued success in all of her endeavors.

Done this Sixteenth Day of October, Two Thousand Nineteen under the hand of Mayor Richard O' Neil Members of Borough Council Rosemary Ryan, Council President, Kenneth Braswell, Carolyn Broullon and Linda Mazzola

**SPECIAL BUSINESS**

Clerk Conlon noted that Resolution R-19-270 had to be read prior to the Public Hearing on adoption of Ordinance O-19-17

**RESOLUTION 19-270  
A Resolution Acknowledging Receipt and Review of the Land Use Board Report  
Regarding Ordinance O-19-17**

**WHEREAS**, the Mayor and Council of the Borough of Highlands introduced Ordinance O-19-17 on October 2, 2019 entitled, "An Ordinance of the Borough of Highlands Amending the General Code of the Borough of Highlands Creating Chapter XXVI entitled 'Affordable Housing' to address the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls Regarding Compliance with the Borough's Affordable Housing Obligations", and referred it to the Land Use Board pursuant to N.J.S.A. 40:55D-26(a); and

**WHEREAS**, on October 3, 2019, by way of Land Use Board Resolution 19-03, the Land Use Board reported its findings on the Ordinance to the Mayor and Council and found it to be consistent with the Borough's Master Plan as well as the Borough's Housing Element and Fair Share Plan dated, September 19, 2019, which it adopted as an amendment to the Borough's Master Plan on October 3, 2019 by way of Land Use Board Resolution 19-02.

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and Council acknowledges receipt of Land Use Board Resolution 19-03, constituting the report of the Land Use Board concerning Ordinance No. O-19-07 under N.J.S.A. 40:55D-26, and that it has reviewed the aforesaid report of the Land Use Board.

**BE IT FURTHER RESOLVED**, that a copy of this Resolution certified by the Borough Clerk to be a true copy be forwarded to the Land Use Board Secretary.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON	X		X			
MAZZOLA			X			
RYAN		X	X			
O'NEIL			X			

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 16, 2019

**Ordinances**

**Public Hearing and Final Adoption**

**PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCE O-19-17  
AN ORDINANCE OF THE BOROUGH OF HIGHLANDS AMENDING THE GENERAL CODE  
OF THE BOROUGH OF HIGHLANDS CREATING CHAPTER XXVI ENTITLED  
“AFFORDABLE HOUSING,” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING  
ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS REGARDING  
COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS**

**NOW THEREFORE, BE IT ORDAINED** that Chapter XXVI of the Code of the Borough of Highlands shall be created as follows:

**SECTION 1.**

**Chapter XXVI Affordable Housing**

**26-1 Affordable Housing**

**26-1.1 Monitoring and Reporting Requirements.**

The Borough of Highlands shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Housing Element and Fair Share Plan:

- a. Beginning on July 1, 2020, and on every anniversary of that date through July 1, 2025, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- b. Beginning on July 1, 2020, and on every anniversary of that date through July 1, 2025, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- c. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
- d. By July 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low-income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low-income housing obligations.

**26-1.2 Definitions.**

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which new restricted units in an affordable housing development are affordable to very low-, low- and moderate-income households.

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough’s fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Alternative living arrangement” means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a very low-income, low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

**Highlands Borough Mayor & Council Meeting Minutes**  
**Community Center, 22 Snug Harbor Avenue, Highlands**  
**Wednesday, October 16, 2019 – Meeting Minutes**

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

“Market-rate units” means housing not restricted to very low-, low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1 et. seq, as amended and supplemented, but does not include a market-rate unit financed under the Urban Homeownership Recovery Program or Market Oriented Neighborhood Investment Program.

“Settlement Agreement” means the settlement agreement between the Borough of Highlands and Fair Share Housing Center dated June 19, 2019, executed on June 25, 2019 in IMO Borough of Highlands, Docket No. MON-L-0012-17.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1, et seq.

“Very low-income household” means a household with a total gross annual household income equal to or less than 30 percent of the regional median household income by household size.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

**26-1.3 Applicability.**

- a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Highlands pursuant to the Borough’s most recently adopted Housing Element and Fair Share Plan and the Settlement Agreement.
- b. This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units, including any currently unanticipated future developments that will provide very low-, low- and moderate-income housing units, and also including projects funded with Low Income Housing Tax Credits.

**26-1.4 Alternative Living Arrangements.**

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

- a. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
  - 1. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
  - 2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- b. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- c. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**26-1.5 Phasing Schedule for Inclusionary Zoning.**

In inclusionary developments, the following schedule for the issuance of certificates of occupancy for the required affordable housing units relative to the issuance of certificates of occupancy for the permitted market units shall be followed:

Maximum Percentage of Market-Rate Units Completed (COs Issued)	Minimum Percentage of Low- and Moderate-Income Units Completed (COs Issued)
25	0
25+1	10
50	50
75	75
90	100

**26-1.6 New Construction.**

- a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
  - 1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units within each bedroom distribution shall be very low-income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low-income units shall be counted as part of the required number of low-income units within the development.
  - 2. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families.
  - 3. A maximum of 25 percent of the Borough's obligation may be met with age restricted units. At least half of all affordable units in the Borough's Plan shall be available to families.
  - 4. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units including that 13% shall be very-low income.
  - 5. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
    - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
    - (b) At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
    - (c) At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
    - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
  - 6. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted very low-, low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- b. Accessibility Requirements:
  - 1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and the following:
  - 2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

- (a) An adaptable toilet and bathing facility on the first floor; and
  - (b) An adaptable kitchen on the first floor; and
  - (c) An interior accessible route of travel on the first floor; and
  - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
  - (e) If not all of the foregoing requirements in 2(a) through 2(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs 2(a) through 2(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
  - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Highlands Borough has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
    - i. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
    - ii. To this end, the builder of restricted units shall deposit funds within the Borough of Highlands Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
    - iii. The funds deposited under paragraph (f)ii above shall be used by the Borough of Highlands for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
    - iv. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Highlands for the conversion of adaptable to accessible entrances.
    - v. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
  - (g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.
3. Design:
- (a) In inclusionary developments, to the extent possible, very low-, low- and moderate-income units shall be integrated with the market units.
  - (b) In inclusionary developments, very low-, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.
4. Maximum Rents and Sales Prices:
- (a) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and using the calculation set forth below. Income limits for all affordable units that are created in the Borough for which income limits are not already established through a federal program exempted from the UHAC pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by the Department of Housing and Urban Development ("HUD") as follows:
    - i. Regional income limits shall be established for the region within which the Borough is located based on the median income by household size, which shall be established by a regional weighted average of uncapped



**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within a housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the original weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- ii. The income limits are the result of applying the percentages set forth in paragraph (i) above to HUD's determination of median income for the fiscal year 2019 and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
  - iii. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3) shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (i) above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
  - iv. The resale prices of owner-occupied very low-, low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to the above methodology. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
  - v. The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.
- (b) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
  - (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
  - (d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
  - (e) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

**Highlands Borough Mayor & Council Meeting Minutes**  
**Community Center, 22 Snug Harbor Avenue, Highlands**  
**Wednesday, October 16, 2019 – Meeting Minutes**

- i. A studio shall be affordable to a one-person household;
  - ii. A one-bedroom unit shall be affordable to a one- and one-half-person household;
  - iii. A two-bedroom unit shall be affordable to a three-person household;
  - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
  - v. A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
- i. A studio shall be affordable to a one-person household;
  - ii. A one-bedroom unit shall be affordable to a one- and one-half-person household; and
  - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
  - iv. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (g) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (h) The price of owner-occupied very low-, low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (i) The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

**26-1.7 Utilities.**

- a. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- b. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

**26-1.8 Occupancy Standards.**

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- a. Provide an occupant for each bedroom;
- b. Provide children of different sexes with separate bedrooms;
- c. Provide separate bedrooms for parents and children; and
- d. Prevent more than two persons from occupying a single bedroom.

**26-1.9 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

- a. Control periods for newly constructed restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, except as modified by the terms of the settlement agreement between the Borough of Highlands and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented, and each newly constructed restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Highlands Borough takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, except as modified by the terms of the settlement agreement between the Borough of

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

Highlands and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented.

- b. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- c. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- d. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit
- e. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- f. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**26-1.10 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.**

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, including:

- a. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- c. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by very low-, low- and moderate-income purchasers and those paid by market purchasers.
- d. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of approved capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 26-1.13.

**26-1.11 Buyer Income Eligibility.**

- a. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- b. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- c. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- d. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

**26-1.12 Limitations on Indebtedness Secured by Ownership Unit; Subordination.**

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

- a. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- b. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

**26-1.13 Capital Improvements to Ownership Units.**

- a. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- b. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**26-1.14 Control Periods for Restricted Rental Units.**

- a. Control periods for newly constructed restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, except as modified by the terms of the settlement agreement between the Borough of Highlands and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented, and each newly constructed restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Highlands Borough takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.11, except as modified by the terms of the settlement agreement between the Borough of Highlands and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented.
- b. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- c. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  1. Sublease or assignment of the lease of the unit;
  2. Sale or other voluntary transfer of the ownership of the unit; or
  3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

**26-1.15 Rent Restrictions for Rental Units; Leases.**

- a. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- b. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- c. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative

**Highlands Borough Mayor & Council Meeting Minutes**  
**Community Center, 22 Snug Harbor Avenue, Highlands**  
**Wednesday, October 16, 2019 – Meeting Minutes**

Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

- d. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

**26-1.16 100% Affordable Projects.**

All 100% affordable projects, including projects funded through Low Income Housing Tax Credits, shall comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et. seq., except as modified by the terms of the settlement agreement executed between the Borough of Highlands and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented. All such projects shall be required to have an initial thirty (30) year affordability control period plus a fifteen (15) year extended use period.

**26-1.17 Tenant Income Eligibility.**

- a. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- b. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - 1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - 2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - 3. The household is currently in substandard or overcrowded living conditions;
  - 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - 5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- c. The applicant shall file documentation sufficient to establish the existence of the circumstances in a.1. through b.5. above with the Administrative Agent, who shall counsel the household on budgeting.

**26-1.18 Municipal Housing Liaison.**

- a. There is hereby created the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Highlands Borough, including the following responsibilities which may not be contracted out to the Administrative Agent:
  - 1. Serving as Highlands Borough's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  - 2. Monitoring the status of all restricted units in Highlands Borough's Fair Share Plan;
  - 3. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
  - 4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
  - 5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

**Highlands Borough Mayor & Council Meeting Minutes**  
**Community Center, 22 Snug Harbor Avenue, Highlands**  
**Wednesday, October 16, 2019 – Meeting Minutes**

- b. The Borough of Highlands shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Borough's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Borough's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Highlands Borough shall adopt a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee.
- c. Subject to the approval of the Court, the Borough of Highlands shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with this Ordinance and UHAC. An Operating Manual for each affordable housing program shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of the court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the municipal housing liaison, and in the office(s) of the administrative agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

**26-1.19 Administrative Agent.**

An Administrative Agent may either be an independent entity serving under contract to and reporting to the municipality, or the municipality itself, through a designated municipal employee, department, board, agency or committee, pursuant to N.J.A.C. 5:80-26.14(c). *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The Administrative Agent shall be qualified through a training program sponsored by the Affordable Housing Professionals of New Jersey before assuming the duties. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 15, 16 and 18 thereof, which includes:

- a. Affirmative Marketing:
  - 1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Highlands and the provisions of N.J.A.C. 5:80-26.15; and
  - 2. Providing counseling or contracting to provide counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- b. Household Certification:
  - 1. Soliciting, scheduling, conducting and following up on interviews with interested households;
  - 2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  - 3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - 4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
  - 5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
  - 6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Highlands when referring households for certification to affordable units; and
  - 7. Notifying the following entities of the availability of affordable housing units in the Borough of Highlands: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, and Greater Long Branch Branches of the NAACP, and the Supportive Housing Association.
- c. Affordability Controls:
  - 1. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - 2. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

**Highlands Borough Mayor & Council Meeting Minutes**  
**Community Center, 22 Snug Harbor Avenue, Highlands**  
**Wednesday, October 16, 2019 – Meeting Minutes**

3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or Monmouth County Clerk's office after the termination of the affordability controls for each restricted unit;
  4. Communicating with lenders regarding foreclosures; and
  5. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- d. Resales and Re-rentals:
1. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
  2. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
- e. Processing Requests from Unit Owners:
1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
  2. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
  3. Notifying the municipality of an owner's intent to sell a restricted unit; and
  4. Making determinations on requests by owners of restricted units for hardship waivers.
- f. Enforcement:
1. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
  2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
  3. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
  4. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
  5. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
  6. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s).
- g. Additional Responsibilities:
1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
  2. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
  3. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.
- 26-1.20 Affirmative Marketing Requirements.**
- a. The Borough of Highlands shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.



**Highlands Borough Mayor & Council Meeting Minutes**  
**Community Center, 22 Snug Harbor Avenue, Highlands**  
**Wednesday, October 16, 2019 – Meeting Minutes**

- b. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
- c. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.
- d. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Borough of Highlands shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- e. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- f. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- g. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- h. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- i. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Highlands Borough, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, and Greater Long Branch Branches of the NAACP, and the Supportive Housing Association.
- j. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

**26-1.21 Enforcement of Affordable Housing Regulations.**

- a. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- b. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
    - (a) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
    - (b) In the case of an Owner who has rented a very low-, low- or moderate-income unit in violation of the regulations governing affordable housing



**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

units, payment into the Borough of Highlands Affordable Housing Trust Fund of the gross amount of rent illegally collected;

- (c) In the case of an Owner who has rented a very low-, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
- (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the very low-, low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the very low-, low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
  - (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very low-, low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
  - (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the very low-, low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the very low-, low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
  - (e) Failure of the very low-, low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

equal to the maximum resale price of the very low-, low- and moderate-income unit as permitted by the regulations governing affordable housing units.

- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

**26-1.22 Appeals.**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

**26-2 Affordable Housing Mandatory Set-Aside**

**26-2.1 Purpose**

This section is intended to ensure that any site that creates new multi-family residential development approved by the Borough or the Borough Land Use Board that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of twenty percent (20%) for for-sale affordable units and at a set-aside rate of fifteen percent (15%) for rental affordable units. This section shall apply except where inconsistent with applicable law.

**26-2.2 Affordable Housing Mandatory Set-Aside Requirement**

If the Borough or the Borough Land Use Board permits the construction of multi-family or single-family attached residential development that is “approvable” and “developable,” as defined at N.J.A.C. 5:93-1.3, the Borough or the Borough’s Land Use Board shall require that an appropriate percentage of the residential units be set aside for low and moderate income households. This requirement shall apply beginning with the effective date the Ordinance creating this section was adopted to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough’s Land Use Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation. Nothing in this paragraph precludes the Borough or the Borough’s Land Use Board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law.

For all inclusionary projects, the appropriate set-aside percentage will be twenty percent (20%) for for-sale units and fifteen percent (15%) for rental units. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.

This requirement does not apply to any sites or specific zones otherwise identified in the Borough’s Settlement Agreement with FSHC, which was executed by the Borough on June 25, 2019, or in the Borough’s Housing Element and Fair Share Plan, which was adopted by the Borough Land Use Board on October 3, 2019 and endorsed by the Borough Council on October 16, 2019, for which density and set-aside standards shall be governed by the specific standards set forth therein.

Furthermore, this section shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.

**26-3. Development Fees**

**26-3.1 Purpose**

- a. In Holmdel Builder’s Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 *et seq.*, and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH).
- b. Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential development.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

- c. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing in accordance with a Court-approved Spending Plan.

**26-3.2 Basic Requirements**

- a. This Ordinance shall not be effective until approved by the Court.
- b. The Borough of Highlands shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

**26-3.3 Definitions**

The following terms, as used in this Chapter, shall have the following meanings:

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“Borough” means the Borough of Highlands

“COAH” or the “Council” means the New Jersey Council on Affordable Housing established under the Fair Housing Act.

“Construction Official” means the construction office or his/her designee.

“Development fee” means money paid by a developer for the improvement of property as permitted at N.J.A.C. 5:97-8.3.

“Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

“Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

“Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

**26-3.4 Residential Development Fees**

a. Imposition of Fees

- 1. Within the Borough of Highlands, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- 2. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70(d)(5), developers shall be required to pay a “bonus” development fee of six percent (6%) percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
- 3. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

b. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments

- 1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- 2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

3. Developers of educational facilities shall be exempt from paying a development fee.
4. Developers of houses of worship and other uses that are entitled to exemption from New Jersey real property tax shall be exempt from the payment of a development fee, provided that such development does not result in the construction of any additional housing or residential units, including assisted living and continuing care retirement communities.
5. A development shall be exempt from an increase in the percentage of the development fee, provided the building permit was issued prior to the effective date of this article, or prior to any subsequent ordinance increasing the fee percentage. The developer shall have the right to pay the fee based on the percentage in effect on the date the building permit was issued.
6. Any development or improvement to structures of owner-occupied property in which there is located an affordable accessory residence. This exemption shall only apply to development or improvements to the property during the period of affordability controls.
7. The construction of a new accessory building or other structure on the same lot as the principal building shall be exempt from the imposition of development fees if the assessed value of the structure is determined to be less than \$100,000.

26-3.5 Non-Residential Development Fees

- a. Imposition of Fees
  1. Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
  2. Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
  3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.
  4. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5% unless otherwise exempted below.
- b. Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development
  1. The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
  2. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
  3. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
  4. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Highlands as a lien against the real property of the owner.
  5. Pursuant to P.L. 2009, c. 90 and P.L.2011, c. 122, the non-residential statewide development fee of two and one-half (2.5%) percent for non-residential development is suspended for all non-residential projects that received preliminary or final site plan approval subsequent to July 17, 2008 until July 1, 2013, provided that a permit for the construction of the building has been issued prior to January 1, 2015.

26-3.6 Collection Procedures

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

- a. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- e. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- f. Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should the Borough of Highlands fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- h. Except as provided in hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.
- i. Appeal of Development Fees
  1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Highlands. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Highlands. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**26-3.7 Affordable Housing Trust Fund**

- a. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Highlands for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  1. Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Highlands;
  2. Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  3. Rental income from municipally operated units;
  4. Repayments from affordable housing program loans;
  5. Recapture funds;
  6. Proceeds from the sale of affordable units; and

**Highlands Borough Mayor & Council Meeting Minutes**  
**Community Center, 22 Snug Harbor Avenue, Highlands**  
**Wednesday, October 16, 2019 – Meeting Minutes**

7. Any other funds collected in connection with Highland Borough's affordable housing program.
- c. In the event of a failure by the Borough of Highlands to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Highlands, or, if not practicable, then within the County or the Housing Region.
- Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.
- d. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

26-3.8 Use of Funds

- a. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Highlands' fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- b. Funds shall not be expended to reimburse the Borough of Highlands for past housing activities.
- c. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of the median income for Housing Region 4, in which Highlands Borough is located.
1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
  2. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.
  3. Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Highlands, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. The Borough of Highlands may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- e. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

1. In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.
2. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

**26-3.9 Monitoring**

The Borough of Highlands shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Highlands Borough's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

**26-3.10 Ongoing Collection of Fees**

- a. The ability for the Borough of Highlands to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Borough of Highlands has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- b. If the Borough of Highlands fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
- c. The Borough of Highlands shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Borough of Highlands retroactively impose a development fee on such a development. The Borough of Highlands also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

**SECTION 2.** At least three copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Borough Clerk.

**SECTION 3.** This ordinance shall take effect upon final passage and publication according to law.

**SECTION 4.** The Borough Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this Ordinance, after public hearing thereon, the Borough Clerk is further directed to publish notice of passage thereof and file a copy of this Ordinance as finally adopted with the County Planning Board as required by N.J.S.A. 40:55D-16 and with the Borough Tax Assessor.

**SECTION 5.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 6.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.



**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

Mayor O’Neil asked if there was any comment from the Public on Ordinance O-19-17. There was none. Mayor O’Neil called for a Roll Call Vote.

**Motion to Introduce Ordinance 19-17:**

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON	X		X			
MAZZOLA		X	X			
RYAN			X			
O’NEIL			X			

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 2, 2019.

**Public Hearing, Final Reading and Adoption PUBLIC HEARING DATE October 16, 2019 of Ordinance 19-17:**

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON		X	X			
MAZZOLA			X			
RYAN	X		X			
O’NEIL			X			

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 16, 2019.

**ORDINANCE 0-19-18**

**AN ORDINANCE AMENDING SECTION 8-3 OF BOROUGH CODE TO UPDATE THE APPLICATION PROCESS AND ESCROW FEES REQUIRED FOR STREET VACATION**

**WHEREAS**, pursuant to N.J.S.A. 40:67-1, the Borough has the authority to make, amend and enforce ordinances to vacate any public street, highway, lane or alley, or any part thereof; and

**WHEREAS**, the Borough currently regulates street vacation requests and approvals through Chapter 8-3 of the Code of the Borough of Highlands; and

**WHEREAS**, the governing body of the Borough of Highlands wishes to amend its street vacation ordinances to more accurately reflect the time and cost of reviewing applications for street vacations.

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

**SECTION I.**

Borough Code Section 8-3 “Policies and Procedures Regarding Street Vacation Requests and Approvals” shall be amended as follows: (All additions are shown in ***bold italics with underlines***. The deletions are shown as ***strikeovers in bold italics***.)

**8-3 POLICIES AND PROCEDURES REGARDING STREET VACATION REQUESTS AND APPROVALS.**

**8-3.1. Application.**

All requests for street vacations shall be made in writing, and addressed to the mayor and borough council, and filed with the borough clerk for consideration at any borough council meeting, ***within one month of the filing of said request as soon as reasonably practicable***. Said request must include an identification of the applicant’s property, and a depiction of the premises to be vacated, and a list of all owners of adjacent property, with current mailing addresses. ***The applicant shall provide notice of the application and meeting date to all owners of adjacent property, and shall provide proof of such notice to the borough clerk.***

**8-3.2 Initial Review.**

The applicant shall be notified of the date the matter is to be initially considered by the governing body, and may address the governing body at that time. If the request is denied, the applicant shall be notified in writing of the decision of the borough council, and to the extent practicable, of the reasons therefor.

**8-3.3 Refundable Escrow Deposit.**



**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

a. *Refundable Escrow Fee Required.* If the governing body approves the request preliminarily, the applicant must post a refundable escrow deposit with the borough to defray costs and professional fees incurred by the borough in the course of reviewing said request. The escrow deposit shall be ~~in~~ accordance with the following schedule: \$2,500.00.

- a. Vacation requests of 3,000 S.F. or less..... \$1,250.00
- b. Vacation requests of greater than 3,000 S.F..... \$2,000.00

All actual costs and expenses incurred by the borough with regard to the consideration and/or adoption of any street vacation ordinance shall be paid from the escrow deposit, including but not limited to professional fees, publication costs, recording fees, and certified mail fees. Any unused escrow balance shall be refundable. Any actual costs which exceed said escrow shall be billable to applicant, with prior notice.

**8-3.4 Referral for Recommendations from Departments.**

Following the receipt of the escrow deposit required by subsection 8-3.3 above, the request and supporting documentation shall be forwarded to the borough administrator, the department of public works, the borough attorney, the borough engineer, and such other governmental agencies and utilities as are deemed advisable by the governing body, for recommendation and report. Any reports and recommendations issued in response thereto shall be filed with the borough clerk, and forwarded to the governing body for further consideration at any borough council meeting.

**8-3.5 Document Preparation.**

The borough attorney shall prepare the appropriate ordinance, and any legal documents necessary to implement any street vacation ordinance as directed by the governing body, along with any legal notices required by N.J.S.A. 40:67-1 et seq. ~~Additionally, the borough attorney~~ The borough clerk will record the ordinance following adoption, and such other legal documents as are required, with the county clerk. The borough engineer shall prepare a legal description of the street(s) or easement(s) to be vacated to be included in the text of said ordinance, and upon adoption of same, shall provide any tax map revision necessitated thereby.

**8-3.6 Additional Provisions.**

The obligation of the borough with regard to the adopted vacation ordinance shall cease with its recording of same with the County Clerk's office and updating of its tax map. In the event that the applicant or the adjacent property owners who may receive an interest in the vacated area wish to have a deed prepared evidencing the property vacated, such deed shall be the obligation of the owner acquiring title to said portion of the vacated premises. In the event that any such deed is prepared, it shall describe, by metes and bounds, the original property, including within the description that portion of the vacated premises being incorporated with the owner's original land holdings. The deed shall contain a reference to the new tax lot number created and assigned to the combined lot and the vacation area as determined by the borough Assessor. It shall also include a reference to the survey map upon which the deed description is based and a reference to the ordinance number vacating the premises. The deed shall be transferred by the owner to themselves.

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

**SECTION IV. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its passage and publication in accordance with law.

Mayor O'Neil asked if there was any public comment on Ordinance O-19-18. There was none. Mayor O'Neil Called for a roll call vote.

**Motion to Introduce Ordinance 19-18:**

	INTRODUCE	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL	X		X			
BROULLON		X	X			
MAZZOLA			X			
RYAN			X			
O'NEIL			X			

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 2, 2019.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

**Public Hearing, Final Reading and Adoption**

**PUBLIC HEARING OCTOBER 16, 2019 of Ordinance 19-18:**

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL						
BROULLON		X				
MAZZOLA						
RYAN	X					
O'NEIL						

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 16, 2019.

**Ordinances**

**Introduction and First Reading**

**INTRODUCTION OF ORDINANCE 0-19-19**

**AN ORDINANCE CREATING CHAPTER 2-49 OF BOROUGH CODE TO ESTABLISH THE  
BOROUGH OF HIGHLANDS ECONOMIC DEVELOPMENT REVIEW BOARD**

**WHEREAS**, the governing body of the Borough of Highlands wishes to create the Economic Development Review Board, which is an advisory committee that shall serve as a liaison between the governing body and existing and potential businesses within the Borough, and to assist in the development of plans, programs, and strategies to encourage economic growth.

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

**SECTION I.**

Borough Code Section 2-49 "Economic Development Review Board" shall be created as follows:

**2-49 ECONOMIC DEVELOPMENT REVIEW BOARD**

**2-49.1 Establishment.**

The Borough of Highlands Economic Development Review Board is hereby established as an advisory committee to the Borough of Highlands Governing Body.

**2-49.2 Purpose.**

The general purposes for the Economic Development Review Board shall include but not be limited to:

- a. Stimulating economic growth for both new economic development and the retention of existing businesses;
- b. Advising the governing body and providing recommendations in addressing the economic development needs of the Borough;
- c. Serve as a liaison between the Borough's government and both existing and prospective businesses.

**2-49.3 Appointment of Members; terms.**

The Economic Development Officer and the Borough Administrator shall be members of the Economic Development Review Board. The Chair of the Economic Development Review Board shall be the Economic Development Officer. If no Economic Development Officer is appointed, then the Borough Administrator shall act as Chair.

The remaining members of the Review Board shall be: (1) the Mayor or his or her designee, and (2) the Governing Body member appointed as Class III member of the Land Use Board.

**2-49.4 Duties and responsibilities.**

Duties and responsibilities of the Economic Development Review Board shall include, but not be limited to, the following:

- a. Development of plans, programs and strategies to encourage the expansion and strengthening of existing business and commercial enterprises in the Borough, consistent with the best interests of the Borough as a whole and conforming to the Borough's Master Plan.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

- b. Development of plans, programs and strategies for attracting new business and commercial enterprises to the Borough which are in the best interests of the Borough as a whole and conforming to the Borough's Master Plan.
- c. To actively promote and seek businesses which are financially sound, environmentally clean and have good growth potential.
- d. The investigation, analysis and submission of an annual report to the Borough Mayor and Council and Borough Administrator on any obstacles to the expansion of the commercial tax base of the Borough.
- e. Making of recommendations to the Mayor and Council and Borough Administrator regarding any ways or means by which the Borough can assist in meeting the needs of any developments deemed appropriate.
- f. To consult and communicate with the governing body, Land Use Board and other Borough departments concerning land use issues that may have an impact upon development in the Borough as it affects economic growth issues and consumer convenience. This may also include recommendations concerning changes to land use and zoning regulations that could impact economic growth.
- g. To assist the Borough Administrator in the research and preparation of applications for grants or funding which foster economic development.
- h. To create an information guide to assist businesses interested in relocating to the Borough.
- i. Consult with existing business and commercial enterprises within the Borough.
- j. Consult with prospective businesses seeking to establish themselves within the Borough.
- k. Consult with County, State, and other municipal entities regarding business development.
- l. Any other studies and/or presentations deemed necessary by the Mayor and Council and Borough Administrator relating to the further economic growth and development of the Borough.

**2-49.5 Compensation; reimbursement of expenses.**

Members of the Economic Development Review Board shall serve without compensation, except that the Borough may reimburse members for incurring legitimate out-of-pocket expenses in the discharge of Economic Development Review Board duties and responsibilities such as the development of presentation and marketing materials, flyers, brochures and correspondence. Members of the Economic Development Review Board must first receive the approval of the Borough Administrator or, in his or her absence, the Borough's Chief Municipal Finance Officer before any out-of-pocket expenses (such as travel mileage) are incurred. If approved, and following such expenditure, Economic Development Review Board members shall certify and complete an official Borough voucher, providing a full description and itemization of their expenses.

**2-49.6 Meetings.**

The Economic Development Review Board shall meet at least bi-annually. Additional meetings of the Economic Development Review Board may be scheduled by the Chair at his/her discretion.

**2-49.7 Limitation of duties.**

Other than the duties and responsibilities enumerated above, the Economic Development Review Board shall not have the power to enter into contracts, create debt or take property by condemnation or eminent domain. Furthermore, no member of the Economic Development Review Board shall receive or accept any fees, compensation or other goods of value from any corporation, partnership, professional firm, vendor or merchant engaging in any transactions with the Economic Development Review Board.

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

**SECTION IV. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its passage and publication in accordance with law.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

**Motion to Introduce Ordinance 19-19:**

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON			X			
MAZZOLA		X	X			
RYAN			X			
O'NEIL	X		X			

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 16, 2019.

**INTRODUCTION OF ORDINANCE 19-20**

**An Ordinance Amending Chapter 10, Section 10-13 of the Borough Code to Update “Vacant Structure Licensing and the Vacant Property Registration Process”**

**WHEREAS**, Chapter 10 of the Borough Code, Section 10-13 entitled “Vacant Structure Licensing and Vacant Property Registration Process” regulates the registration, maintenance, and insurance requirements of vacant properties in the Borough of Highlands; and

**WHEREAS**, the governing body of the Borough of Highlands has determined that it is in the best interest of the Borough to revise Section 10-13 to clarify the registration requirements and update the registration fees associated with such vacant properties.

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

**SECTION I.**

Borough Code Section 10-13 “Vacant Structure Licensing and Vacant Property Registration Process” shall be amended as follows: (All additions are shown in ***bold italics with underlines***. The deletions are shown as ***strikeovers in bold italics***.)

**10-13.1 Definitions.**

*Municipal officer* shall mean the Administrator or designee as may be designated by the Administrator in writing.

*Owner* shall include any private title holder, any agent of a private title holder having authority to act with respect to a vacant property, any foreclosing entity that has filed a notice with the Municipal Clerk pursuant to the provisions of C.46:10B-51 (P.L. 2008, c. 127, Sec. 17 as amended by P.L. 2009, c. 296), or any other entity determined by the Municipal Officer of the Borough of Highlands to have authority to act with respect to the property. This section exempts any municipal, county or state owner of a vacant building or structure.

*Vacant property* shall mean any building or structure which is not at present legally occupied or at which all lawful business or construction operations or residential or other occupancy have substantially ceased, and which is in such condition that it cannot legally be reoccupied without repair and rehabilitation, including but not limited to, any property meeting the definition of vacant property in N.J.S.A. 55:19-80, et seq., provided, however, that any habitable property where all building systems are in sound working order, where the building and grounds are maintained in good condition, and which is being actively marketed by its owners for sale or rental, shall not be deemed a vacant property for purposes of this section.

**10-13.2 Registration Required.**

a. Effective January 1, 2015, the owners an any vacant property, as defined herein shall, within thirty (30) days after the building becomes vacant or within thirty (30) days after assuming ownership of the vacant property, whichever is later; or within ten (10) days of receipt of notice by the municipality, file a registration statement for such vacant property with the Municipal Officer on forms provided for that purpose by the Municipal Officer along with any fee required by this section. ***Failure to receive notice by the municipality shall not constitute grounds for failing to register the property. The municipality or Municipal Officer are not required to provide notice to any Owner of vacant property. The lack of such notice shall not relieve an Owner of the registration requirements of this section, and shall not constitute a defense to any violation of this section.***

b. Each property having a separate tax block and lot number shall be registered separately.

c. The registration shall include the information required under subsection 10-13.4 of this section, the insurance certificate required by subsection 10-13.7 of this section, as well as any additional information that the Municipal Officer may reasonably require.

d. The registration shall remain valid for one year from the date of registration. The owner shall be required to renew the registration annually as long as the building or structure remains a vacant property and

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

shall pay a registration or renewal fee in the amount prescribed in subsection 10-13.5 of this section for each vacant property registered.

e. The Municipal Officer may establish for purposes of efficient administration that all registrations shall be renewed by a single date in each year, which date shall be established by the Municipal Officer in which case the initial registration fee shall be pro-rated for registration statements received less than ten (10) months prior to that date.

f. 1. Any owner of vacant property who submits plans to the Municipal Officer that completely rehabilitate or restore the property to productive use and occupancy within the twelve (12) month period following the date of the initial property registration shall be exempt from payment of the registration fee if the Municipal Officer deems that the rehabilitation or restoration project may be complete in that twelve (12) month period, but shall comply with all other provisions of this section. In the event that the property has not been restored to productive use and occupancy at the end of the twelve (12) month period, the owner shall be liable for any fee waived. The Municipal Officer may extend the waiver of the registration fee for not more than one (1) additional year in response to a written request by the owner where the Municipal Officer finds that compelling conditions outside the owner's control made it impossible for the owner to restore the property within the initial twelve (12) month period.

2. Where the owner is an entity experienced in rehabilitation or redevelopment of vacant properties, and where the property is subject to this section and is being held for a project of rehabilitation or redevelopment consistent with municipal plans and ordinances, and where by virtue of financing, marketing or other conditions that project may require more than one (1) year for realization, the Municipal Officer may extend the waiver of the registration fee on an annual basis without limitation upon written request by the owner as long as the Municipal Officer finds that the owner is making reasonable progress toward completion of the project. The owner shall provide the Municipal Officer with such documentation, which may include plans, financing applications, applications for land use approval or other evidence of progress.

g. The Owner shall notify the Municipal Officer within thirty (30) days of any change in the registration information by filing an amended registration statement on a form provided by the Municipal Officer for such purpose.

h. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the Owner or Owners of the building.

**10-13.3 Access to Property.**

At any time after filing a registration statement or a renewal of a registration statement, the owner of any vacant property shall provide access to the Borough to conduct exterior and interior inspections of the building to determine compliance with municipal codes, on reasonable notice to the property owner or designated agent.

**10-13.4 Registration Statement; Contents; Designation of Agent; Failure to Register Vacant Property.**

a. The registration statement shall include (i) the name, street address, email address and telephone number of a natural person twenty-one (21) years of age or older, designated by the owner or owners at the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners in connection with the enforcement of any applicable code; and (ii) the name, street address, email address, and telephone number of the firm or individual responsible to maintain the property shall be available by telephone or in person on a twenty-four (24) hour per day, seven (7) day per week basis. The two (2) entities may be the same or different persons.

b. An owner who is a natural person may designate him or herself as agent or as the individual responsible for maintaining the property.

c. By designating an authorized agent under the provision of this section the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding and administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the Municipal Officer in writing of a change of authorized agent or until the owner files a new annual registration statement.

d. Any owner who fails to register a vacant property under the provisions of this section shall further be deemed to consent to receive, by posting at the building, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

**10-13.5 Fees.**

a. The registration and renewal fee for each building or structure shall be as follows:

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

Initial Registration	<del>\$250.00</del> <u>\$500.00</u> or pro-rated amount per subsection 10-13.2 of this section. <i><u>If not paid within six (6) months of the date required by Section 10-13.2, the registration fee shall increase to \$1,000.00.</u></i>
First Renewal	<del>\$400.00</del> <u>\$1,500.00</u>
Second Renewal	<del>\$750.00</del> <u>\$3,000.00</u>
Any Subsequent Renewal	<del>\$1,000.00</del> <u>or 5% of assessed value, whichever is higher. \$5,000.00</u>

b. At least 50 percent of all fee income resulting from the application of this section shall be deposited in a trust fund that shall be used for the sole purpose of carrying out municipal activities with respect to vacant and distressed properties, including but not limited to, code enforcement, abatement of nuisance conditions, stabilization, rehabilitation, and other activities designed to minimize blight and/or promote further productive reuse of properties.

**10-13.6 Maintenance of Property.**

The owner of any structure that has become vacant property, and any person responsible for maintaining any such building that has become vacant, shall within thirty (30) days of the structure becoming vacant or thirty (30) days of the owner taking title to the property shall:

1. Enclose and secure the structure as provided in the applicable code of the Borough of Highlands or as set forth in rules and regulations adopted by the Municipal Officer to supplement those codes;
2. Ensure that the grounds of the structure, including yards, fences, sidewalks, walks and driveways, are well-maintained and kept free from trash and debris;
3. Post a sign affixed to the structure with the name, address, and telephone number of the owner and the owner's authorized agent for the purpose of service of process, and the name, address, and telephone number of the entity responsible for the maintenance of the property, which may be the same as the authorized agent. The sign shall be at least 8" x 24" in dimension, shall include the words "to report problems with this building, call ..." , and shall be placed in a location where it is clearly legible from the nearest public street sidewalk; and
4. Maintain the structure in a secure and closed condition, keep the grounds in a clean and well maintained condition, and ensure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.

**10-13.7 Insurance Requirements.**

The owner of any vacant property shall acquire or otherwise maintain liability insurance, in an amount of not less than \$300,000.00 for buildings designed primarily for one to four unit residential use and not less than \$1,000,000.00 for any other building, including, but not limited to, buildings designed for multifamily, manufacturing, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building.

Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the Municipal Officer within thirty (30) days of any lapse, cancellation or change in coverage. The owner shall attach evidence of the insurance to the owner's registration statement. Any registration statement submitted that does not include such evidence shall be deemed an invalid registration.

**10-13.8 On-Line Complaint Procedure.**

The Borough of Highlands shall establish an on-line procedure by which citizens can provide the Municipal Officer with information on unkempt or unregistered properties that may be subject to this section through electronic means.

**10-13.9 Violations and Penalties.**

a. Any person who violates any provision of this section or of the rules and regulations issued hereunder shall be fined not less than \$250.00 and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this section shall be recoverable from the owner and shall be a lien on the property.

b. For purposes of this section, failure to file a registration statement within thirty (30) days after a building becomes vacant property or within thirty (30) days after assuming ownership of a vacant property, whichever is later; or within ten (10) days of receipt of notice by the municipality, failure to provide correct information on the registration statement, failure to comply with the provisions of subsections 10-13.6 or 10-13.7 of this section, or such other matters as may be established by the rules and regulations of the Municipal Officer shall be deemed to be violations of this section.

**SECTION II. 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.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

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

**SECTION IV. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its passage and publication in accordance with law.

**Motion to Introduce Ordinance 19-20:**

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON			X			
MAZZOLA		X	X			
RYAN			X			
O'NEIL	X		X			

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 16, 2019.

**INTRODUCTION OF ORDINANCE 0-19-21  
An Ordinance Amending Section 21-65.9 Regarding Grading Plans  
and Adding Fees for Grading Plan Review**

**WHEREAS**, Section 21-65.9 of the Land Use provisions of the Borough Code currently provides that grading plans are discretionary for residential lots; and

**WHEREAS**, the governing body of the Borough of Highlands wishes to amend its grading plan ordinance to require grading plans for residential lots unless otherwise waived; and

**WHEREAS**, the governing body of the Borough of Highlands also wishes to establish fees for review of grading plans.

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

**SECTION I.**

Borough Code Section 21-65.9 "Grading and Topsoil Removal" shall be amended as follows: (All additions are shown in ***bold italics with underlines.*** The deletions are shown as ***strikeovers in bold italics.***)

**21-65.9 Grading and Topsoil Removal.**

A. Soil Removal.

1. All development plans shall include a grading plan which provides for a minimum amount of soil to be removed from or brought to the site. Any soil removed from the site must have a permit from the Borough Engineer and no soil so moved shall be removed from the Borough.

2. No topsoil shall be removed from any lot or lots unless certified as excess, meaning more than four (4) inches spread evenly over the finished site, in writing by the Borough Engineer. All topsoil so removed shall be placed elsewhere within the Borough.

B. Grading.

1. All graded or stripped areas shall be stabilized by a minimum of four (4) inches of topsoil and seeding or other landscaping. Exposed rock may be left in its natural state if it can be demonstrated that the rock face will remain stable.

2. All areas shown on the plan shall be graded to ensure that surface water flow is away from buildings and pedestrian walkways in accordance with the approved drainage plan. Swales shall maintain a minimum one and one-half (1.5%) percent slope throughout.

3. Surfaces shall be designed to reduce maintenance requirements and allow the cutting of grass and cleaning of drainage swales and ditches without special equipment.

4. Wherever a change in final grade results in slopes in excess of 3:1 (other than a stable rock face) or wherever it is determined that slopes will not be stable or that erosion will occur, retaining walls shall be used which shall be of a permanent, maintenance-free design.

C. Residential Lots. ~~***Prior to the issuance of a Construction Permit, detailed grading plans may be required for review by the Borough Engineer. A grading plan shall be submitted for applications to construct a new single-family dwelling, a new two-family dwelling, a new accessory building or structure that exceeds 500 square feet, and/or an addition to a single-family, two-family dwelling or accessory building or structure that exceeds 500 square feet. The plan shall include the existing and proposed building and lot coverage, as well as grading contours at one-foot intervals, except where there will be a disturbance of slopes exceeding 5%, a two-foot interval is permissible, and if they exceed 10%, a five-foot interval is permissible. Grading plans shall also include existing and proposed building and lot coverage calculations and data.***~~ ***No*** Certificate of Occupancy shall be issued until the Borough Engineer is satisfied that final grading has been completed in accordance with the detailed grading plans.



**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

**SECTION II.**

Borough Code Section 21-107 “Schedule Established” shall be amended as follows: (All additions are shown in ***bold italics with underlines***. The deletions are shown as ***strikeovers in bold italics***.)  
**21-107 SCHEDULE ESTABLISHED.**

The following Schedule of Fees is established for the various applications for development and other matters, which are the subject of this chapter. These fees shall be nonrefundable and are for the purpose of offsetting Borough administrative, clerical and meeting costs. Applications requiring a combination of approvals, such as subdivision, site plan and/or variances shall require a fee equal to the sum of the individual fees for each element of the application. Escrow deposits for professional consultants, such as legal, planning, engineering, or other professional fees, costs and expenses, shall also be required in accordance with Section 21-108.

All fees and escrow deposits required in Section 21-107 and 21-108 shall be paid prior to the certification of a complete application.

**Schedule of Fees**

**A. Variances.**

1. For proceedings governed by N.J.S.A. 40:55D70a	\$125.00
2. For proceedings governed by N.J.S.A. 40:55D70b	\$125.00
3. For proceedings governed by N.J.S.A. 40:55D70c.	
For residential.....	\$125.00
For nonresidential.....	\$250.00
4. For proceedings governed by N.J.S.A. 40:55D70d.	
For residential.....	\$150.00
For nonresidential.....	\$500.00
5. For proceedings governed by N.J.S.A. 40:55D34.....	\$ 75.00
6. For proceedings governed by N.J.S.A. 40:55D36	
For residential.....	\$ 75.00
For nonresidential.....	\$200.00

In order to qualify for the lower fees established for residential applications, an application must be exclusively residential in character, and can only be for a single use on the lot or tract. Any application not complying with each of these conditions shall fall under the higher fee schedule.

**B. Subdivisions.**

1. Simple lot line change or merger	\$100.00
2. Minor subdivision	\$400.00
3. Major subdivision	
a. Conceptual review	10% of the preliminary fee (to be applied to preliminary fee at time of preliminary submission)
b. Preliminary plat	\$500.00 plus \$50.00 per lot
c. Final	50% of preliminary fee

**C. Site Plans.**

1. Minor	\$250.00
2. Major	
a. Conceptual review	10% of the preliminary fee (to be applied to preliminary fee at time of preliminary submission)
b. Preliminary approval	\$1,000.00 plus \$50.00 per acre or part thereof and \$20.00 per 1,000 square foot of building floor area or part thereof; or \$20.00 per dwelling unit
c. Final approval	50% of preliminary fee
3. Application for revised approval of site plan	\$100.00

**D. Flood plain review – Residential**

Nonresidential

\$ 50.00

\$100.00

**E. Conditional use applications.** \$250.00

**F. Individual plot plan review.** \$300.00

**G. Zone Changes.** Applications or requests to consider a change in the zoning ordinance made either to the Planning Board or the Borough Council shall be subject to the payment of a fee of \$250.00 plus an escrow deposit in the amount of \$2,000.00 in accordance with the provisions of Section 21-108 below.

**H. Zoning Permits.**

1. Single or two-family residential (new)	\$ 50.00
2. Other residential	\$100.00/unit



**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

- 3. Residential renovations \$ 10.00
- 4. Nonresidential (new) \$100.00
- 5. Nonresidential renovations \$ 25.00
- I. Certificate of Continuing Occupancy. \$ 50.00
- J. Smoke detector permit, per N.J.A.C. 5:18. \$ 35.00
- K. Fence Permit. \$ 15.00
- L. Miscellaneous.
  - 1. Copies of minutes At per page fee established by ordinance
  - 2. Copy of verbatim transcript At expense of requesting party
  - 3. Copy of decision No charge to applicant
  - 4. List of property owners within 200 feet \$10.00 or \$0.25 per name, whichever is greater
  - 5. Court reporter At expense of requesting party
  - 6. Certificate of Subdivision, Per N.J.S.A. 40:55D-56 \$ 10.00

**M. Grading Plans.**

- 1. Grading plan review \$425.00**
- 2. Resubmission of grading plan. \$175.00**

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

**SECTION V. EFFECTIVE DATE.** This ordinance shall take effect upon adoption and publication according to law and filing with the Monmouth County Planning Board.

**Motion to Introduce Ordinance 19-21**

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON			X			
MAZZOLA			X			
RYAN		X	X			
O'NEIL	X		X			

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 16, 2019.

**Resolutions**

A motion was made by Council President Ryan to remove R-19-271 A Resolution Authorizing a Temporary Street Closure from the Consent Agenda. The motion was seconded by Councilmember Broullon.

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON		X	X			
MAZZOLA			X			
RYAN	X		X			
O'NEIL			X			

R-19-271 was removed from the consent agenda.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

**Consent Agenda Resolutions**

**Consent Agenda:**

1. R-19-252 A Resolution Requesting a Chapter 159 Insertion into the 2019 Budget of \$130,936.00 of CDBG Grant Fund Revenue for Shore Drive
2. R-19-253 A Resolution Requesting a Chapter 159 Insertion into the 2019 Budget of \$275,000 Available from the Safe Routes to School Program Grant
3. R-19-254 A Resolution Requesting a Chapter 159 Insertion into the 2019 Budget of \$31,960 of Revenue Available from the Municipal Alliance Program Grant
4. R-19-255 A Resolution approving the Best Practices Inventory Worksheet
5. R-19-257 A Resolution Authorizing Property Tax Cancellation for Block 67, Lot 1, an Exempt Property
6. R-19-258 A Resolution Authorizing the Releasing of Escrow Funds
7. R-19-259 A Resolution Authorizing an Electronic Tax Sale and Setting the Fee for Tax Sale Notices
8. R-19-266 A Resolution Authorizing the Payment of Bills
9. R-19-268 A Resolution Appointing a Full Time Laborer for the Department of Public Works
10. R-19-269 A Resolution Authorizing Execution of a Deed of Easement for Block 103, Lots 6 & 15

**RESOLUTION 19-252**

**A Resolution Requesting a Chapter 159 Insertion into the 2019 Budget of \$130,936.00 of CDBG Grant Fund Revenue for Shore Drive**

**WHEREAS**, N.J.S.A 40A:4-87 provides that the Director of Local Government Services may approve the insertion of any special item of revenue in the budget of any municipality when such item shall have been made available by any public or private funding source and the amount thereof was not determined at the time of the adoption of the budget, and

**WHEREAS**, the Director may also approve the insertion of an appropriation item of an amount equal to any such special item of revenue, making such item of revenue available for expenditure.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough of Highlands hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget for the year 2019 in the sum of \$130,936.00 which item is now available as a revenue item from the County CDBG Program Grant.

**BE IT FURTHER RESOLVED** that a like sum of \$130,936.00 be and the same is hereby appropriated under the caption of:

County CDBG Program Grant

**RESOLUTION 19-253**

**A Resolution Requesting a Chapter 159 Insertion into the 2019 Budget of \$275,000 Available from the Safe Routes to School Program Grant**

**WHEREAS**, N.J.S. 40:4-87 provides that the Director of Local Government Services may approve the insertion of any special item of revenue in the budget of any municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

**WHEREAS**, said Director may also approve the insertion of any item of appropriation for equal amount.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough of Highlands hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2019 in the sum of \$275,000.00 which item is now available as a revenue from the Safe Routes to School Program Grant.

**BE IT FURTHER RESOLVED** that a like sum of \$275,000.00 be and the same is hereby appropriated under the caption of:

Safe Routes to School Program Grant

**RESOLUTION 19-254**

**A Resolution Requesting a Chapter 159 Insertion into the 2019 Budget of \$31,960 of Revenue Available from the Municipal Alliance Program Grant**

**WHEREAS**, N.J.S.A. 40A:4-87 provides that the Director of Local Government Services may approve the insertion of any special item of revenue in the budget of any municipality when such item shall have been made available by any public or private funding source and the amount thereof was not determined at the time of the adoption of the budget, and

**WHEREAS**, the Director may also approve the insertion of an appropriation item of an amount equal to any such special item of revenue, making such item of revenue available for expenditure.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

**NOW, THEREFORE, BE IT RESOLVED** that the Borough of Highlands hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget for the year 2019 in the sum of \$31,960.00 which item is now available as a revenue item from the Municipal Alliance Program Grant.

**BE IT FURTHER RESOLVED** that a like sum of \$31,960.00 be and the same is hereby appropriated under the caption of Municipal Alliance Program Grant.

**BE IT FURTHER RESOLVED** that the sum of \$7,990.00 representing the amount required for the Borough's share of the aforementioned undertaking or improvement appears in the 2019 budget under the caption of Municipal Alliance-Municipal Share. (Sheet 24).

**RESOLUTION 19-255**

**A Resolution Approving the Best Practices Inventory Worksheet  
and Preparation of Certifications**

**WHEREAS**, the State of New Jersey, Division of Local Government Services is requiring all Municipalities to file a Best Practice Inventory Worksheet, and

**WHEREAS**, the Borough of Highlands has complied with that request.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough of Highlands' Best Practice Inventory Worksheet has been reviewed by the Governing Body and submitted to the Division of Local Government Services by the required October 30, 2019 due date and that the Borough Administrator, Chief Finance Officer and Municipal Clerk be and are hereby authorized to prepare the necessary certifications pertaining to the same.

**RESOLUTION 19-257**

**A Resolution Authorizing Property Tax Cancellation  
for Block 67, Lot 1, an Exempt Property**

**WHEREAS**, Block 67, Lot 1 is an exempt property, and

**WHEREAS**, the Tax Collector is recommending that the following taxes be cancelled accordingly:  
2018 - \$642.73

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands, County of Monmouth, New Jersey, that the Tax Collector cancel taxes as set forth above.

**RESOLUTION 19-258**

**RESOLUTION AUTHORIZING THE RELEASE OF ESCROW FUNDS**

**WHEREAS**, the Borough of Highlands is holding required escrow deposits for various projects involving curbs and sidewalks in Account # T-03-56-850-000-001; and

**WHEREAS**, upon completion of the projects, the Borough's Superintendent of Public Works performed an inspection and approved and released the work performed; and

**WHEREAS**, requests have been made for the return of the following Deposits:

<b>Project House Number</b>	<b>Project Street Name</b>	<b>Project Type</b>	<b>Project Deposit Amount</b>	<b>Project Deposit to Be Returned To</b>
15	Fourth Street	Curb	\$500.00	Arjika Property Inc
17	Fourth Street	Curb	\$500.00	Arjika Property Inc
70	Fourth Street	Curb	\$500.00	Richard Spakowski Kenneth Ruby Jr Enterprises
27	Fifth Street	Curb	\$500.00	Inc. Kenneth Ruby Jr Enterprises
27	Fifth Street	Sidewalk	\$500.00	Inc.
10	Huddy Avenue	Curb	\$500.00	Ramapo River Renovations
14	Huddy Avenue Recreation	Curb	\$500.00	Prime Etates Inc.
16	Place	Curb	\$500.00	Prime Etates Inc.

**WHEREAS**, the Borough's Superintendent of Public work has recommended the return of the aforementioned escrow deposit.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Highlands that the Borough's Finance Officer is hereby authorized to return the above listed escrow deposits in the amount total amount of \$4,000.00 to the parties heretofore listed.

**BE IT FURTHER RESOLVED** that the Acting Borough Clerk shall forward a certified copy of this Resolution to the following:

1. Borough Finance Officer.
2. The parties to whom the deposits are being returned heretofore listed.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

**RESOLUTION 19-259**

**A Resolution Authorizing an Electronic Tax Sale  
and Setting the Fee for the Required Tax Sale Notices**

**WHEREAS**, NJSA 54:5-19.1 authorizes electronic tax sales pursuant to rules and regulations to be promulgated by the Director of the Division of Government Services, and

**WHEREAS**, the Director of the Division of Local Government Services has approved NJ Tax Lien Investors/RealAuction.com to conduct electronic tax sales, and

**WHEREAS**, an electronic tax sale is innovative and provides a greater pool of potential lien buyers, thus creating the environment for a more complete tax sale process, and

**WHEREAS**, the Borough of Highlands wishes to participate in an electronic tax sale, and

**WHEREAS**, the rules and regulations require a municipality to send two (2) notices of tax sale to all properties included in said sale and allows said municipality to charge a fee of \$25.00 per notice for the creation, printing and mailing of said notice; and

**WHEREAS**, in an effort to more fairly assign greater fiscal responsibility to delinquent taxpayers, the Borough of Highlands wishes to charge \$25.00 per notice mailed which will be assessed specifically to the delinquent accounts that are causing the need for a tax sale and not to the general tax base.

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Borough of Highlands, New Jersey, that the Tax Collector is hereby authorized to participate in an electronic tax sale and directed to charge \$25.00 per notice and submit a copy of this resolution to the Director of the Division of Local Government Services if necessary.

**RESOLUTION 19-266**

**AUTHORIZING BILLS LIST**

**WHEREAS**, certain numbered vouchers have been submitted to the Borough of Highlands for payment from a list, prepared and dated October 13, 2019, which totals as follows:

Current Fund	S	331,757.78
Sewer Account	S	27,818.67
Capital Fund	S	341,049.77
Trust-Other	S	37,868.50
Federal/State Grants	S	8607.02
Total	S	747,101.74

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Highlands that the vouchers, totaling \$747,101.74 be paid to the person[s] named, for the amounts set opposite their respective name[s], and endorsed and approved on said vouchers. An individual listing of all bills is posted on the borough website at [www.highlandsborough.org](http://www.highlandsborough.org) and on file in the Municipal Clerk's office for reference.

**RESOLUTION 19-268**

**A Resolution Appointing a Full Time Laborer in the Department of Public Works**

**WHEREAS**, the Mayor and Council of the Borough of Highlands have determined that there is a need for a Laborer in the Department of Public Works and they wish to appoint Jeremy Osuch to the said position.

**NOW THEREFORE BE IT RESOLVED**, by the governing body of the Borough of Highlands, that Jeremy Osuch be and is hereby appointed to the position of Full-Time Laborer I, effective October 21, 2019.

**RESOLUTION 19-269**

**A Resolution Authorizing Execution of a Deed of Easement for Block 103, Lots 6 & 15**

**WHEREAS**, the Construction Official has determined a sewer line runs under portions of Block 103, Lots 6 and 15 that was previously a portion of Fay Street and vacated by Ordinance No. O-05-05; and

**WHEREAS**, the property owner wishes to construct a home over this portion Block 103, Lots 6 and 15, in a manner that does not impact or damage the existing sewer lines; and

**WHEREAS**, in order to allow the property owner to construct the home while allowing the Borough access to existing sewer facilities, the Borough is agreeable to executing a Deed of Easement for the portion of the property in question, provided the property owner indemnifies, defends and holds the Borough harmless from any damages which may occur as a result of the construction, and further agrees to bear any and all costs should the Borough need to remove improvements in order to exercise its use of the easement.

**NOW THEREFORE BE IT RESOLVED**, by the governing body of the Borough of Highlands, that the Borough Administrator is hereby authorized to execute a Deed of Easement with the property owners

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

of 353 Shore Drive, also known as Block 103, Lots 6 and 15 on the tax map of the Borough of Highlands, as prepared by the Borough Attorney.

**BE IT FURTHER RESOLVED**, that true copies of the Deed of Easement shall be recorded with the Monmouth County Clerk’s Office, and kept on file at the office of the Borough Clerk.

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON	X		X			
MAZZOLA		X	X			
RYAN			X			
O’NEIL			X			

ROLL CALL VOTE TO APPROVE THE  
CONSENT AGENDA  
(Resolutions 252, 253, 254, 255, 257, 258, 259, 266,  
268, 269)

I, Matthew Conlon, RMC, Municipal Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body, at its Council Meeting, held October 16, 2019

**Resolutions**

1. R-19-271 A Resolution Authorizing a Temporary Street Closure
2. R-19-256 A Resolution to Urge Voters to Support the Referendum on the Election Ballot in November, so that Veterans or Widowed Spouses of Veterans Who Reside in Continuing Care Retirement Communities (CCRC) Will be Eligible for Property Tax Deduction
3. R-19-260 A Resolution Approving and Adopting the Spending Plan for the Borough’s Affordable Housing Trust Fund
4. R-19-261 A Resolution of the Council of the Borough of Highlands, County of Monmouth, State of New Jersey Endorsing the Amended Housing Element and Fair Share Plan Adopted by the Land Use Board
5. R-19-262 A Resolution of the Council of the Borough of Highlands, County of Monmouth, State of New Jersey to Appropriate Funds or Bond in the Event of A Shortfall in Funding for the Borough’s Affordable Housing Programs
6. R-19-263 A Resolution of the Council of the Borough of Highlands, County of Monmouth, State of New Jersey Adopting the ‘Affirmative Marketing Plan’ for the Borough of Highlands
7. R-19-264 A Resolution of the Council of the Borough of Highlands, County of Monmouth, State of New Jersey Appointing the Borough Administrator as the Designated Municipal Housing Liaison
8. R-19-265 A Resolution Authorizing a Change Order and Declaring Acceptance of the Contract for the Improvements Regarding the Valley Street Project
9. R-19-267 A Resolution Authorizing the Award of a Non-Fair and Open Contract for Professional Certified Public Accountant Services for the Borough of Highlands in Connection with the Highlands Business Partnership, Inc.

**RESOLUTION 19-271**

**A Resolution Authorizing a Temporary Street Closure**

**WHEREAS**, a request has been received for the closing of Highland Avenue from Lighthouse Road to South Peak Street for a block party/yard sale on Saturday, October 19, 2019 between the hours of 3:00p.m. and 8:00p.m.; and

**WHEREAS**, the Chief of Police has approved the aforesaid request.

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and Council hereby approve the request for the closing of Highland Avenue from Lighthouse Road to South Peak Street on Saturday, October 19, 2019 between the hours of 3:00p.m. and 8:00p.m.

**BE IT FURTHER RESOLVED**, that a copy of this Resolution certified by the Borough Clerk to be a true copy be forwarded to the Chief of Police.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON	X		X			
MAZZOLA			X			
RYAN					X	
O'NEIL		X	X			

R-19-271

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.  
DATE OF VOTE: 10/16/2019

**RESOLUTION 19-256**

**A Resolution to Urge Voters to Support the Referendum on the Election Ballot in November, so that Veterans or Widowed Spouses of Veterans Who Reside in Continuing Care Retirement Communities (CCRC) Will be Eligible for Property Tax Deduction**

**WHEREAS**, the State Constitution for New Jersey authorizes veterans and widowed spouses of veterans who served in active duty during war and other times of emergency to receive a property tax deduction, in the amount of \$250 per year, in well-deserved recognition of their service to our country; and

**WHEREAS**, veterans and widowed spouses of veterans who reside in Continuing Care Retirement Communities (CCRC) have been unfairly denied eligibility for the \$250 property tax deduction because they do not own their units, even though they instead contribute to property taxes through a monthly payment, and even though they have made the same sacrifices as all veterans in our great country; and

**WHEREAS**, there are twenty-five CCRC's in the State which collectively house approximately 2,500 veterans or widowed spouses who are being denied the property tax deduction; and

**WHEREAS**, Senator Vin Gopal has sponsored legislation (S1331), that has been approved by the Senator and General Assembly, to extend the deduction to veterans and their widowed spouses in CCRC's; and

**WHEREAS**, the extension of the deduction, because it requires an amendment to the State Constitution, must be approved by the voters at the ballot in November before it will become valid and effective; and

**WHEREAS**, the Mayor and Council now desire to memorialize their support of the referendum on the ballot in November, and to urge the voters of this State to vote in favor of the property tax deduction for veterans and widowed spouses of veterans who reside in CCRC's.

**NOW, THEREFORE BE IT RESOLVED**, that the Mayor and Council urges voters to support the referendum on the ballot in November 2019, so that veterans and widowed spouses of veterans who reside in Continuing Care retirement Communities (CCRC) will be eligible for the \$250 property tax deduction.

**BE IT FURTHER RESOLVED**, that the Mayor and Council believes that this small benefit to our veterans and widowed spouses of veterans who reside in a CCRC is a proper and warranted acknowledgment of the tremendous sacrifices that veterans have given to protect and serve our great nation.

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON		X	X			
MAZZOLA			X			
RYAN			X			
O'NEIL	X		X			

R-19-256

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.  
DATE OF VOTE: 10/16/2019

**RESOLUTION 19-260**

**A Resolution Approving and Adopting the Spending Plan for the Borough's Affordable Housing Trust Fund**

**WHEREAS**, the Borough of Highlands has prepared a Spending Plan consistent with N.J.S.A. 52:27D-301, et, seq, the Fair Housing Act, and the applicable COAH Regulations; and

**WHEREAS**, the Borough desires to submit its Spending Plan to the Court in connection with the Compliance Action for review and approval.

**BE IT RESOLVED**, the Borough Council of the Borough of Highlands in the County of Monmouth, and the State of New Jersey, hereby adopts the Spending Plan that is attached hereto as

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

Exhibit A and requests that the Court review and approve the Borough’s Spending Plan, so that it can expend the funds in its Affordable Housing Trust Fund.

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON	X		X			
MAZZOLA			X			
RYAN			X			
O’NEIL		X	X			

R-19-260  
This is a Certified True copy of the Original Resolution on file in the Municipal Clerk’s Office.  
DATE OF VOTE: 10/16/2019

**RESOLUTION 19-261**

**A Resolution of the Council of the Borough of Highlands,  
County of Monmouth, State of New Jersey Endorsing the**

**Amended Housing Element and Fair Share Plan Adopted by the Land Use Board**

**WHEREAS**, in December 2018, the Borough of Highlands (hereinafter “Highlands” or the “Borough”) filed a declaratory action with the Superior Court of New Jersey pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its obligation to create the realistic opportunity to meet its “fair share” of the regional need for low- and moderate-income housing pursuant to the “Mount Laurel doctrine,” and

**WHEREAS**, in connection with this lawsuit, the Borough simultaneously sought, and ultimately secured, a protective order providing Highlands and its Land Use Board immunity from all exclusionary zoning lawsuits while the Borough pursued approval of its Amended Housing Element and Fair Share Plan, which is still in full force and effect; and

**WHEREAS**, the Borough engaged in negotiations with the Fair Share Housing Center (“FSHC”) and executed a settlement agreement with FSHC on June 25, 2019;

**WHEREAS**, a Fairness Hearing was held on August 9, 2019, at which time the settlement agreement was approved, and said approval was later memorialized in an Order dated September 23, 2019; and

**WHEREAS**, on October 3, 2019, the Borough Land Use Board adopted a Housing Element and Fair Share Plan (“HEFSP”) effectuating the Court order; and

**WHEREAS**, the Borough Council of the Borough of Highlands wishes to endorse the 2019 Housing Element and Fair Share Plan and seeks approval of the 2019 Housing Element and Fair Share Plan from the Court.

**BE IT RESOLVED**, by the Borough Council of the Borough of Highlands in the County of Monmouth, and the State of New Jersey:

1. That it hereby endorses the Housing Element and Fair Share Plan, as adopted by the Highlands Borough Land Use Board on October 3, 2019 via the Land Use Board resolution, attached hereto as Exhibit A.
2. That it authorizes and directs its professionals to file with the Court (i) the Housing Element and Fair Share Plan, (ii) the resolutions of the Land Use Board adopting and the Borough Council endorsing the Housing Element and Fair Share Plan, and (iii) any additional documents the professionals deem necessary or desirable.
3. That it authorizes its professionals to seek Court approval of the Housing Element and Fair Share Plan at a properly noticed Compliance Hearing.
4. That it reserves the right to amend the Housing Element and Fair Share Plan, should that be necessary.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON		X	X			
MAZZOLA			X			
RYAN	X		X			
O'NEIL			X			

R-19-261  
This is a Certified True copy of the Original  
Resolution on file in the Municipal Clerk's Office.  
DATE OF VOTE: 10/16/2019

**RESOLUTION 19-262**

**A Resolution of the Council of the Borough of Highlands, County of Monmouth, State of New Jersey to Appropriate Funds or Bond in the Event of A Shortfall in Funding for the Borough's Affordable Housing Programs**

**WHEREAS**, in December 2018, the Borough of Highlands (hereinafter "Highlands or the "Borough") filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

**WHEREAS**, the Borough simultaneously pursued, and ultimately secured, a protective order providing Highlands immunity from all exclusionary zoning lawsuits while it pursues approval of its Housing Element and Fair Share Plan, which is still in full force and effect; and

**WHEREAS**, the Borough adopted a Housing Element and Fair Share Plan on or about October 3, 2019; and

**WHEREAS**, the Borough has prepared a Spending Plan consistent with P.L.2008, c.46; and

**WHEREAS**, in the event funding sources as identified in the proposed Spending Plan prove inadequate to complete the affordable housing programs included in the Borough's Housing Element and Fair Share Plan and any future amendments thereof, and to the extent permitted by law, the Borough shall provide sufficient funding to address any shortfalls.

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and Council of the Borough of Highlands in the County of Monmouth, and the State of New Jersey to the extent permitted by law, do hereby agree to appropriate funds or authorize the issuance of debt to fund any shortfall in its affordable housing program that may arise whether due to inadequate funding from other sources or for any other reason; and

**BE IT FURTHER RESOLVED** that, the Borough agrees to appropriate funds or authorize the issuance of debt within 90 days of written notification by the Council on Affordable Housing or a court of competent jurisdiction; and

**BE IT FURTHER RESOLVED** that the Borough may repay debt through future collections of development fees, as such funds become available.

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL					X	
BROULLON		X	X			
MAZZOLA			X			
RYAN			X			
O'NEIL	X		X			

R-19-262  
This is a Certified True copy of the Original  
Resolution on file in the Municipal Clerk's Office.  
DATE OF VOTE: 10/16/2019

**RESOLUTION 19-264**

**A Resolution of the Council of the Borough of Highlands, County of Monmouth, State of New Jersey Appointing the Borough Administrator as the Designated Municipal Housing Liaison**

**WHEREAS**, the Borough of Highlands has petitioned the Superior Court of New Jersey for a Declaratory Judgment that its Housing Element and Fair Share Plan is compliant with its constitutional



**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

obligation to provide for the realistic opportunity for the development of its fair share of the regional need for very low-, low-, and moderate-income housing; and

**WHEREAS**, the Borough’s Housing Element and Fair Share Plan will create the realistic opportunity for the development of housing units affordable to and intended for occupancy solely by qualified very low-, low-, and moderate-income households; and

**WHEREAS**, the Borough has prepared an Affordable Housing Ordinance in conformance with the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act; and

**WHEREAS**, the Affordable Housing Ordinance sets forth the duties of the Municipal Housing Liaison who is responsible for oversight and administration of the Borough’s affordable housing program; and

**WHEREAS**, the Borough Council of the Borough of Highlands has determined to appoint and designate the Borough Administrator as its Municipal Housing Liaison, to fulfill the duties set forth in the Borough’s General Code;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of highlands, County of Monmouth, State of New Jersey, that the Borough of Highlands hereby appoints the Borough Administrator as its designated Municipal Housing Liaison.

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON	X		X			
MAZZOLA			X			
RYAN		X	X			
O’NEIL			X			

R-19-264

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk’s Office.  
DATE OF VOTE: 10/16/2019

**RESOLUTION 19-265**

**A Resolution Authorizing a Change Order and Declaring Acceptance of the Contract for the Improvements Regarding the Valley Street Project**

**WHEREAS**, a contract was awarded to Underground Utilities Corp. by way of Resolution No. 18-189 on September 5, 2018, for the Improvements to Valley Street Project; and

**WHEREAS**, the Project Engineer, CME Associates, Inc., has by letter dated October 4, 2019, advised that the project is complete at this time, including all previously issued punch list items. The change order reflects increases and decreases in original contract quantities required to complete the project; and

**WHEREAS**, the Borough’s Project Engineer has advised that the Closeout Change Order results in a decrease in the project cost from the original bid amount of \$1,288,310.00 to an adjusted total of \$1,288,161.36 for a decrease of \$149.64 (0.01 percent); and

**WHEREAS**, the Borough’s Project Engineer has, by letter dated October 4, 2019, recommended payment of Final Payment Estimate No. 4 in the amount of \$310,309.22; and

**WHEREAS**, Underground Utilities Corp. has submitted the required two-year Maintenance Bond in the amount of \$193,224.20, which represents fifteen (15) percent of the final contract amount; and

**WHEREAS**, the Borough’s Project Engineer has recommended authorizing the aforesaid Change Order, releasing the Performance Bond and accepting the project.

**WHEREAS**, it is the intention of the Borough Council to adopt the within Resolution only for the purposes described in N.J.S.A. 2A:44-132.

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Borough of Highlands that based upon the above recommendations, it accepts the project known as the Improvements to Valley Street.

**BE IT FURTHER RESOLVED**, by the governing body of the Borough of Highlands that it authorizes acceptance of the two (2) year Maintenance Bond No. 106867724M, in the sum of \$193,224.20, issued by Travelers Casualty and Surety Company of America.

**BE IT FURTHER RESOLVED**, that any lien claims filed more than sixty (60) days after the adoption of this Resolution shall be ineffective pursuant to N.J.S.A. 2A:44-132.

**BE IT FURTHER RESOLVED**, that upon expiration of said sixty (60) day period, if no lien claim notices have been filed, the Borough of Highlands shall release Performance Bond No. 106867724 issued by Travelers Casualty and Surety Company of America in the amount of \$1,288,310.00.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

**BE IT FURTHER RESOLVED**, that upon expiration of said sixty (60) day period, if no lien claim notices have been filed, a voucher authorizing final payment of any sums due to the Contractor may be listed on the bill list for action.

**BE IT FURTHER RESOLVED**, that a certified copy of the within Resolution shall be forwarded to the Chief Financial Officer, Project Engineer, Borough’s Purchasing Agent and Underground Utilities Corp.

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON		X	X			
MAZZOLA			X			
RYAN			X			
O’NEIL	X		X			

R-19-265  
This is a Certified True copy of the Original Resolution on file in the Municipal Clerk’s Office.  
DATE OF VOTE: 10/16/2019

**RESOLUTION 19-267**

**A Resolution Authorizing the Award of a Non-Fair and Open Contract for Professional Certified Public Accountant Services for the Borough of Highlands in Connection with the Highlands Business Partnership, Inc.**

**WHEREAS**, the Borough of Highlands has a need for professional Certified Public Accountant services to review the financial records of the Highlands Business Partnership, Inc.; and

**WHEREAS**, such professional services can only be provided by licensed professionals and the firm of Holman, Frenia, Allison, P.C. is so recognized; and

**WHEREAS**, Holman, Frenia, Allison, P.C. has set forth its proposed services in a written proposal dated September 24, 2019; and

**WHEREAS**, the governing body has determined that it is in the best interest of the Borough to retain Holman, Frenia, Allison, P.C. for the aforesaid accounting services as set forth in its proposal dated September 24, 2019; and

**WHEREAS**, this contract is to be awarded for an amount not to exceed \$10,000.00 for the professional services as stated in Holman, Frenia, Allison, P.C.’s proposal dated September 24, 2019; and

**WHEREAS**, Holman, Frenia, Allison, P.C. has completed and submitted a Business Entity Disclosure Certification which certifies that it 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 Holman, Frenia, Allison, P.C. from making any reportable contributions through the term of the contract; and

**WHEREAS**, Holman, Frenia, Allison, P.C. 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;

9-01-20-110-000-251 \$5,000

9-01-20-130-000-294 \$5,000

I hereby certify that funds are available as follows:

Patrick DeBlasio, Chief Financial Officer

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

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

1. Holman, Frenia, Allison, P.C. is hereby retained to provide professional services as described above in their proposal dated September 24, 2019, for an amount not to exceed \$10,000.00.
2. The contract is awarded without competitive bidding as a “Professional Service” in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession. The Mayor and Borough Clerk are hereby authorized to sign said contract.
3. A copy of the Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL					X	
BROULLON				X		
MAZZOLA			X			
RYAN		X	X			
O'NEIL	X		X			

R-19-267

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.  
DATE OF VOTE: 10/16/2019

**Approval of Minutes**

Approval of the Minutes of the August 21, 2019 Council Meeting

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
BROULLON		X	X			
MAZZOLA			X			
RYAN	X		X			
O'NEIL			X			

**Department Reports**

**Report of Borough Engineer**

Douglas Rohrmeyer, P.E. – The Engineer noted that because of the CDBG project residents may see activity in the area of Shore, 2<sup>nd</sup> and Cedar Streets for concrete work in preparation for paving. Paving will take two to three days and will be done in about two weeks.

At Cornwell and John the drain pipe has been extended up John to de-water the area. The sanitary sewer system here is one of the deepest parts of the system. John up through Shrewsbury has already been completed. The concrete work is next and paving will follow.

Up on Grand Tour, the work likewise is almost complete. The will finish the work on Grand Tour and Chestnut and likewise finish the concrete work and move toward paving.

The mayor inquired about the late dates for paving.

Engineer Rohrmeyer indicated that if the weather holds out it will be feasible to finish this before the winter sets in.

Engineer Rohrmeyer discussed improvements contemplated for the bulkheads behind the community center. Councilmember Broullon asked about the durability of materials. Engineer Rohrmeyer He indicated that the new coatings on the metal have longer durability and should improve functionality as well as aesthetics.

**Other Business**

Council President Ryan indicated that there would be a Rocky Horror Picture show viewing on Friday night at the Community Center.

**Statement by Council President Ryan regarding the North East Supply Enhancement Pipeline**

Council President Ryan presented a letter to council regarding opposition to the NESE Pipeline. Attorney Chabarek explained what the ramifications of the letter were, to oppose the approval of the Pipeline.

The letter was signed by signed by Mayor O'Neil, Council President Ryan, Councilmember Broullon and Councilmember Mazzola. The letter is as follows :

“October 17, 2019.

**Highlands Borough Mayor & Council Meeting Minutes  
Community Center, 22 Snug Harbor Avenue, Highlands  
Wednesday, October 16, 2019 – Meeting Minutes**

Governor Phil Murphy  
Office of the Governor  
20 West State Street, 4th Floor  
P.O. Box 022  
Trenton, NJ 08625

COPIES TO: Commissioner Catherine McCabe, New Jersey Department of Environmental Protection.

Dear Governor Murphy:

As elected officials representing residents of New Jersey, we write to express our profound opposition to the proposed Northeast Supply Enhancement (“NESE”) Project. NESE offers no benefit to the state or our constituents in any way, and only harm will come to our constituents, environment, and our future if this project is approved.

As you know, NESE is a proposed fossil fuel expansion project backed by Oklahoma based fossil-fuel giant Williams-Transco. The project calls for the creation of a massive new compressor station in Franklin Township, 3.4 miles of pipeline in Middlesex County, and 23.4 miles of offshore pipeline running through the Raritan Bay and Lower New York Bay.

In addition to offering only harm to the State of New Jersey and its residents, the project NESE project is not needed and not wanted by the vast majority of New Yorkers and New York Elected officials. This widespread opposition includes roughly sixty New York elected officials such as Governor Andrew Cuomo, Mayor Bill de Blasio, and eleven members of Congress. There is also strong opposition to the project here in New Jersey. An audit of the public comments submitted to the New Jersey DEP on the proposed project found a ratio of 1000 to 1 against the project.

Moreover, the negative environmental and health impacts from water and air degradation associated with the proposed project are well documented. It is for these reasons that the Department of Environmental Protection denied the project, back in June – only for the applicant to reapply days later. From the air pollution associated with the compressor station, to the resuspension of sediment containing toxic chemicals in the beautiful Raritan Bay, the list of legal and good governance reasons to deny the project, with prejudice, are long and unequivocal.

Finally, on top of the lack of need and clear environmental and public health risks associated with the project, we are also concerned with the safety record of the applicant, Williams/Transco. Over the past decade, Williams’ pipelines and pumping stations have suffered over ten explosions or fires.<sup>1</sup> Many of these incidents resulted in human fatality and injury, release of methane into our atmosphere, or contamination of groundwater resources. Moreover, the applicant has faced five safety and risk violations from various federal agencies over the past five years, including a civil penalty for an incident

<sup>1</sup> National Transportation Safety Board, Pipeline Accident Reports (2019), available at <https://www.nts.gov/investigations/accidentReports/Pages/pipeline.aspx>; in New York and New Jersey. In 2015, the Pipeline and Hazardous Materials Safety Administration fined the company for failing to properly inspect transmission pipeline valves in New York and New Jersey.<sup>2</sup> Finally, the applicant has also received numerous fines from the U.S. Environmental Protection Agency for the unsafe discharge of pollutants.<sup>3</sup>

Therefore, in the name of good governance we urge you and the New Jersey DEP to follow the law and robustly deny all pending permits for NESE, with prejudice, to protect the health and safety of our constituents, as well as the quality of our natural environment.”

**Public Comment**

Mayor O’Neil opened the public comment portion of the meeting.

**Kim Skorka of Shore Drive** Kim Skorka requested that all resolution and the agenda be posted Ms. Skorka requested that future Agenda, Resolutions and Ordinance be posted to the website in advance of the meeting and that more copies be made available at the meeting. Clerk Conlon noted that they are posted on the website in a section entitled “Draft Resolutions and Ordinances” Ms. Skorka inquired about areas to advertise in the borough. Ms. Skorka inquired about where the money for Resolution R-19-262 was going to come from. She was informed by Counsel they will come from fees. Ms. Skorka inquired to whom could she address further questions regarding the Ordinance and Resolutions to. Council referred her to the Administrator.

**Steve Solop of Bay Avenue** Mr. Solop posed a question and request to the mayor. He would like to see more comprehensive police reports from the Chief of Police. The mayor indicated that he would request it from the Chief.

**Motion to Adjourn**

The business of the Borough being concluded a motion to adjourn was offered.



