

**Mayor and Council
Agenda
Community Center,
22 Snug Harbor Avenue, Highlands
Wednesday, May 17, 2017
7:00 p.m.**

As per requirement of Public Law 1975, Chapter 231, notice is hereby given that this is a Regular Meeting of the Borough of Highlands Mayor and Council and all requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board. Formal Action will be taken.

Call to Order
Meeting Statement
Roll Call
Executive Session Resolution

EXECUTIVE SESSION: 7:00PM

Litigation:

Attorney-Client Privilege: Optional Municipal Charter Law
Contract Negotiation: Proposed Standard Operating Procedure for Capitol Projects
Potential Acquisition of Property: BL 37-LTS 12.01 & 13 for New Borough Hall

REGULAR MEETING: 8:00PM

Call to Order
Pledge of Allegiance
Roll Call

Presentation

Highlands Fire Department - Truck Committee - Announcement
Chief John McKay
Truck Committee Chair - David Parker

Approval of Minutes: April 6, 2017 - Regular Meeting
May 3, 2017 - Regular Meeting (Pending)

Resolutions

R-17-107 - Authorizing Emergency Contracts Due to Failure of Water Witch Sanitary Sewer Station
R-17-108 - Appointing the Public Officer
R-17-109 - Awarding of a Contract for Professional Engineering Services to T&M Associates
R-17-110 - Appointing Acting Chief of Police
R-17-111 - Awarding for a Licensed Site Remediation Professional
R-17-112 - Appointing Class II Member to the Land Use Board
R-17-113 - Payment of Bills
R-17-114 - Person-To-Person Transfer of Liquor License
R-17-115 - Appointing Deputy Municipal Clerk/Registrar
R-17-116 - Appointing Temporary Summer Seasonal Employees

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Ordinances: Introduction

O-17-12 - Amending Chapter 10, Section 4 of the Borough Code Addressing Substandard Housing

Ordinances: Public Hearing/Possible Adoption

Other Business:

Cornwall Street Flooding

Reinstatement of Sign-in Sheets

Communications

Storm-Water Management

Public Comments:

Adjourn:



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-107

Resolution Authorizing Emergency Contracts Due to Failure of Water Witch Sanitary Sewer Station

WHEREAS, the Local Public Contracts Law permits the award of emergency contracts pursuant to N.J.S.A. 40A:11-6 et. seq., subject to certain criteria, and

WHEREAS, the Local Public Contracts Law pursuant to N.J.S.A. 40A:11-6 et seq. allows the award of contracts without public advertising for bids and bidding when an emergency exists affecting the public health, safety or welfare which requires the immediate delivery of goods or the performance of services, wherein the award of contract is made in the manner prescribed by the aforesaid statutory provision; and

WHEREAS, the Borough of Highlands has determined that an emergency exists, wherein due to high volume of flow from the rainfall on May 5, 2017, both pumps at the Water Witch Sanitary Sewer Station failed; and

WHEREAS, as a result of the aforesaid emergency, there was/is a need to use a vacuum truck to keep the flow into the station down, a need to pump down the wet well, stabilize one (1) pump to run until such time as a proper bypassing system could be put into place, remove a sanitary sewer blockage that occurred at the intersection of Valley and Bay Avenue, as well as a need to clean the pump station wet well from large debris and sand and replace the two (2) pumps; and

WHEREAS, the Borough has determined that the aforesaid emergency affects the public health, safety and/or welfare; and

WHEREAS, in accordance with the aforesaid declaration and pursuant to N.J.S.A. 40A:11-6 et. seq., the aforesaid emergency pump replacement project is awarded to:

- Pumping Services, Inc., for two (2) pumps for the pump station in an amount not to exceed \$55,000;
- Oswald Enterprises, to clean chambers, in an amount not to exceed \$4,500; and
- Branin Company, to supply a temporary pump and pumpdown, in an amount not to exceed \$4,500;

thereby totaling \$64,000; and

WHEREAS, certification of funds having been made by the Chief Financial Officer, that funds are available for the said purpose.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Highlands that the contracts for the aforesaid emergency replacement pumps be and are hereby authorized and ratified with Pumping Services, Inc. in an amount not to exceed \$55,000; Oswald Enterprises in an amount not to exceed \$4,500 and Branin Company in an amount not to exceed \$4,500 for a total amount of \$64,000.

BE IT FURTHER RESOLVED, that these contracts are being awarded without public advertisement for bids pursuant to an emergency situation affecting the public health, safety and/or welfare, and as authorized by the Local Public Contract Laws, in accordance with N.J.S.A. 40A:11-6, which permits the awarding of emergency contracts.

BE IT FURTHER RESOLVED, that the Borough officials, including but not limited to, the Borough Administrator, are hereby authorized to execute the said emergency contracts, as well as any and all documents required to effectuate the same.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-108

RESOLUTION APPOINTING THE PUBLIC OFFICER

WHEREAS, in accordance with N.J.S.A. 40:48-1 et seq., the governing body of every municipality may make, amend, repeal and enforce ordinances to provide for the removal or destruction of any building, wall or structure which is or may become dangerous to life or health, or might tend to extend a conflagration; and to assess the cost thereof as a municipal lien against the premises; and

WHEREAS, in accordance with N.J.S.A. 40:48-2.3, whenever any municipality of this State finds that there exists in such municipality any building or buildings which are unfit for human habitation or occupancy, or use, due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitation facilities, or due to other conditions rendering such building or buildings, or part thereof, unsafe or insanitary, or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents of said municipality, power is hereby conferred upon such municipality to exercise its police powers to repair, close or demolish, or cause or require the repairing, closing or demolition of such building or buildings or parts thereof, in the manner herein provided; and

WHEREAS, in accordance with N.J.S.A. 40:48-2.3a, any building or buildings, or parts thereof, which have been damaged to such an extent that nothing remains but the wall, or parts of the walls and other supports, shall, regardless of the safety and sturdiness of those remaining walls and other parts thereof, be deemed inimical to the welfare of the residents of the municipality wherein it is located, and the municipality may exercise its police power to repair, demolish, or cause the repairing or demolishing of the building or buildings, or parts thereof; and

WHEREAS, in accordance with N.J.S.A. 40:48-2.5, upon the adoption of a resolution finding that building conditions of the character described in N.J.S.A. 40:48-2.3 exist within a municipality, the governing body of such municipality is hereby authorized to adopt an ordinance relating to buildings within such municipality which are unfit for human habitation or occupancy or use. Such ordinance shall include (a) that a public officer be designated or appointed to exercise the powers prescribed by the ordinance; and

WHEREAS, the Code of the Borough of Highlands, Section 10-4 sets forth a Declaration of Necessity for buildings unfit for Human Habitation, Occupancy or Use in accordance with N.J.S.A. 40:48-2.3; and

WHEREAS, the Code of the Borough of Highlands, Section 10-4.2 establishes the position of Public Officer; and

WHEREAS, the Code of the Borough of Highlands, Section 10-4.2 provides for the appointment of the public officer for a term of one (1) year, wherein he/she shall be nominated by the Mayor and confirmed by the governing body and when so appointed shall exercise the powers prescribed in the aforesaid Section of the Borough Code; and

WHEREAS, the Mayor has offered the name of Dave Mercado, Code Enforcement Officer, to serve as the aforesaid Public Officer.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands, that the Borough hereby appoints Dave Mercado, Code Enforcement Officer, to serve as the Public Officer who shall exercise the powers prescribed in Borough Code Section 10-4 concerning buildings unfit for human habitation, occupancy or use.

BE IT FURTHER RESOLVED that Dave Mercado, Code Enforcement Officer, shall serve in the position of public officer for a one (1) year term to expire December 31, 2017.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-109

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

WHEREAS, the Borough of Highlands has a need for professional Engineering Services associated with the Borough's 2017 Capital Road Improvement Program which includes construction of the following improvements:

- Miller Street from Shore Drive to Bay Avenue;
- Twin Lights Terrace from Ocean Street to South Peak Street;
- North Peak;
- Bay Street from Woodland Street to South Peak Street.

pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the scope of services includes the Pre-Design Phase, Design Phase, Bidding Phase and Construction Phase including Contract Administration and Construction Observation; and

WHEREAS, the estimated engineering fee of \$122,300 includes the following estimated cost breakdown for the project:

- | | |
|--|-----------------|
| • Topographic Survey, Base Mapping and Utility Verification: | \$11,000 |
| • Design, SCS Permitting and Bidding: | \$45,300 |
| • Construction Administration and Inspection: | <u>\$66,000</u> |
| Total Engineering Fee | \$122,300; |

and

WHEREAS, such professional engineering services can only be provided by licensed professionals and the firm of T & M Associates, 11 Tindall Road, Middletown, NJ 07748 is so recognized; and

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

WHEREAS, this contract is to be awarded for an amount not to exceed \$122,300.00 plus reimbursable expenses for Professional Engineering Services as stated on the T&M Associates proposal dated May 3, 2017; and

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

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

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

I hereby certify 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. T&M Associates are hereby retained to provide professional engineering services as described above and in their proposal dated May 3, 2017 for an amount not to exceed \$122,300.00 plus reimbursable expenses.
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 aware as required by law.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-110

RESOLUTION APPOINTING ACTING CHIEF OF POLICE

WHEREAS, in accordance with Borough Code, Chapter 2, Section 10, the head of the Police Department of the Borough of Highlands is the Chief of Police; and

WHEREAS, the responsibilities and duties of the Chief of Police are delineated in N.J.S.A. 40A:14-118 as well as Borough Code, Chapter 2, Section 10.3; and

WHEREAS, Joseph R. Blewett has served as Chief of Police of the Borough of Highlands Police Department; and

WHEREAS, by way of correspondence dated May 5, 2017, Joseph R. Blewett has submitted his retirement as Chief of Police of the Borough of Highlands Police Department, effective September 1, 2017; and

WHEREAS, based on accrued time as well as contractual leave time, Joseph R. Blewett will cease working as the Chief of Police of the Borough of Highlands Police Department on May 19, 2017, thereby creating a vacancy in the position; and

WHEREAS, the governing body of the Borough of Highlands has determined that Captain Robert Burton is qualified to serve as the Acting Chief of Police of the Borough of Highlands Police Department and will be able to perform the duties of Acting Chief of Police, beginning May 20, 2017.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Highlands, that Captain Robert Burton is hereby appointed to serve as Acting Chief of Police of the Borough of Highlands Police Department, beginning May 20, 2017, wherein he shall be responsible for performing all of the duties set forth in N.J.S.A. 40A:14-118 as well as Borough Code, Chapter 2, Section 10.3, as well as any and all other Rules and Regulations pertaining to the said position.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-111

AWARDING CONTRACT - WILLIAM SILVERSTEIN OF ROUX ASSOCIATES INC. AS A LICENSED SITE REMEDIATION PROFESSIONAL

WHEREAS, Resolution 14-132 authorized a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4, for Legal Services as Special Counsel with Attorney Patrick McNamara of the firm of Scarinci Hollenbeck to represent the Borough of Highlands and Atlantic Highlands ("Boroughs") on behalf of the dissolved Atlantic Highlands-Highlands Regional Sewerage Authority in the negotiation/litigation to be pursued against New Jersey Natural Gas ("matter"); and

WHEREAS, Resolution 14-139 authorized a Shared Services Agreement with the Borough of Atlantic Highlands for the procurement and payment of these legal services to pursue claims against New Jersey Natural Gas; and

WHEREAS, Attorney Patrick McNamara of the firm of Scarinci Hollenbeck has identified William Silverstein, P.E., LSRP of Roux Associates Inc., as the expert to be retained for litigation support services associated with the above-mentioned matter; and

WHEREAS, William Silverstein, and/or Roux Associates Inc. will review documents related to the matter on behalf of the Boroughs, will consider the actions of the parties, prepare an Affidavit of Merit on behalf of the Boroughs, as appropriate based upon said review of documents and perform any additional services as required; and

WHEREAS, the expert services of William Silverstein, and/or Roux Associates Inc. will be billed on a time and materials basis as provided in the schedule of fees and will be shared between the Borough of Highlands at 55.05% of the total cost and the Borough of Atlantic Highlands at 44.95% of the total cost, up to \$15,000.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Highlands, in the County of Monmouth, State of New Jersey, that the governing body in the Borough of Highlands has determined that it is in the best interests of the citizens of the Borough of Highlands to engage the services of the William Silverstein, and/or Roux Associates Inc. and authorizes the Mayor and the Borough Administrator to execute the Agreement with William Silverstein, and/or Roux Associates Inc., on behalf of the Borough of Highlands.

BE IT FURTHER RESOLVED that the expenditure/payment by the Borough of Highlands authorized by this Resolution is limited to \$15,000; any further expenditure/payment for the services of William Silverstein and/or Roux Associates Inc. more than \$15,000 will require a further authorization/Resolution.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-112

RESOLUTION APPOINTING CLASS II MEMBER TO THE LAND USE BOARD

Mayoral Appointment

WHEREAS, Chief Joseph Blewett was appointed to serve as a Class II Member of the Land Use Board as one of the officials of the Municipality other than a member of the Governing Body with a one (1) year term expiring December 31, 2017; and

WHEREAS, Chief Joseph Blewett has submitted his retirement effective September 1, 2017 wherein he will cease working on May 19, 2017; and

WHEREAS, as a result of the aforementioned retirement, a vacancy exists on the Land Use Board as to a Class II member.

NOW THEREFORE, BE IT RESOLVED that the following appointment be and is hereby confirmed to the Land Use Board:

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- Class II Member, one of the officials of the Municipality other than a Member of the Governing Body for the unexpired term set to expire December 31, 2017.



BOROUGH OF
HIGHLANDS COUNTY
OF MONMOUTH

RESOLUTION 17-113

RESOLUTION AUTHORIZING PAYMENT OF BILLS

WHEREAS, certain numbered vouchers have been submitted to the Borough of Highlands for payment from a list, prepared and dated May 05, 2017, which totals as follows:

Current Fund	\$279,889.21
Sewer Account	\$ 24,837.64
Capital Fund	\$ 2,880.00
Trust-Other	\$ 15,973.12
Federal/State Grants	\$ 1,091.33

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the vouchers, totaling **\$324,671.30** 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 on file in the Municipal Clerk's office for reference.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-114

PERSON TO PERSON TRANSFER OF LIQUOR LICENSE 1317-33-004-012

WHEREAS, an application has been filed for a Person to Person transfer of Plenary Retail Consumption License 1317-33-004-012, from Bay Ave Restaurant Co. LLC., trading as Grimaldi's, to 123 Bay Ave. Associates LLC, 123 Bay Ave., Highlands; and,

WHEREAS, the submitted application form is complete in all respects, as outlined in N.J.S.A.33: 1-1 et seq., an Affidavit of Publication has been received by the Municipal Clerk and the transfer fees have been paid; and,

WHEREAS, the Highlands Police Department has investigated the applicant and the source of all funds to be utilized in connection with the purchase and operation of the business, and the results meet ABC standards; and,

WHEREAS, the location meets ABC and Municipal requirements; and,

WHEREAS, a Tax Clearance Certificate has been received from the Division of Taxation; and,

WHEREAS, the applicant is qualified to be licensed per Title 33 of the New Jersey Statutes and all rules and regulations promulgated there under, in addition to pertinent Borough Ordinances,

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Highlands, County of Monmouth, State of New Jersey approves the Person to Person Transfer of the Plenary Retail Consumption License numbered 1317-33-004-012, from Bay Ave Restaurant Co. LLC., trading as Grimaldi's, to 123 Bay Ave. Associates LLC, for the premises located at 1223 Bay Ave., Highlands. This transfer will be effective on May 17, 2017.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-115

RESOLUTION APPOINTING BONNIE BROOKES RMC, CMR TO SERVE IN THE POSITION OF DEPUTY MUNICIPAL CLERK/REGISTRAR

WHEREAS, a vacancy currently exists in the position of Deputy Municipal Clerk and Registrar; and

WHEREAS, the Borough Clerk remains out with a medical disability for an indeterminate amount of time; and

WHEREAS, in accordance with N.J.S.A. 40A:9-135, during the absence or disability of the municipal clerk, the deputy municipal clerk shall have all the powers of the municipal clerk and shall perform the functions and duties of such office; and

WHEREAS, in accordance with Resolution R-16-149, the Borough executed a Shared Services Agreement with the Borough of Atlantic Highlands to provide the services of Acting Municipal Clerk/Registrar in accordance with the applicable statutes of the State of New Jersey; and

WHEREAS, by way of Resolution R-17-065, the aforesaid Shared Services Agreement was extended through June 30, 2017, wherein it will expire at that time; and

WHEREAS, the Borough has determined that Bonnie Brookes, RMC, CMR is the most qualified candidate to serve in the position of Deputy Municipal Clerk and to assume all of the duties thereto; and

WHEREAS, the Borough is desirous of hiring Bonnie Brookes, RMC, CMR to serve as the Deputy Municipal Clerk and Registrar; and

WHEREAS, the Borough has reached an Agreement with Bonnie Brookes, RMC, CMR concerning the terms and conditions of her employment, wherein the annual salary will equate to \$65,000 to be paid in the same manner with which the Borough pays all of its employees; and

WHEREAS, the Borough wishes to appoint Bonnie Brookes, RMC, CMR to serve as the Deputy Municipal Clerk and Registrar effective June 5, 2017, wherein she will initially begin working in a part-time capacity at a pro-rated salary and begin such duties full-time beginning June 26, 2017.

NOW THEREFORE BE IT RESOLVED, by the governing body of the Borough of Highlands that Bonnie Brookes, RMC, CMR is hereby appointed to serve as Deputy Municipal Clerk and Registrar, effective June 5, 2017, with an annual salary of \$65,000 pursuant to the terms and conditions set forth in the aforesaid Employment Agreement.

BE IT FURTHER RESOLVED, that the Mayor and Borough Administrator are hereby authorized to execute the Agreement governing the terms and conditions of Bonnie Brooke's employment as aforesaid.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

RESOLUTION 17-116

RESOLUTION APPOINTING TEMPORARY SUMMER SEASONAL EMPLOYEES FOR THE BOROUGH OF HIGHLANDS

WHEREAS, the Borough has the need for temporary summer employees to work with the DPW; and

WHEREAS, Brian Geoghegan, Borough Administrator, has made the following recommendations for appointments to the Governing Body.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Highlands that the following seasonal temporary appointments be and hereby are approved:

DPW	Position	Name	Hourly Rate
Part-time	Laborer	Ryan Hall	\$12.00
Part-time	Laborer/CDL Operator	William Daley	\$14.00
Part-time	Laborer	Daniel Mashel	\$12.00
Part-time	Laborer	Russell Card	\$16.00

BE IT FURTHER RESOLVED that the aforesaid temporary seasonal appointments are effective May 22, 2017.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 0-17-12

AN ORDINANCE AMENDING CHAPTER 10, SECTION 4 OF THE BOROUGH CODE ADDRESSING BUILDINGS UNFIT FOR HUMAN HABITATION, OCCUPANCY OR USE

WHEREAS, the governing body has determined that it is in the best interest of the residents of the Borough to dissolve the Substandard Housing Committee, as contained in Borough Code Section 10-4.3, which addresses buildings unfit for human habitation, occupancy or use; and

WHEREAS, the governing body has also determined that it is in the best interest of the residents of the Borough to amend Borough Code Section 10-4.4, so that the time-frames set forth therein are consistent with N.J.S.A. 40:48-2.5(b).

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

SECTION I. The following sections of 10-4 “Buildings Unfit for Human Habitation, Occupancy or Use”, of the Code of the Borough of Highlands shall be amended and supplemented as follows: (All additions are shown in **bold italics with underlines**. The deletions are shown as ~~**strikeovers in bold italics**~~. Sections of Chapter 10, Section 4 that remain unchanged are shown in normal type).

10-4 BUILDINGS UNFIT FOR HUMAN HABITATION, OCCUPANCY OR USE.

10-4.1 Declaration of Necessity.

It is hereby found and declared that the existence or occupation of any building or buildings, or parts thereof, in the borough, which are so old, dilapidated or have become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy or use are inimical to the welfare and dangerous and injurious to the health and safety of the people of the borough, and that a public necessity exists for the repair, closing or demolition of such building or buildings, or part thereof. It is hereby found that there exists in the borough building or buildings, which are unfit for human habitation or occupancy, or use, due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, lack of sanitary facilities, or due to other conditions rendering such building or buildings, or part thereof, unsafe or insanitary, or

dangerous or detrimental to the safety or otherwise inimical to the welfare of the residents of the borough, and as to which the borough has the power, pursuant to R.S. 40:48-2.3 et seq. to exercise its police powers to repair, close or demolish or cause or require the repairing, closing or demolition of such building or buildings, or part thereof in the manner herein provided.

10-4.2 Public Officer.

The public officer shall be appointed for a term of one year. He shall be nominated by the mayor and confirmed by the governing body and when so appointed, he shall exercise the powers prescribed by this section. The governing body may, by resolution, fix the salary to be paid such public officer.

10-4.3 — Substandard Housing Committee.

~~*There is hereby created, a committee to be known as substandard housing committee, to consult with and advise the public office. Such committee shall consist of nine members, seven of which shall be the health officer; fire chief or his designee; welfare director, plumbing inspector; building inspector or assistant building inspector; fire inspector; electrical inspector; and two members to be appointed by the mayor as follows: one member of the borough council and one other member.*~~

10-4.4 Investigation, Complaint and Notice of Hearing; Opportunity to Answer and Defend.

a. Whenever a petition is filed with the public officer by a public authority or by at least five residents of the borough charging that any building is unfit for human habitation or occupancy or use, the public officer shall make a preliminary investigation. If his preliminary investigation discloses a basis for such charges, he shall issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges in that respect. The complaint shall also contain a notice that a hearing will be held before the public officer, or his designated agent, at a place therein fixed, not less than ~~ten~~ seven (7) days, nor more than thirty (30) days after the serving of said complaint. The notice shall state that the owner and parties in interest have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time affixed in the complaint; and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the public officer. The complaint shall be served in the manner provided in subsection 10-4.8, paragraphs f. through i., and subsection 10-4.10 or subsection 10-4.15 hereof.

b. The public officer is authorized to physically inspect any premises as to which he has probable cause to believe that said premises is in violation of any State, County or local statute, ordinance or regulation relating to the: (i) prevention of defects increasing the hazards of fire, accident or other calamities; (ii) lack of adequate ventilation, light or sanitary facilities; (iii) dilapidation; (iv) disrepair. In any instance where the owner of a premises refuses the public officer's request to allow the public officer to inspect the premises or any portion of same then the public officer shall be authorized to obtain an administrative search warrant to inspect said premises. The municipal magistrate is authorized to issue said warrant according to law and in accordance with the same procedure required for the issuing of penal search warrants as set forth in the Rules Governing Civil Practice of the Courts of New Jersey.

c. Search warrants issued under this section shall not authorize the removal of any article of property from the premises and searches conducted pursuant to said warrants shall be conducted at a reasonable hour and in a manner so as to cause minimal inconvenience to the owner or owners of the premises inspected.

d. In executing the warrant the public officer may elect to be accompanied by such other *members of the substandard housing committee Borough officials, including but not limited to, the construction official; the health officer; fire chief or his designee; welfare director; plumbing inspector; building inspector or assistant building inspector; fire inspector and/or the electrical inspector* as he may choose to assist him in the conduct of a full inspection of the premises.

10-4.5 Standards.

a. The public officer may determine that a building is unfit for human habitation or occupancy or use if he finds that conditions exist in such building which are dangerous or injurious to the health or safety of the occupants of such building, the occupants of neighboring buildings or other residents of the borough; such conditions may include the following, by way of illustration: defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair, structural defects, uncleanliness.

b. Without in any way limiting the standards and conditions set forth in paragraph a. hereinabove and without in any way requiring that any one or all of the conditions hereinafter set forth be found in order to declare a building unfit for human habitation, occupancy or use, the following are additional standards to guide the public officer, or his agent, in determining the fitness of a building for human habitation or occupancy or use:

1. Those whose interior walls or other vertical structural members list, lean or buckle, to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

2. Those which, exclusive of the foundation, show 33 percent or more, of damage, disrepair or deterioration of the supporting member or 50 percent of damage, disrepair or deterioration of the non-supporting enclosing or outside walls or covering.

3. Those which have improperly distributed loads upon the floor or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

4. Those structures and every part thereof which are not maintained in good repair by the owner or agent and fit for human habitation; also, where the roof is not maintained so as not to leak and where all rain water is not properly drained and conveyed therefrom so as not to cause dampness in the wall or ceilings on the interior or exterior.

5. Those structures which are not maintained in proper repair so as to give adequate protection from the elements and those structures where the windows and doors do not fit

properly and where all exterior wood surfaces are not protected from the elements and decay by painting or other protective covering.

6. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants of the people of the Borough of Highlands.

7. Those which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

8. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

9. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

10. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

11. Those dwelling units which lack the following facilities in good working order: a sink, flush toilet and bathtub or stall shower supplied by a sufficient supply of potable running water and connected to the sanitary sewerage disposal system of the borough or to any approved individual or sewerage disposal system according to R.S. 58:11 -1 et seq.

12. Those which lack permanent, safe and reasonable efficient kitchen facilities within the dwelling unit, including sink with running water and provisions for a cooking stove which conform to the Plumbing Code of the borough and the Fire Prevention Code of the borough.

13. Those dwelling units and public hallways which do not have a safe electric lighting system.

14. Those where every habitable room does not contain a window or windows which open directly to the outside air, and the total area of such window or windows is less than eight percent of the floor area of such room.

15. Those dwelling units not having a separate access either to a hallway or landing stairway leading to the street.

16. Those dwelling units having rooms with less than 1,050 cubic feet of air space and 100 square feet of floor space for one occupant, plus 100 square feet of floor space for each additional occupant. Any room used for sleeping purposes having less than 70 square feet is also deemed uninhabitable.

17. Those basement dwelling units having rooms with ceiling height of less than seven feet or whose walls and floors have not been damp-proofed and waterproofed by an approved method if in contact with earth.

18. Those whose courts, yards or other areas on the premises are not properly drained.

19. Those with fences in a dilapidated condition.

20. Those which have been damaged by fire, wind or other causes, so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the borough.

21. Those whose yards, lawns, courtyards, terraces, porches, balconies and accessory buildings are not kept clean and free of rodent and vermin infestation and rat-proofed according to existing ordinances.

22. Stores or places of business converted to living purposes must conform to the above standards and all show windows must be replaced by conventional type home windows which conform to the requirements of this section.

23. Those buildings existing in violation of any provision of the Building Code of the borough, or any provisions of the Fire Code or other ordinances of the borough, and/or State, Federal and national codes.

24. Those dwelling units having an oil space heater as a source of heat or unvented portable heater.

25. Those which because of their condition are unsafe, insanitary, or dangerous to the health, morals, safety or general welfare of the people of this borough.

10-4.6 Standards for Repair, Vacation or Demolition.

The following standards shall be followed in substance by the building inspector or other applicable official in ordering repair, vacation or demolition:

a. If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this section it shall be ordered repaired.

b. If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.

c. In any case where a "dangerous building" is 50 percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this section it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this section or any ordinance of the borough or statute of the State of New Jersey, it shall be demolished.

10-4.7 Dangerous Buildings; Nuisances.

a. All "dangerous buildings" within the terms of subsections 10-4.5 and 10-4.6 paragraph b. of this section are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

b. The Borough, by resolution of its governing body, may abate a nuisance, correct a defect, or put the premises in proper condition so as to comply with the requirements of any Borough ordinance or State law applicable thereto, at the cost of the owner or lessor, and expend Borough funds for such purpose and charge the same against the premises, and the amount thereof as determined by the governing body of the Borough shall be a lien against the premises and collectible as provided in subsection 10-4.11 hereof.

10-4.8 Duties of Public Officer.

The duties of public officer shall:

a. Inspect or cause to be inspected, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places as "dangerous building" within the terms of subsection 10-4.7 of this section.

b. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this section.

c. Inspect any building, wall or structure reported (as hereinafter provided for) by the fire or police departments of this borough as probably existing in violation of the terms of this section.

d. Inspect buildings in the following sections of this borough, to determine whether they are "dangerous buildings" within the terms of subsection 10-4.7 of this section.

e. Obtain administrative search warrants when necessary to aid investigations and inspections of premises covered by this ordinance.

f. Appear at all hearings and testify as to the condition of "dangerous buildings."

g. Place a notice on all "dangerous buildings" reading as follows:

“This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given to the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the land records of the Tax Collector of the Borough of Highlands. It is unlawful to remove this notice until such notice is complied with.”

h. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Tax Collector of the Borough of Highlands, of any building found by him to be a "dangerous building" within the standards set forth in subsection 10-4.4 of this section; the occupant or lessee must vacate the building or may have it repaired in accordance with the notice and remain in possession; the

mortgagee, agent or other persons having an interest in said building as shown by the land records of the Tax Collector of the Borough may at his own risk repair, vacate or demolish said building or have such work or act done; provided that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

i. Set forth in the notice provided for in paragraph e. hereof, a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building" and an order requiring the same to be put in such condition as to comply with the terms of this section within such length of time, not exceeding 30 days, as is reasonable.

j. Set forth in said notice provided for in paragraph f. above that said owner shall appear before him on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the notice provided for herein in paragraph f. above.

1. Hold a hearing and hear such testimony as the building inspector, or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the land records of the tax assessor shall offer relative to the "dangerous building."

2. Make written findings of fact from the testimony offered pursuant to paragraph e. as to whether or not the building in question is a "dangerous building" within the terms of this section.

3. Issue an order based upon findings of fact made pursuant to this subsection commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the tax assessor, to repair, vacate or demolish any building found to be a "dangerous building" within the terms of this section and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building," or any person not the owner of said "dangerous building" but having an interest in said buildings shown by the tax assessor may demolish said "dangerous building" at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands by the borough as provided in subsection 10-4.9 hereof. Any person removing the notice provided for in subsection 10-4.8, paragraph f. hereof shall be subject to a fine not exceeding five hundred (\$500.00) dollars for each offense.

k. Report to the borough attorney the names of all persons not complying with the order provided for in subsection 10-4.8, paragraph i, 3. hereof.

10-4.9 Consequent of Failure To Comply.

If the owner, occupant, mortgagee or lessee fails to comply with the order provided for in subsection 10-4.8 paragraph i, 3 hereof within ten days, the public officer shall cause such

building or structure to be repaired, vacated or demolished as the facts may warrant, under the standards hereinbefore provided for in subsection 10-4.5 of this section, and shall, with the assistance of the borough attorney, cause the costs of such repair, vacation or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner; provided, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this borough, the public officer shall notify the borough attorney to take legal action to force the owner to make all necessary repairs or demolish the building, subject to the approval of the governing body.

10-4.10 Manner of Serving Complaints; Notices and Orders.

Complaints, notices and orders issued by the public officer pursuant to this section shall be served upon persons either personally or by registered mail. If the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and he shall make an affidavit to that effect, then the serving of such complaint, notice or order upon such persons may be made by publishing the same once in a newspaper printed and published in the borough, or in the absence of such newspaper, in one printed and published in the county and circulating in the borough. A copy of such complaint, notice or order shall be posted in a conspicuous place on the premises affected by the complaint, notice or order. A copy of such complaint, notice or order shall be duly recorded with the County Clerk of the County of Monmouth.

10-4.11 Lien for Costs; Sale of Materials; Disposition of Proceeds.

a. The amount of the cost of:

1. Filing of legal papers, expert witnesses' fees, search fees and advertising charges in the course of any proceeding taken under this section determined in favor of the borough; and

2. Such repairs, alterations or improvements, or vacating and closing, or removal or demolition, as the case may be, shall be a municipal lien against the real property upon which such cost was incurred. If the building is removed or demolished by the public officer, he shall sell the materials of such building. The proceeds of any such sale of such materials or any sum derived from any contract for the removal or demolition of the building shall be credited against the cost of the removal or demolition thereof, including the clearing, and, if necessary, levelling of the site. If there are no such credits, or if the sum of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed as a lien certificate with the borough tax assessor and a copy thereof shall be sent forthwith to the owner by registered mail.

b. If the total of the credits exceeds such costs, the balance remaining shall be deposited by the public officer in the Superior Court of New Jersey and shall be secured in such manner as may be directed by such court. The proceeds shall be disbursed according to the order or

judgment of such court to the persons found entitled thereto by final order or judgment of the court. Any owner or party in interest may, within 30 days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court of New Jersey to contest the reasonableness of the amount or the accuracy of the costs set forth in the lien certificate.

10-4.12 Additional Powers to Public Officer.

The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provision of this section, including the following powers, in addition to others herein granted:

- a. To investigate building conditions in the borough in order to determine which buildings are unfit for human habitation or occupancy or use.
- b. To administer oaths and affirmations; examine witnesses and receive evidence.
- c. To enter upon premises for the purpose of making examinations; provided, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

10-4.13 Duties of the Borough Attorney.

The borough attorney shall:

- a. Prosecute all persons failing to comply with the terms of the notices provided for herein and the order provided for in this section.
- b. Appear at all hearings before the public officer in regard to "dangerous buildings."
- c. Bring suit to collect all municipal liens, assessments, or costs incurred by the public officer in repairing or causing to be vacated or demolished "dangerous buildings."
- d. Assist the public officer in obtaining administrative search warrants where necessary to effectuate the purposes of this ordinance.
- e. Take such other legal action as is necessary to carry out the terms and provisions of this section.

10-4.14 Emergency Cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a "dangerous building" as defined herein is immediately repaired, vacated or demolished, the building inspector or other designated official shall report such facts to the public officer and if an actual and immediate danger to life is posed by the threatened collapse of any fire damaged or other structurally unsafe building, the public officer may, after taking such measures as may be necessary to make such building temporarily safe, seek a judgment in summary proceedings for the demolition thereof. The costs of such emergency repair, vacation or demolition of such "dangerous building" shall be collected in the same manner as provided in subsection 10-4.11 hereof.

10-4.15 Where Owner Absent From The Borough.

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the borough, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the tax collector to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it related. Such mailing and posting shall be deemed adequate service.

10-4.16 Administrative Liability.

No officer, agent, or employee of the Borough of Highlands shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this section. Any suit brought against any officer, agent or employee of the Borough of Highlands as a result of any act required or permitted in the discharge of his duties under this section shall be defended by the borough, by the borough attorney or special counsel until the final determination of the proceedings therein.

10-4.17 Duties of Fire Department.

The employees of the fire department shall make a report in writing to the building inspector of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" within the terms of this section.

10-4.18 Duties of Police Department.

All employees of the police department shall make a report in writing to the building inspector of any buildings or structures which are, may be, or are suspected to be "dangerous buildings" within the terms of this section.

10-4.19 Separability.

It is the intention of the borough council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the governing body that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

10-4.20 Delegation of Duties.

The public officer shall delegate and fix the duties of such officers, agents and employees as he deems necessary to assist him in carrying out the purposes of this section, subject to the confirmation, by resolution, of the borough council, and may delegate any of his functions and powers under this section to such officers, agents and employees as he may designate.

10-4.21 ~~Functions of Substandard Housing Committee.~~ Assistance to Public Officer

The public officer may request ~~the substandard housing committee~~ the Borough Officials, including, but not limited to, the construction official; health officer; fire chief or

his designee; welfare director; plumbing inspector; building inspector or assistant building inspector; fire inspector and/or the electrical inspector to assist him in determining whether a building under this section shall be demolished or repaired pursuant to the provisions of this section but the final order or determination in any case shall be deemed to be the order of determination of the public officer.

10-4.22 Violations; Penalty for Disregarding Search Warrant Notices or Orders.

a. The owner of any "dangerous building" who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this section to give such notice or order shall be subject to assessment of a fine not exceeding five hundred (\$500.00) dollars for each offense and a further sum of fifty (\$50.00) dollars for each and every day such failure to comply continues beyond the date fixed for compliance. This is in addition to any penalties which may be imposed on owner, occupant or lessee for violation of any criminal, disorderly persons or other ordinance violation.

The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this section shall be subject to a fine not exceeding one thousand (\$1,000.00) dollars for each offense and a further sum of fifty (\$50.00) dollars for each and every day such failure to comply continues beyond the date fixed for compliance. This is in addition to any penalties which may be imposed on owner, occupant or lessee for violation of any criminal, disorderly persons or other ordinance violation.

b. The owner of any premises who refuses to allow inspection of his premises requested pursuant to an administrative search warrant obtained pursuant to the terms of this ordinance (Chapter X, subsection 10-4.1 et seq.) shall be subject to a fine not exceeding one thousand (\$1,000.00) dollars and/or may be subject to imprisonment in the county jail for a period not to exceed 90 days.

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 after final passage as provided by law.