

**BOROUGH OF HIGHLANDS  
PLANNING BOARD  
REGULAR MEETING  
AUGUST 9, 2007**

Mr. Stockton called the meeting to order at 7:43 P.M.

Mr. Stockton asked all to stand for the Pledge of Allegiance.

Mr. Stockton made the following statement: As per requirements of P.L. 1975, Chapter 231, Notice is hereby given that this is a Regular Meeting of the Borough of Highlands Planning Board and all requirements have been met. Notice has been transmitted to the Courier, The Asbury Park Press and The Two River Times. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present:** Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mayor O'Neil, Mr. Bahrs,  
Mr. Stockton, Mr. Harrison, Mr. Cefalo

**Absent:** Mr. Schoellner, Mr. Nolan

**Also Present:** Carolyn Cummins, Board Secretary  
Jack Serpico, Esq., Board Attorney  
Catherine Britell, P.E., Acting Board Engineer

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**Resolution Making Recommendations to Ordinance O-07-07 Zoning Amendment Ord.**

Mr. Stockton read the title of the following Resolution for approval:

Connor Jennings requested to be heard on this matter and Mr. Serpico explained that there is no public input when a board is memorializing a resolution.

Unidentified Man also questioned the public having the right to speak about the memorialization of this resolution.

Mr. Kovic chaired this portion of the meeting.

Mr. Mullen spoke about his opposition to the board approving this resolution.

Mayor O'Neil offered the following Resolution and moved on its adoption:

**RESOLUTION  
BOROUGH OF HIGHLANDS PLANNING BOARD**

**WHEREAS**, the Mayor and Council of the Borough of Highlands authorized the Planning Board by resolution to undertake a review of proposed Borough Ordinance O-07-07, which Ordinance will amend the Borough Zoning Ordinance; and

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**WHEREAS**, the Municipal Land Use Act, NJSA 40:55D-26 & 64, set forth the issues to be considered by the Board and requires that the Planning Board prepare and transmit a report back to the Governing Body; and

**WHEREAS**, the Board conducted a review of the proposed amendment on June 14 and July 12, 2007; and

**WHEREAS**, the Board received comments on the substantive aspect of the proposed Ordinance from members of the public.

**NOW, THEREFORE BE IT RESOLVED**, by the Planning Board of the Borough of Highlands that it hereby adopts the findings and recommendations of the Board set forth below and further recommends that the Mayor and Council be guided accordingly when considering the adoption of the proposed Ordinance:

1. The Board finds that the high rise use proposed is consistent with the development in the area such as the East Pointe site.
2. The Board recommends that the Governing body develop detailed site regulations such as but not limited to bulk, density and lot coverage regulations in order to insure consistency with the East Pointe project and prevent overdevelopment of the site.
3. The Board recommends that the uses in the zone be expanded to include trailer homes in addition to single family, townhouse, high and mid-rise development.
4. The Board recommends that the maximum density and floor area ratio be limited to prevent overdevelopment of the site.
5. The Board finds that the use of the area for townhouse development would create a "sprawl effect" on the top of the hill and that the site is suited for a high rise use similar to East Pointe.
6. The Board recommends that the sewer capacity of the Borough system be reviewed and that the developer of the site be required to explore whether or not any development on the site can be connected to the Middletown Township system.
7. The Board recommends that the Borough Shade Tree Commission and garden club be given a role in the development of the site in relation to the protection of the site from excessive removal of trees and topping of trees.
8. The Board recommends that the steep slope issues be taken into consideration when adopting the final ordinance; and

**BE IT FURTHER RESOLVED** that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

Seconded by Mr. Harrison and adopted on the following roll call vote:

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**ROLL CALL:**

**AYES:** Mr. Kovic, Mayor O'Neil, Mr. Harrison, Mr. Cefalo  
**NAYES:** None  
**ABSTAIN:** None

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**PB#2006-1 Fleming, Daniel -  
Block 26 Lot 12 – 127 Highland Avenue  
Unfinished Public Hearing**

**Present:** Henry Wolffe, Esq.  
Dan Fleming

**Conflicts:** Mr. Kovic, Mr. Harrison, Mayor O'Neil, Mr. Bahrs

Mr. Serpico stated that the board only has four eligible board members present this evening to hear this application, everyone else that is present this evening is conflicted out. Statute requires that the board must have a quorum for every application which would be five members, which we don't have. Councilman Nolan is eligible to vote on this matter but couldn't be here tonight because he had a medical emergency tonight with one of his children. So it doesn't look like we have to go to the Zoning Board to obtain members, it looks like you will have a fifth eligible board member at the next meeting.

Mr. Wolffe stated that he understands the board's predicament and it's unfortunate that we had two Professional Witnesses here this evening. He then gave consent for an extension of time for the board to act to the next meeting.

Mr. Serpico advised the public that this matter is not being heard this evening and is being carried to the September 13<sup>th</sup> meeting.

Mr. Mullen offered a motion to carry the Fleming P.H. to the September 13, 2007 meeting without the need for further public notice, seconded by Mr. Manrodt and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Manrodt, Mr. Mullen, Mr. Stockton, Mr. Cefalo  
**NAYES:** None  
**ABSTAIN:** None

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Mr. Kovic, Mr. Harrison, Mayor O'Neil, Mr. Bahrs all returned to the meeting table.

**PB#2007-4 Knox 400, LLC  
Block 108 Lot 2.01 – 460 Route 36  
Public Hearing on New Business**

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**Present:**       **Henry Wolffe, Esq. Applicants Attorney**  
                  **Mark Leckstein, Objectors Attorney**  
                  **Mike Knox, Applicant**

**Conflict:**       **Mr. Stockton, Mr. Bahrs both stepped down for this matter.**

**Mr. Kovic Chaired this portion of the Meeting.**

**The following documents were marked into evidence:**

- A-1:   NJDOT Approval dated 5/30/07**
- A-2:   Parking Lot Photograph**

Mr. Wolffe then explained the history of this application which included being approved by the Zoning Board and that approval was appealed by the Objector and that appeal was granted so the ZB approval was reversed. His Client then appealed that decision and since then has abandoned that appeal because in the interim the Land Use Ordinance was changed to permit the use of Health Clubs and Fitness Centers at the proposed site. That made it unnecessary to get a use variance and we decided to come back to the Planning Board and make this application. In the interim, the Objector has filed a challenge to the Ordinance which permitted this use, so we have two pieces of litigation going on with regard to this site. We have a permitted use and what this application is here for is site plan approval and there are some minor variances as set forth in the review letter and a parking variance of six spaces.

Mr. Serpico asked if there was a Stay issued by the Court and both Mr. Leckstein and Mr. Wolffe stated that there was not.

Mr. Wolffe raised an objection to this fact that the Objector is not within 200 feet of this application, he stated that the objector is a competitor.

Mr. Leckstein stated that his client is a resident of Highlands.

Michael Knox was sworn in and stated the following during his testimony and response to questions from the Board:

1. He is a Soccer, Track & Field Coach for Holy Cross and the owner of the Fitness Center USA which is located about a mile and a half from the proposed site. He then described his existing business.
2. He entered into a contract about 2 ½ years ago to purchase the subject property.
3. We are taking the fitness center to the next level. We are going to have the same layout as we currently have; however we are going to be 1,000 square feet smaller than what we are currently. We are currently at 6,300 square feet. The down stairs of the new facility will be approximately 5,300 square feet.

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4. They are adding a second floor of approximately 3,000 square feet, a ½ basketball court. We are taking Stewarts building and adding approximately 6,000 square feet of addition.
5. Where we will grow in business is in teens and kids business.
6. He then explained his sports coaching experience and stating that this facility will allow them to train kids primarily first grade through 8<sup>th</sup> grade and bring in things like Rug Rats, Kick Ball, Dodge Ball, Conditioning so that we can get the kids prepared for their sports seasons and this will take place on the second floor. The second floor is floor space only. We will have a half court basketball which will be three on three players. We will have a short court Volleyball Court of four on four.
7. Basketball Camp, they will hire only the top High School Coaches in the area and they will bring in about 10 to 15 kids. This will all be scheduled on non-peak hours like after school. This is going to be like a mini YMCA.
8. 3,000 square feet of floor space on the second floor or smaller and it will not have equipment, it will only be for sports related training. The ceiling height is 22 feet in the second floor.
9. This will be the only club in the area that will have a 22-foot ceiling to allow for sports.
10. He purchased his first gym in 1992.
11. The use of the 3,000 square foot floor space for teen activities will be less intense than the use of the 5,300 square foot first floor gym which he further explained.
12. They will not really have spectators because parents really don't watch practices.
13. They will have 1<sup>st</sup> through 5<sup>th</sup> grade 6<sup>th</sup>-8<sup>th</sup> and High School kids. These are segregated events at different times.
14. This facility will not have an track facility on the second floor.
15. There peak hours for the health club first floor would be 6:30 -7:30. The morning hours are women dominated and the nights have more clients.
16. He has 3 employees at his Navesink Club and they are not all at one time.
17. He will need 3 to 4 employees at night during peak hours.
18. I.T.E Parking Studies includes that there will be employees for every 1,000 square feet of gym space.
19. The second floor will be of a less intense use than the first floor.
20. He spoke about parking standards for other municipalities.
21. He draws on customers within five miles.
22. There are four facilities in Sea Bright.
23. He will close his existing gym in Navesink and only operate the proposed new facility.

Mr. Manrodt expressed his concerns with traffic and parking.

Mayor O'Neil stated that he believes that the parking will be self regulating and if people can't get a parking spot then he believes that the people will not come to the facility.

Mr. Knox continued his testimony as follows:

24. Eighty Five to Ninety percent of clients are on a month to month contract.
25. There are three ways to get to this site which he further explained and so from a traffic study it's going to be much easier to get in and out of our facility than Quick Check.

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26. In this type of business the peak months are January through March and the worst time is in the summer.
27. The average time for a customer is about 45 minutes to one hour in the mornings.
28. Currently he is averaging anywhere from 15 to 23 people on any busy day at one time and a lot of people car pool and because we are open from 5AM to 11PM it gives a person access to the facility.
29. There is a cell tower on the subject property and there are two parking spaces reserved for that tower and in the past two years he has only seen them twice and it was in the afternoon. So we are going to use those spots for employee parking and if they need the space we will move our cars, so it's not really an inconvenience.
30. There is an existing apartment upstairs that is a two bedroom apartment and he intends to keep that and that requires two parking spaces and he intends to honor that and designate those spots.
31. There is a verbal agreement to use parking spaces at the car wash if we feel it's necessary.
32. They are not intending on having any subcontractors such as a massages.
33. They will sell drinks at the front desk that will be served out of a cooler not a vending machine. He buys the drinks from Costco so there will not be any delivery of refreshments.
34. He does all of the laundry himself at his house so there won't be any linen service deliveries.
35. The apartment is rented out currently and he intends to keep it as a rental income.
36. There are currently three uses on the site and three uses are proposed.
37. He spoke about item C-1 of the T & M letter and stated that they have been preapproved by NJDOT and we have the approval letter here and they find the site to be safe. He then described the egress and ingress of the site and discussed it with the board.
38. Trash – they have about a half of bag of garbage a day so they don't need a dumpster. They are going to put garbage cans by the cell tower spots.
39. Shade Tree - he is okay with the replacement comment in the T & M letter. There is a dead tree in the back by the cell tower and T & M wants me to take that down and put a live tree in and he finds that to be acceptable.
40. With regard to the T & M Comment that the low branch shade trees may interfere with vehicular movement, he does not understand this comment on page five, item E-2 and stated that they are not adverse to pruning trees. Mr. Wolffe stated that the applicant would rather accomplish this task by pruning the trees.
41. He then described a photo marked as Exhibit A-2 which is a picture of the site.

Mr. Serpico stated that the T & M letter that is being referred to is dated July 6, 2007.

Mr. Knox continued his testimony as follows:

42. Item C-2 of T & M letter – he deferred to his engineer and stated that most of our customers stay about 45 minutes to 1 hour so it's kind of staggered through and steady

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traffic all day, so with regard to those two spots we don't have people coming and going every five minutes.

43. The existing roof is falling down and they are going to put a new roof up.

Mr. Kovic stated that he wants to see the apartment in the plans and stated that the plans don't show any access to the apartment.

Mr. Knox continued his testimony as follows:

44. Recycling will be handled inside.

45. He is acceptable to change the proposed Sour Gum Trees with something else.

46. He has obtained approval for this from the Fire Department.

47. Electric Service will be by overhead wires and it is existing currently

48. The plans will be revised to show wheel stop for comment 13.

49. The plans don't show the buffering of around the cell tower with use of shrubs he would rather not have to buy expensive shrubs.

The board engineer had a discussion with the applicant with regard to Items C- 3 and C-5.

Mr. Wolffe stated that they are requesting design waivers for the purpose of trying to have as many parking spaces as possible.

The board engineer stated if a design waiver is granted plans need to be revised to indicate signs for compact cars.

Mr. Knox continued as follows:

50. He is not proposing an irrigations system for the landscaping.

51. The lighting will be addressed by his engineer.

Mr. Kovic stated that he is not clear about this two bedroom apartment. He feels that the drawings seem to conflict a little bit which he further explained. He stated that he would rather not have the apartment use because there are three uses on one site. He stated that by removing the apartment it would add more gym space to the facility which he further explained. He stated that the plans don't really show how the gym is laid out, it doesn't show access from the apartment.

Mr. Mullen stated that its his understanding that the addition was a two story addition and there was a gym on the first floor and basketball facility on the second floor and then the Stewarts provided for a first floor only and its roof and apartment were to remain as is.

Mr. Serpico opened up to cross examination of Mr. Knox by the objectors Attorney Mark Leckstein and then members of the public.

Mr. Leckstein – how many members do you have at your current facility?

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Mr. Knox – about 438.

Mr. Leckstein – how many would you say are handicapped?

Mr. Knox – none

Mr. Leckstein – you're asking for 39 parking spaces?

Mr. Knox - yes

Mr. Leckstein – there are four employees and yourself?

Mr. Knox explained that his son is going to run the day to day gym business and he is going to run the sports academy, he is going to just coach.

Mr. Leckstein then spoke about the number of parking spaces and questioned the cell tower approval and the requirement of providing two spaces. He stated that the board approval of the cell tower has a requirement that two parking spaces be dedicated to the cell tower.

Mr. Wolffe stated that he object to Mr. Leckstein making statements.

Mr. Leckstein – if we are going based on the board engineers letter then the applicant is six spaces deficient, do you disagree with that comment?

Mr. Wolffe - he would agree that they are four to six spaces deficient.

Mr. Leckstein questioned the fact there are no handicapped customers so that will bring your parking deficiency up.

Mr. Wolffe objects to the Mr. Leckstein statements with regard to his interpretation of the parking requirements.

Mr. Serpico advised Mr. Leckstein that the applicant is requesting a variance from the ordinance requirements for parking.

Mr. Leckstein – questioned Mr. Knox about how this application differs from the application that he presented to the Zoning Board.

Mr. Wolffe objected

Mr. Serpico advised the board that Mr. Lecksteins question is irrelevant and advised the board that it irrelevant because the board is going to deal with the ordinance as it now exists.



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Mr. Leckstein stated that the site plan that was approved by the Zoning Board was challenged and that site plan was rejected by a Court of Law which he further explained.

Mr. Serpico explained that this is a brand new application and this board is not going to get involved with what went on at the Planning Board which he further explained.

Mr. Leckstein stated that it is of his opinion that if this is the same site plan that was before the Zoning Board and that site plan was rejected by the Judge then that judge's ruling is relevant here.

Mr. Serpico – we can argue that before Judge Larson which he explained.

Mr. Wolffe - stated that he wanted to register his very strong objection to the concept that Judge Lehrs decision which by the way was appealed and was only dropped because we were going back to this board, has anything to do with this application and its certainly not the law of this case. He does not believe for a second that the site plan was rejected. The only thing that the Judge did was he rejected the grant of the use variance.

Mr. Serpico explained that this application will rise or fall on its own merits.

Mr. Leckstein then asked the applicant what type of classes that he will be holding.

Mr. Knox - sports and conditioning classes, yoga, physical education, basketball, tea ball, instructional soccer, strength agility and speed classes for the kids and whatever comes up next. If Lacrosse becomes popular then we will do that. Volleyball is going to be for the adults and it would be four on four maximum. Our half court basketball lends its self to two on two, three on three and you will finds kids playing four on four. Mommy and me classes, he is not sure if it's profitable or not. He would like to have the teenagers joint the gym. With regard to the multipurpose room he will have yoga and other classes in it. You can't pin down a number of people in the classes, he would say that the normal class size is six to ten, fifteen tops for the multipurpose room.

Mr. Leckstein stated that he is trying to get what the maximum achievable capacity is for the gym and for the multipurpose room upstairs.

Mr. Wolffe lodged an objection to the term maximum achievable capacity because he doesn't think that term is anywhere in the Ordinance or the Land Use Statute and it could mean anything which he further explained.

Mr. Knox – the maximum for the classes would be fifteen and the minimum would be three. The downstairs could have between fifteen to twenty people. There could be thirty five people including employees on the site at one time. He currently has approximately 438 members and would like to get a 10 or 15% growth.

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Mr. Leckstein stated that he had no further questions.

Mr. Kovic asked if there were any questions from the public.

Elaine Hoffman – where are you keeping the supplies?

Mr. Knox – we have a utility room where supplies will be kept.

Mr. Leckstein questioned how compact parking would be enforced.

Mr. Knox stated that there will be a sign that says “compact cars only” and if someone parks there that is not a compact car then we will ask them to move.

There were no further questions from the public.

9:29 P.M. - Mayor O’Neil offered a motion to take a brief recess and all were in favor.

9:36 P.M. – The meeting was called back to order.

The Board advised Mr. Wolffe that there are other items on tonight’s agenda so they only have about fifteen minutes left for them this evening.

Mr. Wolffe stated that they will conclude their application this evening and come back.

Mr. Manrodt offered a motion to carry this public hearing to the September 13, 2007 meeting, seconded by Kovic and all were in favor.

Mr. Serpico advised the public that this matter has been carried to the September 13, 2007 meeting and that there would be no further public notice.

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**Amendment to Master Plan Stormwater – Public Hearing**

**ROLL CALL:**

**Present:** Mr. Kovic, Mr. Mullen, Mayor O’Neil, Mr. Stockton, Mr. Harrison,  
Mr. Cefalo

**Absent:** Mr. Bahrs, Mr. Schoellner, Mr. Nolan

**Also Present:** Carolyn Cummins, Board Secretary  
Jack Serpico, Board Attorney  
Catherine Britell, P.E., Acting Board Engineer

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Mr. Stockton stated that the Board Members have a copy of the Municipal Stormwater Management Plan Master Plan Element as well as a Resolution or updates that go with that provided by the Monmouth County Planning Board.

Mr. Serpico stated that proper public notice of this matter has been served and published in the Asbury Park Press in the July 28, 2007 edition, and sent to the surrounding Municipalities and to the Monmouth County Planning Board.

Mr. Stockton stated that the Municipal Stormwater Management Plan Master Plan Element was prepared by T & M Associates and is dated March 2005 and is amended through August 9, 2007. As well the Board has a letter from the Monmouth County Planning Board with a copy of the Resolution conditionally approving the Stormwater Plan and that letter is dated April 17, 2007.

Ms. Britell stated that the changes that were made were text changes that were requested by the Monmouth County Planning Board.

Mr. Stockton stated that following:

1. On page 22, the last paragraph mentions that our water source comes from New Jersey American Water Company and from the Swimming River Reservoir and he wants to make sure that that paragraph reads correctly.
2. On page 30, talking about stormwater management strategies. It mentions are design specifications from our Land Use Ordinance, under Section U, Steep Slope and Slump Block Specifications, it mentions that section of the ordinance that is on for consideration this evening for modifications and stated that this section may need to be modified again.
3. Other than that he feels that the document follows the code.
4. On the bottom of page 43 and the top of page 44, it talks about water quality control and he thinks that the dredging of a repair at the culvert at the intersection of South Peak and Highland Avenue would also be a good water quality issue benefit where it is listed but would also be a good water quality control.

Ms. Britell stated that she is not sure that any change at this point would probably need to go back to the Monmouth County Planning Board.

Mr. Stockton asked if there were any questions or comments from the public.

Pauline Jennings of 57 Ralph Street questioned when the amendments to the stormwater were done.

There were no further questions or comments from the public; therefore the public portion was closed.

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Mr. Manrodt offered a motion to approve the amendment to the Master Plan Stormwater Management Element, seconded by Mr. Mullen and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mayor O'Neil, Mr. Harrison,  
Mr. Cefalo, Mr. Stockton

**NAYES:** None

**ABSTAIN:** None

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**Review of Steep Slope Ordinance**

Mr. Stockton stated that the Board Members have copies of our Current Steep Slope Ordinance O-00-03 and a copy of the Atlantic Highlands Borough Steep Slope Ordinance. With regard to these items he believes that the board has to do a little more homework before we make a proposal to modify our ordinance.

Ms. Britell – she did review the Steep Slope Ordinance and made a couple of comments. In terms of the technical content we haven't had a problem using it; however there are certain sections of this ordinance that would need to be tailored to Highlands needs. Particularly the first section 7.33A, they specifically include the block and lots that are affected by Steep Slope.

The board felt that it was a good idea to clarify and identify where there are steep slopes are and where there are not.

Ms. Britell – another item that I pointed out and this happens throughout the ordinance. This has a sliding scale you calculate out a certain percentages that are then applied to reductions for the increase in the amount of lot coverage because you have a larger slope.

Mr. Mullen – I need an instruction on how you do that. How you calculate the area?

Ms. Britell – that is spelled out in the ordinance.

Mr. Stockton suggested that we develop a topographical map of the existing conditions on a property and then shade that map which he further explained to have an outcome of a product that is a slope analysis map.

The board had a discussion with Ms. Britell with regard to the Atlantic Highlands Steep Slope Ordinance.

The Board requested that the Board Engineer bring a topographical map of the borough to the next meeting. She stated that she will try to do it on a readable scale.

Mr. Serpico suggested that the Steep Slope Ordinance should be in our Subdivision Ordinance as well as our Site Plan Ordinance.

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Mr. Kovic suggested that the tree pruning be included in the Steep Slope Ordinance.

Mr. Mullen suggested that we make the ordinance so that some pre-existing lots can do things without going through an application process. He also believes that we should address utilities.

Mr. Stockton advised the board to study the steep slope ordinance and to come back with a list of suggestions and advised the board that this matter will be continued at the October PB Meeting.

Mayor O'Neil offered a motion to carry this matter to the October Meeting, seconded by Mr. Kovic and all were in favor.

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**Approval of Minutes**

Mr. Mullen stated that he had sent corrections to the board secretary.

Mr. Stockton stated that there was a typo on page 6 with regard to the professional legal services contract amount.

Mr. Manrodt offered a motion to approve the approval of July 12, 2007 with corrections, seconded by Mayor O'Neil and all eligible members were in favor.

Mr. Kovic offered a motion to adjourn the meeting, seconded by Mr. Manrodt and all were in favor.

The Meeting adjourned at 10:13.

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**CAROLYN CUMMINS, BOARD SECRETARY**