



MAYOR AND COUNCIL MEETING FEBRUARY 08, 2006

A Regular Meeting of the Mayor and Council of the Borough of Atlantic Highlands will be held February 08, 2006 at 7:30 PM in the Borough Hall, 100 First Avenue Atlantic Highlands NJ. This meeting is in compliance with the Open Public Meetings Act. Adequate notice has been provided by transmitting the Resolution of Annual Meetings to the Asbury Park Press and the Courier, by posting it in the Borough Hall on a bulletin board reserved for such announcements and by filing it with the Municipal Clerk of Atlantic Highlands, on 1/04/2006. This agenda is complete to the extent known and formal action will be taken.

1. Silent prayer
2. Pledge of allegiance
3. Roll call
4. Approval of previous meeting minutes -
 - a. Reorganization Meeting- January 1, 2006
 - b. Regular Meeting- January 25, 2006
5. Reports - Council, Administrator, Professional, Other
6. Comments from the Public
7. Unfinished Business:
 - Ordinance 03-2006- Increasing Maximum Penalties for Ordinance Violations to \$2,000.00
 - Second Hearing and Possible Adoption
8. New Business:
 - a. Resolution 042-2006, Emergency Temporary Appropriations
 - b. Resolution 043-2006, Transfer of Funds
 - c. Resolution 044-2006, Extending the Services of Burgis Associates
 - d. Resolution 045-2006, Change Order - D&D Utility- Water Main Improvement Project
 - e. Resolution 046-2006, Award of Contract- Special Needs Assessment of Borough Hall
 - f. Resolution 047-2006, Agreement with Middletown to Facilitate Repairs on Sears Ave
 - g. Resolution 048-2006, Payment of Bills
 - h. Resolution 049-2006, Resolution Concerning Open Space
9. Consent Agenda
 - a. **Approval of Raffle License 3342-2006**, Middletown Village PTA, March 31, 2006, Shore Casino- Off Premise 50/50
 - b. **Approval of Raffle License 3343-2006**, Middletown Village PTA, March 31, 2006, Shore Casino - On Premise Raffle
 - c. **Approval of Raffle License 3344-2006**, Friends of Monmouth County Child Advocacy, May 06, 2006, Shore Casino- Off Premise 50/50
 - d. **Approval of Raffle License 3344-2006**, Friends of Monmouth County Child Advocacy, May 06, 2006, Shore Casino- Silent Gift Auction
10. Executive Session
11. Adjourn



MINUTES OF THE MAYOR & COUNCIL REGULAR MEETING OF FEBRUARY 08, 2006

The Regular Meeting of the Mayor and Council, of the Borough of Atlantic Highlands, was held on February 08, 2006 in the public meeting room of Borough Hall, 100 First Avenue Atlantic Highlands NJ.

Mayor Donoghue called the meeting to order at 7:30 PM. After a silent prayer and the Pledge of Allegiance, the following roll call was taken: Council members Archibald, Doyle, Fligor, Ladiana, Nolan, and Spatola. Administrator Hubeny, Borough Attorney Reilly, Borough Engineer Robert Bucco, and Municipal Clerk Harris were also present.

Mr. Harris stated that notice of this meeting has been transmitted to the Asbury Park Press and the Courier, continuously posted in the Borough Hall on a bulletin board reserved for such announcements, and filed with the Municipal Clerk of Atlantic Highlands, on 1/3/2006. He read the "Open Public Meetings Act" compliance statement and stated that formal action would be taken.

Mayor Donoghue began the meeting with the following statements:

The funeral service for Coretta Scott King reminds us all of the progress -- and the lack of it -- we have made since her husband was assassinated.

Although the passing of this dedicated and gracious woman leaves us saddened, it is perhaps appropriate that it occurred during Black History Month.

Annually, this is a time when many of us recall the trials and accomplishments of black Americans.

At this time, we should be thinking about the work of Martin and Coretta King and other national figures, of course. But we should also recognize the efforts of local black Americans such as Borough Clerk Dwayne Harris, the Rev. Dr. Henry P. Davis Jr., first aider Beverly Glynn and many others.

It is also when we should be rededicating ourselves to the cause of total equality both nationally and locally. We must not delude ourselves that all the civil rights battles have been won.

Still, the poverty level among black Americans is far higher than for white Americans ... and proper health care is available to fewer blacks than whites.

Still, substandard housing is far more common for black people than white people ... and educational opportunities and achievements for black Americans are considerable less than for white Americans.

Still, opportunities for good jobs are far less for blacks.

Still, hatred and intolerance are far more prevalent than one would expect in this great and so-called Christian country.

Now is time for us all to ask ourselves how much more we can do to right these wrongs.

We must answer the call to promote love, inclusion and equality ... and now is the time to redouble our efforts.

APPROVAL OF MINUTES

Reorganization Meeting-January 1, 2006
Regular Meeting -January 25, 2006

Council member Nolan made a motion for the approval of the above minutes. It was seconded by council, member Spatola and carried by the following vote:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola
NAYS:

REPORTS - COUNCIL MEMBER, COMMITTEE, PROFESSIONAL

Council member Archibald reported the Atlantic Highlands Police answered 950 calls in the month of January. He further reported in 2005 there were some 12, 957 calls. So far this year the Department has issued 7 Senior ID cards and 14 ABC cards. He commented that he council member Fligor and Administrator Hubeny met with Conifer Property and made known to them that the Borough did not exchange the proposed ball fields for parking lots. He finally reported that Recreation would be meeting tomorrow night.

Council member Spatola reported that Henry Hudson Regional would be holding their second annual Curriculum Night of February 13, 2006, and encourage all to attend.

Mayor Donoghue mentioned the Mason's would be hosting the "Have Your Kid CHIP'd Program" on March 11, 2006 from 11:00am until 4:00pm.

Council member Doyle reported that the budget season is in full swing. Borough Administrator Hubeny will be meeting with the Department heads to continue sensitizing the final numbers.

Council member Nolan reported that in 2005 over 36, 000 items were circulated through the library. The numbers are down a little due to the re-opening of the Middletown library, but are still strong numbers for a library of its size, reemphasizing the fact that we need new library. He mentioned their "Food for Fines" drive will be continued and encouraged people to drop off items that would help the local food pantry. He acknowledged the opening of Zoes Restaurant on Center Ave.

Mayor Donoghue reminded all of the Spaghetti Dinner on Saturday, February 11th that will also benefit the local food pantry.

Council member Fligor reported that he has not met with NJNG recently, due to conflicting schedules and emergent situations. He also commented that he has been forwarding pictures of the clarifier to them so they are kept aware of the situation. He stated that they would be meeting in two weeks at their next regularly scheduled time. He commented that he will be attending a Clean Marina meeting on Saturday, February 11, in the Harbor and will also be attending the CJHIF Training for elected officials. He explained that each Governing Body member that attends will result in a \$1, 000 reduction in our insurance billing. He finally mentioned that he and Council member Spatola attended and judged the Pinewood Derby contest sponsored by the Boy Scouts.

Council member Ladiana reported that Thursday February 9th will be the first Dredge Management Meeting at the Senior Center. She commented that she had walked the trail o Saturday with Paul Boyd, Council member Fligor and Beth Soreby.

Administrator Hubeny commented on the situation with the clarifier. He also mentioned that the work on Sears Ave is 95% complete. T&M did a good job and he encouraged all to go and see the amount and quality of work that was done there in such a short amount of time. He mentioned that Bayside Drive has major problems. The road will be closed on our side, but will be opened on the Highlands side. Highlands is also concerned with large construction equipment being allowed to travel along portions of the road, so they will keep it blocked off were they are rebuilding the home on the Atlantic Highlands/Highlands border, and will allow the contractor to shuttle materials utilizing small trucks. He reported that the Cable TV Committee is trying to meet, but are having scheduling problems trying to get everyone at the table. He reported the 2005 Road Project would begin in April. He mentioned the Borough received a Safety Award from the Joint Insurance Fund and complimented Captain Amici who coordinates our safety programs. He finally reported that PEOSHA would be here on February 15 to meet with him and do inspections on all of the Borough buildings.

Engineer Bucco reported that French and Parillo would be in to look at soils and the sinking of the clarifier. He mentioned that he has been in contact with the County regarding Bayside Drive and Highlands will open their side of the road in cooperation

with Atlantic Highlands. T&M is working on the COAH report that needs to be completed. They will be providing Burgis Associates with everything that they need. He mentioned that the Water Diversion Permit is a major concern.

Attorney Reilly had no report.

PUBLIC COMMENT SESSION

Jane Frotton-12 Memorial Pkwy- commented she would like to see the public comments portion be held just prior to the consent agenda

Mike Harmon 33 Bonnie Brae path thanked Mayor Donoghue for taking the walk through Lenape woods and witnessing the damage done there. He further commented on the proposed retention basin at Kara Homes and the \$500,000.00 cost. He commented that that amount was not in the agreement. The obligation was strictly Conifers that is why they got the property for dollar. Atlantic Highlands agreed to let them have a retention basin on part of Lenape woods as long as it was a natural retention basis. He further mentioned that he doubts there is a resolution to modify the agreement.

Mayor Donoghue commented that was no formal resolution but it had been reported here and he believes he [Mr. Harmon] was in the room.

Council member Archibald clarified that the estimated cost of the basin went up to \$500,000 and Atlantic Highlands and Middletown were asked to split the cost. He did not feel that was a good idea. He further emphasized to Mr. Harmon, that we had told Mr. Fournier that we did not trade a soccer field for a parking lot. We agreed to allow some type of deepening or smaller reconfiguration of the basin, which is all.

Mr. Harmon commented that the retention basin was never in the agreement that was an accommodation allowed by Atlantic Highlands.

Myor Donoghue commented that it was a requirement to satisfy the new storm water regulations.

Mr. Harmon further asked why these meetings are not public. He had requested to be at the meeting and he was denied.

What he would like is Home Properties and Middletown to say what they would like to do and what the requirements are publicly. He would like to challenge their issues with the agreement.

Mr. Harmon feels that it is important to the town what we are doing. There has been a lot of effort and he does not understand why you would let some developer come in and just using COAH, and has not lived up to one thing they said they would do.

Council member Fligor commented that the drawings Conifer brought to the meeting had increased the parking, and we said "no way". None of us [he, the Mayor and Council member Archibald] agreed with it and we told them to go back to the drawing board. In the meantime we will talk with Middletown and the Borough engineer, so we can stick together as a group and be sure Conifer is not playing one against the other.

Ed Cetron-Auditorium Dr- commented that Birdsall was doing the Arborist functionality for the steep slope permit and does not want to see that get lost. As we transfer to T&M we need to see that that responsibility gets replaced with someone on T&M staff or find an outside individual.

Joseph Hawley-25 Ocean Blvd- offered his agreement with Mr. Harmon regarding the Conifer property and questioned who told them they could change the contract once it was negotiated and agreed to. He asked if the next meeting could be opened to the public so they can have an understanding of what is going on. He also asked if any word was received on the funding of the McConnell tract and the Giuliani property. He expressed his concern that the majority of the people think the money is already in place for the purchase. He also asked if there would be a referendum for the purchase of the Giuliani property.

Donna King-Ocean Blvd- asked about the closing of Bayside Drive and wanted to know why any building down there is being approved. She is concerned that it is a very

delicate area; the land is shifting there. You can't even get a truck with building materials down there. Why can't the council just say no more building down there? She also expressed her concern that Hovnanian has put the plan in on the Giuliani property and wanted to know why we just don't claim eminent domain and take the property for the good of all of the residents in Atlantic highlands and Monmouth County.

Mike Rybeck-North Ave- asked about the retention basin and its size being based on the amount of area it disturbs and run off? He also asked about the traffic coming off of East Washington on Sears Ave, and asked if it has ever been reviewed?

Thomas King- Ocean Blvd- expressed his belief that the problems on Bayside Drive are being caused by development in problem areas. He also asked if it would be prudent to have our attorney send a letter [regarding the catch basin Mr. Harmon spoke on] asking the developer to decrease the size of his development to meet the accommodations of the current planned basin.

Allan Dean-Second Ave- reiterated his comments from the last meeting about having two public comment sections. He feels it is helpful for the public to relate their concerns about what has transpired during the meeting.

Mike Harmon-33 Bonnie Brae Path- commented that he thought the retention basin agreed to by Atlantic Highlands that would take water away from behind the Hofbrauhaus was no longer on the plan. He also commented that Hovnanian is the one benefiting in Long Branch by stealing peoples homes in Long Branch. You need to have a couple of hundred grand in your budget next year to be able to fight them with lawyers and engineers... people will complain that you are spending too much money, but that is the only way you can do it.

John White-32 Center Ave- doesn't understand the Hovnanian proposal that includes two boardwalks and a beach. He wanted to know how the developer could promise a boardwalk that can be used by the public when it will be owned by the condo association. He also wanted to know where the pedestrian crossing signs on First Ave had gone. He finally commented on the "Last Friday" events in the borough and though it was a wonderful idea.

UNFINISHED BUSINESS

ORDINANCE 03-2006, INCREASING MAXIMUM PENALTIES FOR ORDINANCE VIOLATIONS

This Ordinance was called up for Second Reading and Final Adoption and read by title. A Motion to open the Public Hearing was moved by Council member Fligor, seconded by Council member Archibald and unanimously approved.

PUBLIC HEARING

Asked how many Ordinances do not specify a specific penalty for an infraction.

Attorney Reilly explained that most of them do not. Most will come under the General Penalty Provision.

Mr. Dean asked that if this Ordinance were passed would make most infraction in the Municipality punishable with a fine up to \$2,000.00.

Mr. Reilly explained that it is very rare that the Judge imposes a fine with the maximum amount. It is usually in an egregious type of situation or repeated offenders.

Mr. Dean stated that we do have some ordinances that stipulate the fines. Like failure to curb your dog, but there are other Ordinances that do not stipulate what the fine would be, that fine could be a maximum of \$2,000.00. He again asked how many Ordinances this effects.

Attorney Reilly explained that he could not give him an exact count, but would say most are covered under the General Penalty Provision.

Mr. Dean asked if there were a specific fine for J walking.

Chief Vasto explained that was a State statute unless the judge agreed to down grade it to a Borough Ordinance, at that time they would be able to stipulate the fine.

Mr. Dean again asked how many Ordinances does this effect and what kind of Ordinances are would put people at risk of having an increased fine.

Mayor Donoghue explained that the Ordinances have not changed; just the potential fine for violating them would increase.

Mr. Dean commented that well just because the State says you can doesn't mean you have to unless we are dealing with some other issues here.

Mr. Reilly explained that it is maybe 1 in 500 that someone would receive the maximum fine. He later explained that based on his experience, most of the time those types of fines are for building code violations where a defendant has basically ignore repeated notices, lesser fines or notices by the judge to get their house in order. The State Legislature has determined, that in certain situations, a larger fine that 1,250.00 should be allowed.

Thomas King- Ocean Blvd- wanted to go on record that the State Legislature does not realize the value of \$1,250 or \$2,000.00 because they are too busy wasting my taxpayer dollars. Secondly recently he was in Municipal court were the prosecutor mislead people to believe that if the plea to a lesser fine they would not be charged by their insurance. He does not feel we should have the right to take any more money, \$1,250.00 is a lot of money.

A Motion to close the Public Hearing was moved by Council member Archibald, seconded by Council member Fligor and unanimously approved.

Council member Archibald, seconded by Council member Fligor, moved Final Adoption.

Council member Nolan commented that he agrees with Mr. King that \$1,250.00 is a lot of money but to think \$2,000 is the new \$1,250 is kind of odd.

It was approved by the following vote.

AYES: Council members Archibald, Fligor, Doyle, Ladiana, Nolan and Spatola

NAYS:

NEW BUSINESS

RESOLUTION 042-2006, EMERGENCY TEMPORARY APPROPRIATIONS

This resolution was offered and moved for adoption by Council member Ladiana and seconded by Council member Nolan.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

RESOLUTION 043-2006, TRANSFER OF FUNDS

This resolution was offered and moved for adoption by Council member Nolan and seconded by Council member Archibald.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

RESOLUTION 044-2006, EXTENDING THE SERVICES OF BURGIS ASSOCIATES

This resolution was offered and moved for adoption by Council member Ladiana and seconded by Council member Nolan.

Council member Archibald commented that he truly hopes we do not get to \$35,000.00 and expressed concern about the promptness of Mr. Lydon and if we are getting the best for our \$35,000.00

Mr. Doyle asked were the \$35,00.00 came from.

The Mayor explained that it was just an estimate.

Mr. Archibald asked how long Mr. Lydon estimates this will get us to.

Mr. Hubeny explained that there was no definitive answer and an additional expenditure of \$15,000.00 may be foreseeable.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

RESOLUTION 045-2006, APPROVE CHANG ORDER D&D UTILITY

This resolution was offered and moved for adoption by Council member Nolan and seconded by Council member Fligor.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

RESOLUTION 046-2006, AWARDING CONTRACT FOR SPECIAL NEEDS ANALYSIS

This resolution was offered and moved for adoption by Council member Ladiana and seconded by Council member Archibald.

Council member Nolan commented that only one proposal mentioned structural and mechanical surveying and giving us information on that. He assumes Goldstein Architects Group is going to give us a structural and mechanical analysis but nothing in his proposal says that, and he is afraid that they were included in the \$19,000 additional service.

The administrator explained that Mr. Goldstein did not feel it was needed at this particular point. Her wants to give the Borough the opportunity to see what is needed by code and regulation, and give many options on what we can do with this building.

Mr. Nolan asked about the HVAC.

Mr. Hubeny explained that we already have a study on that from Birdsall, which we paid \$4,000 for.

Mr. Doyle commented that conceptionally, we all know the needs of the building. This is a lot of money to have a professional to come in to tell us what we already know.

Council member Ladiana commented that the State requires a spatial needs analysis and feasibility study if we are going to be considered for State funding in they reinstitute the library reconstruction bond.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola

NAYS: Council member Doyle

RESOLUTION 047-2006, AGREEMENT WITH MIDDLETOWN FOR REPAIRS ON SEARS AVE

This resolution was offered and moved for adoption by Council member Archibald and seconded by Council member Fligor.

Council member Archibald thanked Engineer Bucco for his work on this matter.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

RESOLUTION 048-2006, PAYMENT OF BILLS

This resolution was offered and moved for adoption by Council member Nolan and seconded by Council member Archibald.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

RESOLUTION 049-2006, RESOLUTION CONCERNING OPEN SPACE

This resolution was offered and moved for adoption by Council member Ladiana and seconded by Council member Nolan.

Council member Fligor commented that the inclusion of certain property was to maintain public access, and they were removed from the list, if we remove these properties they are no longer protected.

Mr. Reilly explained that if you put something on the Open Space Plan, it becomes more difficult for the Borough to convey it away. The reason for this resolution is relative to the COAH application and since there are certain properties that they may argue as not appropriate on an Open Space Inventory, Mr. Surenian suggests we leave them off for the purposes of submission for COAH.

Council member Archibald questioned paragraph six and the reference to property having no meaning to the value of Open Space and wanted to know what the various sites were.

This resolution was adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

CONSENT AGENDA

- 1) Approval of Raffle Licenses 3342-2006, Middletown Village PFA; March 31, 2006, at Shore Casino, Municipal Harbor, Atlantic Highlands, NJ
- 2) Approval of Raffle Licenses 3343-2006, Middletown Village PFA; March 31, 2006, at Shore Casino, Municipal Harbor, Atlantic Highlands, NJ
- 3) Approval of Raffle Licenses 3344-2006, Friends of Monmouth County Child Advocacy; May 06, 2006, at Shore Casino, Municipal Harbor, Atlantic Highlands, NJ
- 4) Approval of Raffle Licenses 3345-2006, Friends of Monmouth County Child Advocacy; May 06, 2006, at Shore Casino, Municipal Harbor, Atlantic Highlands, NJ

The above items were moved as one motion by Council member Nolan, seconded by Council member Spatola and adopted by the following vote.

AYES: Except as shown below, Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

The Executive Session minutes for January 25, 2006 will be approved by a yes vote by a majority of Council members as indicated by the signatures on those minutes.

RESOLUTION TO ENTER EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act provides that the Mayor and Council may go into Executive Session to discuss matters that may be confidential or listed in N.J.S.A. 10:4-12; and,

WHEREAS, it is recommended by the Borough Attorney and Administrator that the Mayor and Council go into Executive Session at this time to discuss matters set forth below which are permissible for discussion in Executive Session;

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Atlantic Highlands to go into Executive Session to discuss the following items. Minutes will be kept and once the matter above no longer requires confidentiality the minutes will be made public.

- 1) Contracts-Professionals
- 2) Personnel Issues – Harbor Security
- 3)

Mayor Donoghue read this resolution in full. It was offered and moved for adoption by Council member Nolan at 9:40 PM, seconded by Council member Fligor and adopted by the following vote.

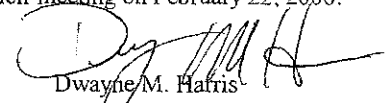
AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

RECONVENE - At 10:15 PM the meeting was resumed.

ADJOURN - There being no further business before the Mayor & Council, Council member Nolan moved to adjourn the meeting at 10:15 PM, the motion was seconded by Council member Fligor and unanimously approved.

The Governing Body approved these Minutes at their meeting on February 22, 2006.


Dwayne M. Harris
Municipal Clerk



ORDINANCE 03-2006

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 1- GENERAL PROVISIONS- OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ATLANTIC HIGHLANDS

BE IT ORDAINED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey that

Chapter 1, *General Provisions*, Article 5, *General Penalty*, and Section 1-5.1 of the Revised General Ordinances of The Borough of Atlantic Highlands is hereby amended to read as follows:

Section 1-5.1 Maximum Penalty. For violation of any provision of this Code or other Ordinances of the Borough of Atlantic Highlands, unless a specific penalty is otherwise provided in connection with the provision violated, the maximum penalty upon conviction of the violation shall be by one (1) or more of the following: imprisonment in the County Jail or in a place provided by the municipality for the detention of prisoners, for any term not exceeding ninety (90) days; or by a fine not exceeding two thousand (\$2,000.00) dollars; or by a period of community service not exceeding ninety (90) days.

Repealer: All prior Ordinances, or portions thereof, inconsistent with this Ordinance are hereby repealed.

This Ordinance shall take effect immediately upon final its final passage and publication as required by law.

Council member Nolan introduced this Ordinance and, after First Reading, moved for approval. It was seconded by Council member Archibald and approved by the following vote.

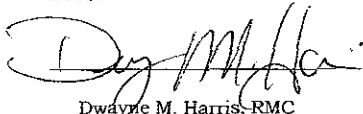
AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS: Council members

The Second Reading, Public Hearing and possible adoption is scheduled for February 8, 2006.

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held January 25, 2006.

WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 26th day of January 2006.



Dwayne M. Harris, RMC

SECOND READING AND FINAL ADOPTION: PASSED February 08, 2006

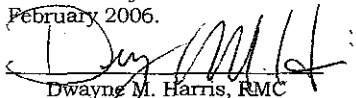
After a Public Hearing and Second Reading, Councilmember Archibald moved for Final Adoption of this Ordinance. It was seconded by Councilmember Fligor and adopted by the following vote.

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan, and Spatola

NAYS:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006.

WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.



Dwayne M. Harris, RMC

DATE OF MAYORS APPROVAL: February 9, 2006



Peter E. Donoghue, Mayor



RESOLUTION 042-2006 EMERGENCY TEMPORARY APPROPRIATION

WHEREAS, an emergency condition has arisen with respect to the fact that the Borough has yet to adopt its 2006 budget and no adequate provision has been made in the 2006 temporary appropriations for the aforesaid purpose, and N.J.S.A. 40A: 4-20 provides for the creation of an emergency temporary appropriation for the above mentioned; and,

WHEREAS, the total emergency temporary resolutions adopted in the year 2006 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A: 4-20) including this resolution total \$ 370,109.00; and,

NOW, THEREFORE, BE IT RESOLVED, (by not less than two-thirds of all the members thereof affirmatively concurring) by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, that in accordance with the provisions of N.J.S.A. 40A: 4-20;

1. An emergency temporary appropriation be and the same is hereby made for the following line items:

CURRENT:

Drug Education Program - Other Expenses	\$8,009.00
Affordable Housing - Other Expenses	19,000.00
Right to Know Safety	<u>600.00</u>
Total Current subject to NJSA 40A: 4-20	\$27,609.00

CURRENT OUTSIDE THE "CAPS"

Liability Insurance	10,000.00
Employee Group Insurance	<u>50,000.00</u>
Total Current Outside "CAPS"	\$60,000.00

TOTAL ADDITIONAL TO CURRENT \$87,609.00

WATER and SEWER UTILITY:

Group Insurance	<u>5,000.00</u>
TOTAL ADDITIONAL TO WATER-SEWER UTILITY	\$5,000.00

HARBOR UTILITY:

Gas Station - Salaries and Wages	7,500.00
Unemployment Insurance	<u>10,000.00</u>
TOTAL ADDITIONAL TO HARBOR UTILITY	\$17,500.00

2. That said emergency temporary appropriation would be provided for in the 2006 Municipal Budget.
3. That one certified copy of this resolution is filed with the Director of Local Government Services.

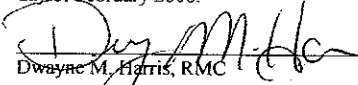
This Resolution was offered and moved by Council member Ladiana, seconded by Council member Nolan and adopted on February 08, 2006 as follows:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 043-2006

TRANSFER OF FUNDS

WHEREAS, various 2005 bills have been presented for payment this year, which bills were not covered by order number and/or recorded at the time of transfers between the 2005 Budget Appropriation Reserve in the last two months of 2005; and

WHEREAS, N.J.S. 40A:4-59 provides that all unexpended balances carried forward after the close of the year are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allow transfers to be made from unexpended balances which are expected to be insufficient during the first three months of the succeeding year;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Atlantic Highlands that the transfers in the amount of \$1,040.00 be made between the 2005 Appropriation Reserves as follows:

CURRENT FUND

	<u>FROM</u>	<u>TO</u>
Operations within "CAPS"		
Administration		
Salaries and Wages	\$ 250.00	
Mayor and Council		
Other Expenses		250.00
Mayor's Council on the Arts		
Other Expenses	640.00	
Police		
Other Expenses		345.00
Court		
Other Expenses		295.00
Construction Official		
Other Expenses	150.00	
Buildings and Grounds		
Other Expenses		150.00
Total	\$ 1,040.00	\$1,040.00

HARBOR OPERATING UTILITY

Insurance		
Other Expenses	\$ 6,300.00	
Harbor Operating		
Other Expenses		\$ 4,000.00
Gas Station		
Salaries and Wages		2,000.00
Social Security		
Other Expenses		300.00
Total Harbor	\$ 6,300.00	\$ 6,300.00

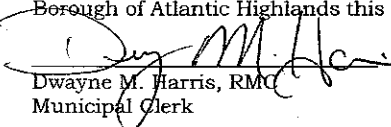
This Resolution was offered and moved by Council member Nolan, seconded by Council member Archibald and adopted on February 08, 2006 as follows:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 044-2006

EXTENDING THE PROFESSIONAL SERVICES CONTRACT FOR THE PREPARATION OF A HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, Resolution 061-2005 authorized the execution of an agreement with Burgis Associates Inc. for the preparation of a Housing Element and Fair Share Plan to address the Borough's third round housing obligation, in accordance with the third round rules adopted by the Council On Affordable Housing (COAH); and

WHEREAS, Challenges to the Borough's Housing Element and Fair Share Plan have increased the scope of work required by Burgis Associates to meet the COAH requirements and defend the Borough's second and third round Housing Element and Fair Share Plans; and

WHEREAS, the original agreement with Burgis Associates, Inc. requires authorization from the Borough of Atlantic Highlands to exceed the sum of \$12,000;

WHEREAS, the anticipated, aggregate amount of monies paid to Burgis Associates Inc. may total an amount above the mandatory bid threshold, this contract shall be considered as a "Professional Services", a service performed by a person in a recognized profession that is regulated by law and awarded without competitive bidding in accordance with the Local Public Contracts Law, N.J.S.A. 40A: 11 et seq. and is being awarded based on the merits and abilities to provide the goods or services as described herein; and

WHEREAS, This contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, Steve Lydon, has filed the requisite Business Entity Disclosure Certification attesting that Burgis Associates Inc, their subsidiaries, assigns or principals controlling in excess of 10% of the company has neither made a contribution, that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c.19, affect its eligibility to perform this contract, nor will Steve Lydon or Burgis Associates Inc, make a reportable contribution during the term of the contract to any political party committee in the Borough of Atlantic Highlands if a member of that political party is serving in an elective public office of the Borough of Atlantic Highlands when the contract was awarded, or to any candidate committee of any person serving in an elective public office of the Borough of Atlantic Highlands when the contract is awarded; and,

WHEREAS, Dawn L. Babcock, Chief Financial Officer for the Borough of Atlantic Highlands, does hereby certify that funds are available for this contract in

2006 Current Budget- Affordable Housing 01-201-21-190-299
\$23,000.00

Note: \$12,000.00 Awarded by R #061-2005 Charged to 2005 Budget.

Dawn L. Babcock C.F.O.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey that the agreement between the Borough of Atlantic Highlands and Burgis Associates, Inc. for services as stated above and set forth in the agreement dated March 16, 2005 is hereby amended to include all work necessary to complete the COAH requirements and defend the Borough's second and third round Housing Element and Fair Share Plans; and,

BE IT FURTHER RESOLVED THAT the Mayor and Borough Administrator are authorized and directed to extend the amount of the agreement, with Burgis Associates Inc., based on the hourly fee schedule set forth in the agreement dated March 16, 2005, not to exceed the sum of \$35,000.00 without authorization from the Borough of Atlantic Highlands.

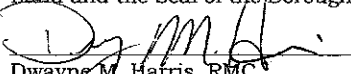
This Resolution was offered and moved by Council member Ladiana, seconded by Council member Nolan and adopted on February 08, 2006 as follows:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 045-2006

APPROVAL OF CHANGE ORDER INCREASING THE COST OF THE WATER MAIN IMPROVEMENTS PROJECT

WHEREAS, the Borough of Atlantic Highlands entered into a contract with D&D Utility Contractors, for the Atlantic Highlands Water Main Improvements on Scenic Court and Avenue C; and,

WHEREAS, additional costs were incurred due to the Borough's request of the contractor to supply Slip Type Valve Boxes in lieu of Buffalo Style; and,

WHEREAS, the Borough's request resulted in changes to contract quantities and the supplementation of items as listed in Change Order No. 1 dated January 23, 2006; and,

WHEREAS these changes will increase the original contract price of \$135, 619.00 by \$95.50, to a revised contract price \$135,714.50 as modified by Change Order #1,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey that Change Order #1 dated January 23, 2006, for the Water Main improvements on Scenic Court and Avenue C, reflecting the above adjustment is approved.

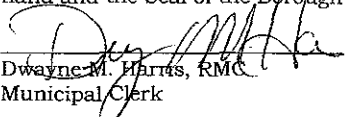
This Resolution was offered and moved by Council member Nolan, seconded by Council member Fligor and adopted on February 08, 2006 as follows:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.


Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 046-2006

AWARDING CONTRACT FOR THE MUNICIPAL COMPLEX SPECIAL NEEDS ANALYSIS

WHEREAS, the Borough of Atlantic Highlands desires to further advance the Municipal Complex Special Needs Analysis which funding has been provided for in the Ordinance 16-2005; and,

WHEREAS Goldstein Architects Group, who are licensed, professional architects and planners familiar and experienced with this type of work have submitted a proposal for \$17,000.00 to review records, do an inspection of the building, and interview Borough personnel to determine the difference between existing space and future needs for each department,

WHEREAS, Dawn L. Babcock, Chief Financial Officer for the Borough of Atlantic Highlands, does hereby certify that funds are available for this contract in

General Capital Ord # 22-05, 04-215-55-906-003 not to exceed \$17,500.00

Dawn L. Babcock C.F.O.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey that the Mayor and Borough Administrator are authorized to execute an agreement with Goldstein Architects Group for professional architectural and planning services for the Municipal Complex Special Needs Analysis at Borough Hall, in an amount not to exceed \$17,500.00.

This Resolution was offered and moved by Council member Ladiana, seconded by Council member Nolan and adopted on February 08, 2006 as follows:

AYES: Council members Archibald, Fligor, Ladiana, Nolan and Spatola
NAYS: Council member Doyle
ABSTAIN:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.

Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 047-2006

AGREEMENT WITH MIDDLETOWN TOWNSHIP TO FACILITATE REPAIRS ON SEARS AVE

WHEREAS, a heavy storm in October of 2005 caused severe damage to a drainage pipe along the Manymind Creek bordering Atlantic Highlands and Middletown Township forcing the closure of the driveway located at 199 Sears Ave; and,

WHEREAS, the drainage pipe is dually owned by Atlantic Highlands and Middletown Township, it has been agreed that both Municipalities will equally divide the costs of repair; and,

WHEREAS, it has also been agreed that Middletown will contract to provide the repair services and Atlantic Highlands will reimburse Middletown Township, fifty (50) percent of the final costs related to this repair, in an amount not to exceed \$18,000.00.

that funds are available for this contract in

Capital Ordinance 14-2002

Dawn L. Babcock C.F.O.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, that the Borough Administrator is

This Resolution was offered and moved by Council member Archibald, seconded by Council member Fligor and adopted on February 08, 2006 as follows:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.

Dwayne M. Harris, RMC
Municipal Clerk



RESOLUTION 048-2006

PAYMENT OF BILLS

WHEREAS, certain numbered vouchers have been submitted to the Borough of Atlantic Highlands for payment from a list prepared and dated February 03, 2006 which totals as follows:

Current Account	\$1,487,411.68
Water & Sewer Account	\$164,495.24
Harbor	\$134,315.20
General Capital	\$131,933.48
Water Capital	\$583.00
Harbor Capital	\$26,446.39
Animal	\$296.20
Trust	\$93.59
Unemployment	\$6,161.35
Clean Communities	\$153.98
MCIA Lease	\$
TOTAL	\$ 1,951,889.27

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, that these vouchers, totaling \$1,951,889.27, be paid to the persons named, for the amounts set opposite their respective names, and endorsed and approved on said vouchers. An individual listing of all bills submitted has been posted on the bulletin board and is also on file in the Municipal Clerk's office for reference.

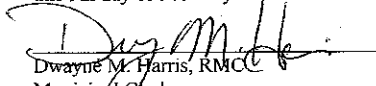
This Resolution was offered and moved by Council member Nolan, seconded by Council member Archibald and adopted on February 08, 2006 as follows:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.


Dwayne M. Harris, RMCC
Municipal Clerk



RESOLUTION 049-2006

RESOLUTION CONCERNING OPEN SPACE

WHEREAS, the Borough of Atlantic Highlands has an ongoing program concerning the preservation of Open Space; and

WHEREAS, in conjunction with this program, the Borough has, from time to time, submitted Resolutions to the State Green Acres Program concerning Open Space; and

WHEREAS, the Borough of Atlantic Highlands had the occasion recently to locate and review the Recreation and Open Space Inventory ("ROSI") it had submitted to the State Green Acres Program; and

WHEREAS, that examination revealed properties on the ROSI that are not now or have ever been used for active or passive recreation as is required; and

WHEREAS, by way of example, the list revealed an asphalt site of 20.88 acres site that clearly has never been used for active or passive Open Space, but rather has been used primarily for parking for three restaurants, and also has been used for parking for a bait and tackle shop, boat storage and for customers of party fishing boats docked in the municipal harbor; and

WHEREAS, an examination of the list has also revealed various other sites that have no meaningful value for Open Space; and

WHEREAS, upon the revelation of these inaccuracies, the Borough inquired of the State Green Acres Program as to the manner in which the Borough can correct the inaccuracies as described above; and

WHEREAS, Green Acres representatives provided guidance, and encouraged such corrections to the ROSI; and

WHEREAS, the Borough shall correct said list in accordance with the encouragement of the Green Acres Program; and

WHEREAS, significantly, the 2003 ROSI list also identifies the McConnell Track as a site that the Borough intended to preserve for Open Space, further demonstrating the utter falsehood of the K. Hovnanian Shore Acquisitions, LLC accusation that the Borough reacted to its development application by pursuing preservation, and further that the Borough had no prior intent to preserve the parcel; and

WHEREAS, further, COAH has requested "a certified complete list of all properties dedicated to recreation and open space located in the Borough, including name, owner, block/lot and acreage;" and

WHEREAS, the Borough wishes to furnish COAH with an accurate certified list as requested.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Atlantic Highlands, County of Monmouth, State of New Jersey, as follows:

1. Mayor Donoghue is authorized to furnish COAH with a certified complete list of all properties dedicated to recreation and open space located in the Borough, which is attached hereto as Exhibit I, Part A and Part B.
2. The Borough directs its professionals to immediately initiate and complete the applicable Green Acres procedures to correct the 2003 ROSI list.

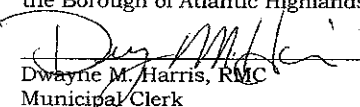
This Resolution was offered and moved by Council member Ladiana, seconded by Council member Nolan and adopted on February 08, 2006 as follows:

AYES: Council members Archibald, Doyle, Fligor, Ladiana, Nolan and Spatola

NAYS:

ABSTAIN:

I, Dwayne M, Harris, Municipal Clerk of the Borough of Atlantic 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 meeting held February 08, 2006. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 9th day of February 2006.


Dwayne M. Harris, RMC
Municipal Clerk

February 8, 2006

Exhibit I – Part A

Complete List of All Properties Dedicated to Open Space and Recreation
Located in the Borough of Atlantic Highlands

Part A : Developed and Partially Developed Lands Held for Recreation and Conservation Purposes

	<u>Owned By</u>	<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Acres</u>
1.	Borough of Atlantic Highlands	East Ave Park	32	1, 12	0.48
2.	Borough of Atlantic Highlands	South Avenue Park	126	11 - 13	0.64
3.	Borough of Atlantic Highlands	Many Mind Ave Park	46	1, 7	0.468
4.	Borough of Atlantic Highlands	Civic Center Park	113	1, 8-11	1.0
5.	Borough of Atlantic Highlands	Harbor Park	95	5, part of 6	2.28
6.	Borough of Atlantic Highlands	Library Plaza	98	part of 5	0.10
7.	Borough of Atlantic Highlands	Center Avenue Park	142	4.01, part of 5	7.54 (subject to attached lease and Diversion Easement granted by State House Commission on 6/9/1995)
8.	Borough of Atlantic Highlands	Henry Hudson Springs	15	7.01, 11	0.186

**Total Part A : 12.694
Acres**

February 8, 2006

Exhibit I – Part B

Complete List of All Properties Dedicated to Open Space and Recreation
 Located in the Borough of Atlantic Highlands

	<u>Municipal Location</u>	<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Acres</u>
1.	Atlantic Highlands	Lenape Woods Cliffside Section	8	11, 12, 13, 14	1.73
2.	Atlantic Highlands	Lenape Woods Nature Preserve (Pearl Tract)	20	1	1.46
3.	Atlantic Highlands	Lenape Woods Nature Preserve (Bachstadt Tract)	4	20.01, 20.02	1.89
4.	Atlantic Highlands	Bayshore Trail (previous Central Jersey Railroad property)	1 15 16 17	1 12 1 42	12.0
5.	Atlantic Highlands	Iler Property	8	3 & part of 1.01	0.948
6.	Atlantic Highlands	Kennedy Property	12	6.01	0.44
7.	Atlantic Highlands	Sorensen Property	1	10.01	0.645

Part B : Wholly Undeveloped Lands Held for Recreation and Conservation Purposes

Total Part B : 19.113 Acres