

REGULAR MEETING – MARCH 19, 2019

A Regular Meeting of the Highland Park Mayor and Council was held in Borough Hall, 221 South 5th Avenue, on Tuesday, March 19, 2018 and was called to order by Mayor Brill Mittler at 7:06 PM. Mayor Brill Mittler read the Open Public Meetings Statement.

Present: Mayor Brill Mittler, Councilpersons Fine, Foster-Dublin, George, Hale, Kim-Chohan; Borough Attorney Schmierer; Borough Administrator Jover; Borough Clerk Hullings.

Absent: Councilperson Welkovits.

On motion made by Councilman George, seconded by Councilman Fine, the minutes of the Regular and Conference Meetings held on October 23, 2018, November 7, 2018, December 4, 2018, December 18, 2018 and the Adjourned and Organization Meetings held January 2, 2019 were approved as distributed by the following roll call vote, to wit:

Ayes: Councilpersons Fine, Foster-Dublin, George, Hale, Kim-Chohan.

Opposed: None.

Absent: Councilperson Welkovits.

Abstain: Councilpersons George (November 7th), Hale (December 18th), Kim-Chohan (November 7th and December 18th).

Mayor Brill Mittler asked the Council members to present their reports.

Councilwoman Foster Dublin reported that they will be conducting the interviews for the Acting Police Chief and Acting Police Captain tomorrow. They hope to have them in place next month. A new Police Officer was hired last month. The next interviews for the mentor will be held on Friday. The DeLacey Davis report is expected to be received by the end of the month. Lastly, she noted that a long-standing member of the Community Center passed away last Thursday. He served as Santa Claus at the senior functions. She asked for a moment of silence for Calvin Mauldin.

Councilman Fine – no report.

Councilwoman Kim-Chohan reported that summer camp registration is ongoing. They have an early start time for drop off in the mornings at 7:00 AM before camp begins. She wished everyone a Happy Women's History Month.

Councilman Hale reported that he wanted to wish a very Happy Birthday to State Senator Patrick Diegnan. He is a tireless champion for Highland Park, Middlesex County and all of New Jersey and we wish him all the best. He also mentioned two upcoming events sponsored by the Highland Park Human Relations Commission. On Monday, March 25th at 7:00 PM at the Zone 6 Teen Center, the Human Relations Commission is excited to bring Dr. Shira Goldberg for an event entitled, "The Conversation: Advance Care Planning and the Secrets to Successful Aging". Dr. Goldberg is a Highland Park resident who currently serves as the VNA Health Group's Medical Director for Hospice and palliative care at the Monmouth Medical Center in Long Branch, New Jersey. She is board certified in both internal and geriatric medicine and leads a wonderful workshop on this important topic. The next event he mentioned is co-sponsored by the Human Relations Commission and the Highland Park Historical Society. The event is entitled, "Lynching Through the Eyes of Artists". This presentation will be done by Highland Park resident Donald Beetham. It will take place on April 8th at 7:00 PM in Borough Hall. Mr. Beetham had a 37-year career as Visual Resources Curator for the Department of Art History at Rutgers. He is now retired and serves on the Highland Park Human Relations Commission and the Historical Commission. He also volunteers at the Middlesex County Office of Arts and History. Mr. Beetham's lecture will review some historic and artistic depictions of lynching and offer perspective on the messages these depictions share. This presentation will look at works from the 1870's to more recent artists like Sanford Biggers, Kara Walker, and Titus Kaphar. More information will soon be available on the Borough's website.

Councilman George reported that he met with the Department of Public Works this morning and they worked on the calculations for use of the new one-man collection truck as well as doing some calculations on some of the older routes. As a result, they roughly calculated the number of toters that the machine will automatically lift. Hopefully, the toters will arrive in about a month. The Department of Public Works also met with the Arborist contractor to establish a schedule for tree maintenance in the spring. The arborist is working around some slow time in their other contract work and they will be performing tree removal for a full week. This will be removal of dangerous material. A lot of the trees suffered significant damage and are aging out or are past maturity. They will be removing dangerous branches and those near street lights before they start to leaf out. This may just leave some trunks standing for a later removal, but they want to get the safety maintenance done right away. There have been a number of cars that have been hit with falling branches. They are not working on the ash trees for the emerald ash borer problem. The Department of Public Works surveyed the bulk of the remaining ash trees and they believe they may be able to remove them without having to contract with the arborist. The Environmental Commission met recently and discussed the Borough's emerging electric vehicle program. They made some good suggestions about amendments to the zoning ordinance and did recommend that we add at least one electric vehicle to our fleet to replace our old gas powered vehicles around town. He visited the Meadows Trail early this morning and spoke to a volunteer and they were going to start working on the cleanup. The Department of Public Works has started to do clean up in preparation for the PSE&G solar field. They are doing some of the lighter work and the contractor will do the heavy work. Sustainable Highland Park got a grant for poster design for Earth Day. The deadline is fast approaching. Information is available on the Borough website and Sustainable Highland Park's website. Finally, the Shade Tree Advisory Committee has been working regularly with the Department of Public Works on maintaining the green canopy, the emerald ash borer problem as well as tree replacement. These programs are working very well now as they liaison under the new Chairperson, Karen Swaine, and the very active members who realize that working with the Department of Public Works is a great partnership. The Department of Public Works will be supplying the Commission with monthly updates on tree removals so they can update replanting list.

Borough Administrator Jover reported that Highland Park received a grant from the New Jersey Department of Environmental Protection to purchase radon testing kits and distribute them to residents. The kits come with simple instructions on how to test your home and check for elevated radon levels that could put you at risk for serious health problems. The kits are available for pick-up in the Code Enforcement Office at no cost on a first-come, first-served basis. Borough staff visited merchants throughout town today to hand out informational packets regarding the recent Bring Your Own Bag ordinance that was passed in early February. Beginning on May 1st, merchants with more than 1,000 sq. ft. of retail space with charge \$0.10 per plastic bag a customer uses, but has the option to supply a 100% recyclable paper bag at no charge. Sustainable Highland Park will have a table at the April 28th Earth Day Fair to discuss these changes and collect extra reusable bags to redistribute to shoppers in lieu of plastic bags. More information about Earth Day and reusable bag collection dates is coming soon. In January, Highland Park partnered with a Rutgers Bloustein School studio class to implement a “lighter, quicker, cheaper” place making exercise in Highland Park. The class and Highland Park stakeholders explore many options and settled on the “living room” areas on the corners of 3rd and 4th and Raritan. To activate those areas and make them more vibrant, the class will be hosting live installation days on Saturday and Sunday, March 30th and 31st and Saturday, April 6th. We welcome you and your family to join us on Raritan Avenue on any of those three days between 1:00 PM and 4:00 PM to learn about the project and see firsthand the improvements that can be made to these spaces with just a few innovations. Activities include the painting of benches, musical activities and live art installations.

Borough Attorney Schmierer reported that the Borough has been litigating with the owner of Buck Woods, Jack Morris, since 2009. They have gone through the list of cases since 2009 where the Borough was preventing the removal of trees and the development of the property in a way we thought was inappropriate. There is a lawsuit the Borough started back in 2015, which they had to start, in order to have an affordable housing program that was recognized by the State, but also gave the Borough builder’s immunity from lawsuits by people like Jack Morris and other developers. There are two other lawsuits from 2017 and 2018, where efforts were made and were successful in blocking the removal of the trees on the property. There was a stay issued in a lawsuit that the Borough participated in. Finally, there is a new 2018 lawsuit where Mr. Morris and his company are suing the Borough, alleging that the Borough is responsible for any pollution and cleanup on Buck Woods, a property that the Borough has never owned. The last even in any of these cases took place this past Friday in Middlesex County, before Judge McCloskey, who is the Judge in charge of the Mount Laurel case. There were several residents who attended that hearing Friday morning. The purpose of that hearing was to urge the Judge to continue the stay or prevent the removal of trees on Buck Woods while they worked on an ordinance which would allow for 75 units to be developed on Buck Woods as required by the Mount Laurel affordable housing plan. They had asked them to keep the stay in place, notwithstanding the fact, that the case that had the stay was dismissed by him two weeks earlier on March 1st. The Judge found at that time that the case should be dismissed and that the matter could go forward in terms of removal of the trees on Buck Woods for environmental testing and then eventual development. The Judge on Friday, took the decision under advisement, which meant he did not give them a decision on the Borough’s request to extend the stay. They were optimistic, because the last time they were before the Judge, they were given until May 30th in order to develop the ordinance for 75 units of housing on the property. He hinted that he would continue that until May 30th until the ordinance was done. They got a decision yesterday afternoon where the Judge lifted the stay on the removal of the trees on Buck Woods. He did so, because the case that held that stay had been dismissed by him two weeks earlier. Also, he found that the LSRP, the Engineer licensed to oversee cleanups, was the responsible LSRP on the property and that he was responsible for the cleanup and if he directed that the trees come down with a permit, the trees had to come down. We were informed as that decision was coming through the machine, that obviously JSM was informed of that, and they dispatched some workers with chainsaws and bulldozers and they began to take down the trees which are under the second permit, which we were required to issue by Judge Natali with a court order back in 2017. The Borough didn’t want to issue that permit and the Judge signed a court order directing the Borough to issue the permit, which they did. The trees, as of last night, some were already taken down and he assumed that they were back this morning to complete the job. The Code Enforcement Officer was down there early this morning with someone from Public Works to confirm that the trees that were supposed to be taken down under the permit, were the only trees taken down and that they were tagged properly and the snow fencing was up, all required by the second permit, which we were required by Judge Natali to issue. They believe they did the tree removal by the book. They knew enough to follow the permit and took down those trees. The long battle going back to 2009 to protect the trees, has now been lost and those trees are down. The next step for the Borough is to create the ordinance, which they have been told they have until May 30th, and they intend to do it sooner. This would limit the development on the property to a certain percentage of coverage and a certain percentage of floor area ratio. They are advocating for, and they will do an ordinance which will, concentrate the development in two buildings, closest to 6th Avenue. They are trying to make sure that the coverage on the remainder of the property, in the rear, hopefully 40% or 50% of that, does not have to be disturbed. If the LSRP for Mr. Morris files for a third permit, the Borough would have to fight that out with them to say that if the rear part of the property is going to remain untouched, then we don’t need to issue another permit. The Borough’s task now is to come up with an ordinance which preserves as much of that property as possible, concentrates the development where we think it should be concentrated, away from the rear part of the property with the most significant steep slopes, and comes up with a development plan that is consistent with other multi-family plans around town. It is 10 years’ worth of litigation involving the tree removal and the litigation now continues with the cleanup case that they filed against us, complying with our affordable housing obligation and we will continue to fight those cases. If there are additional cases, they will fight those as well. The Judge did put an opinion with the order explaining why he lifted the stay. He didn’t think any benefit would be achieved and eventually the trees would have to come because their LSRP in charge of the cleanup of the property makes the call according to the Judge under the environmental laws and that is why he gave great deference to that LSRP and followed what that LSRP recommended and required and that is why the trees came down.

Mayor Brill Mittler reported that she wanted to go on the record and say “while we have great respect for the rule of law, the Borough of Highland Park is deeply upset at the ruling of a Middlesex County Judge on Monday, March 18th, which allowed the developer to cut down dozens of trees on the Buck Woods Property. We are frustrated that the developer, ignoring long-standing and widespread public opinion, promptly went ahead and took down a wide swath of tree cover. The Borough continues to share the concerns of all of the neighbors and the Borough questions the long-term aesthetic and environmental impact of the developer’s plans. The Borough has been battling to preserve Buck Woods to the fullest extent allowed by law for over a decade and has spent thousands of dollars in legal fees and staff time to do so. With so many interlocking issues involved, of zoning, planning, environmental impact, property owner rights, neighborhood concerns, COAH situations, and finances, we also know quite well how complicated the matter truly is. They will continue to work closely with the neighbors of Buck Woods to do all they can to lawfully limit and mitigate the impact of the developer’s actions on Buck Woods property.

Mayor Brill Mittler opened the meeting for public discussion and called upon all those wishing to speak to identify themselves.

Justin Burton, 40 Cedar Avenue, commented that he is currently serving as the Chairperson of the Highland Park Equity Commission. He provided a short status update on the Commission’s work related to the hiring of the Acting Police Chief. As Councilwoman Foster-Dublin mentioned, the interviews will start for that process tomorrow. The Equity Commission has a lot of things that they are working on over the next year. This was the first thing that they started working with the Council on. The Equity Commission hosted a forum on February 6th where participants asked clarifying questions of Council representatives and then broke into small groups to generate themes and questions relating to equity that they wanted represented in the interviews with the Police Chief candidates. Since February, the Equity Commission has been working to distill the information from the forum into questions and rubrics that can advise the Public Safety Committee in its evaluation of the candidates. These questions and rubrics have been handed off to Commission Liaison Matt Hale. The questions and rubrics will be circulated among the attendees of the February forum and available to anyone else who wants to see them. Their understanding is that the Public Safety Committee will complete the rubrics, including writing commentary in the candidate’s answers and share these completed rubrics with the Equity Commission. The Equity Commission will then use that information to provide equity related feedback to the Public Safety Committee. The Equity Commission will be more directly involved in the selection of the Acting Police Chief’s mentor. One or more representatives of the Commission will participate in the interview of the mentor candidates with the goal of ensuring that the Acting Police Chief is mentored by someone with a commitment to equitable policing policy and practice. The Equity Commission remains disappointed that the hiring of a Police Chief has not been a more transparent process. Other Borough’s and Township’s in New Jersey have held public interview sessions when hiring a Chief and such a session would have been beneficial for all involved if we had hosted one in Highland Park. Involving the Equity Commission, whose sole purpose of existence, is to advise on matters of equity more directly in the process, either by having representatives of the Commission in the interview room or privy to transcripts of the interviews also would have helped provide extra layers of careful thought and consideration to equity concerns. We’ve asked the Borough to consider these matters and they received two basic answers. What they are asking is not legal because it risked unveiling personnel matters that the Borough wants to keep confidential. It is not possible as it would count as a change in the process that would default on the Borough’s collectively bargained agreement with the P.B.A. to maintain a consistent hiring practice from beginning to end of a job search. They understand these concerns and urge the Borough to be more open to future hiring processes that find more meaningful ways to involve the community, especially when the hire will be someone empowered to set the tone for how force is used on members and residents of the Borough. As is, the Equity Commission, which the Borough Council established to advise on matters of equity, is far enough removed from the interview process of the Acting Police Chief that they are not certain they will receive enough information to offer substantive advice. We are committed to doing our best and ask the Council to consider a better, more transparent and more equitable processes in the future.

Herb Gross, Adelaide Gardens, commented that this is the 75th anniversary of the GI bill, which has been amended, and can now be passed on to surviving relatives.

Marsha Goldberg, 451 South 5th Avenue, commented that she is here to speak about Buck Woods. She addressed some of the statements that the Borough Attorney made. She felt that if he was going to talk about this issue he should have updated himself a little bit better. At 5:00 p.m. they were there with bulldozers and they stayed until 7:00 p.m. and they were back at 8:00 a.m. this morning and they have been there all day with bulldozers. To talk about preserving the southern end of the woods is actually a moot point, because it is destroyed completely. She invited everyone on the Council to come to her house and stand in back of her house and see what is back there now. She asked what they are going to do to protect the resident’s properties. A number of residents are here in attendance. It is not just her house, but an entire block and they all live very close to that property line. There are big trees currently at the edge of her property and they are probably going to topple over soon. There is also a steep slope and there is almost certainly going to be damage to the house over the years, if not immediately. She asked if the Borough is going to do something about this. When she asked this exact question in May of 2018 of the Borough’s Engineer, he said that she should take before and after pictures when they cut the trees so you can document the destruction and possibly sue the developer. It is over now and there is nothing to preserve and this is exactly what he was planning to do, make a big ugly hole that we will beg him to fill up and build on. Mayor Brill Mittler noted that the Borough is very concerned about the property and what is going on. The Borough is not dropping this.

Melanie McDermott, South 3rd Avenue, commented that she is here to speak about Buck Woods. This is only the latest in a series of losses that the community has suffered and our watershed has suffered. She thanked the Borough for what it has tried to do and especially Marsha and her husband for the resistance that they have put up. As everyone pointed out, it is not over yet. JSM does not have an approved site plan and there are a lot of steps to go. We should not concede anything that we don’t

absolutely have to. Every step of the way there has to be a 25' stream buffer. There has to be impervious coverage retention and tree protection, which is nearly moot, and the tree replacement according to our tree ordinance. She wants to see, hear and report back that someone from Code Enforcement has gone back to the site tomorrow and verified what Marsha has said. There is not much left. We have an approved tree permit with 179 trees slated for removal. It does not seem possible that those trees that were meant to be retained, have been retained, if they have been so destabilized by the excavation. Who removes trees with a bulldozer? They didn't have the dignity to use chainsaws and protect the site. If those trees go down in the future, he is liable for those also. She wants to hear a report back from our enforcement that we are out there documenting, not just the neighbors. Mayor Brill Mittler noted that the Code Enforcement team was sent out there this morning and they went back out there this afternoon and will be going back out to check. Ms. McDermott commented that from her reading of the ordinance, she doesn't understand how, even though it was court mandated, that all tree replacement requirements and/or fees shall be approved, and/or paid prior to the issuance of the permit. That didn't happen and they were contesting the permit. She asked how JSM was able to go forward as soon as the stay was lifted without taking care of that requirement. Borough Attorney Schmierer advised that the developer posted a bond for the replacement of the trees. When he goes through the development process, he won't have the choice of putting back on the property or off the property. The Planning Board can direct that the trees go back on the property. He has posted a bond and satisfied that requirement.

Debra Burns, Wayne Street, commented that the Borough has neither the deep pockets nor the connections of Mr. Morris. However, when his company applied for a permit to cut 100's of trees on the Buck Woods property, ostensibly to facilitate soil testing, without submitting a site plan, what did the Borough choose to do? She asked if the Borough required a site plan and immediately alert residents regarding this application. She asked if the Borough contacted the New Jersey Department of Environmental Protection for guidance. She asked if the Borough employed its own LSRP professional to ensure that such a radical and destructive action was necessary. The Borough issued the permit to cut the trees. Local residents hired and paid an Attorney. Local residents hired an independent LSRP who found that cutting the trees for soil testing was not in fact required for site remediation. The Appellate Court found this persuasive enough to issue a stay, thereby prohibiting the developer from moving forward. That Appellate Judge retired and Mr. Morris appealed the stay and the case was heard before a different Judge, who ruled that only the LSRP of Mr. Morris would be heard, which seems akin to telling a defendant's lawyer that only the prosecutor's expert witness testimony will be heard. The Judge announced he would issue his ruling regarding the stay on Monday. At the end of the day he did, lifting the stay, and the heavy machinery was there already in place. Buck Woods is no more given the fact that you so easily and thoughtlessly granted the tree removal permit and she does not accept that some other Judge forced you to do this. There is obviously something that you could have done. Why should we believe that how you propose to proceed in this next litigation where he is suing us to pay for the remediation that he is in control of and why should they believe you will do a better job this time. Borough Attorney Schmierer clarified that there was a Judge Natali, who is now on the Appellate Court, who picked up the old challenge the Borough had going back to 2009 and finally issued a court order in 2017 that directed that the Borough issue the permit. The permit was issued in accordance with the tree removal ordinance. A site plan is not required under the tree removal ordinance. Everything else that was supposed to be done under that tree removal ordinance, was done, according to the Code Enforcement Official. They have a four-page addendum to that permit, laying out exactly what has to be done. They were not happy to issue that permit, they put off issuing that permit as long as they could. He has a copy of the court order that he could share that shows Judge Natali directed that they issue the permit.

No one else appearing to be heard, the Mayor closed the public discussion.

The following resolution, introduced by the Finance Committee, was duly adopted on motion made by Councilman Fine, seconded by Councilman Hale, and carried by the following roll call vote, to wit:

Ayes: Councilpersons Fine, Foster-Dublin, George, Hale, Kim-Chohan.
 Opposed: None.
 Absent: Councilperson Welkovits.
 Abstained: None.

No. 3-19-105

WHEREAS, a need has arisen to provide adequate funds for certain budget items pending adoption of the Local Municipal Budget for 2019 and NJSA 40A:4-20 provides for the making of emergency appropriations in such cases; and

WHEREAS, the total emergency temporary resolutions adopted in the year 2019 pursuant to the provisions of NJSA 40A:4-20 (Chapter 96, PL 1951), as amended, including this resolution, total \$6,035,266.00; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of Highland Park (not less than two-thirds of all members thereof affirmatively concurring) that in accordance with NJSA 40A:4-20;

1. An emergency temporary appropriation be and the same is hereby made for the budgetary appropriations herein:

2019 TEMPORARY OPERATING BUDGET

DESCRIPTION	ACCOUNT NUMBER	2019 TEMPORARY BUDGET #6
BOROUGH ADMINISTRATION		
Salaries & Wages	20-100-1	49,609.00
Other Expenses	20-100-2	6,234.00

MAYOR & COUNCIL		
Salaries & Wages	20-110-1	8,672.00
Other Expenses	20-110-2	2,494.00
MUNICIPAL CLERK		
Salaries & Wages	20-120-1	41,330.00
Other Expenses	20-120-2	6,923.00
FINANCIAL ADMINISTRATION		
Salaries & Wages	20-130-1	15,300.00
Other Expenses	20-130-2	33,311.00
ANNUAL AUDIT		
Other Expenses	20-135-2	-
TAX COLLECTION		
Salaries & Wages	20-145-1	21,535.00
Other Expenses	20-145-2	3,885.00
TAX ASSESSMENT		
Salaries & Wages	20-150-1	15,853.00
Other Expenses	20-150-2	3,078.00
LEGAL SERVICES		
Other Expenses	20-155-2	91,875.00
ENGINEERING & PLANNING		
Other Expenses	20-165-2	5,775.00
COMMUNITY & ECONOMIC DEVELOPMENT		
Salaries & Wages		1,838.00
Other Expenses	20-170-2	28,088.00
INFORMATION TECHNOLOGY		
Other Expenses	20-140-2	28,744.00
CENTRAL SERVICES		
Other Expenses	20-316-2	21,656.00
PLANNING BOARD		
Salaries & Wages		1,838.00
Other Expenses	21-180-2	9,901.00
ZONING BOARD OF ADJUSTMENT		
Salaries & Wages	21-185-1	5,330.00
Other Expenses	21-185-2	3,977.00
HUMAN RIGHTS COMMISSION		
Other Expenses	21-195-2	1,000.00
GENERAL LIABILITY/WORKERS COMPENSATION		
Other Expenses	23-211-2	202,240.00
EMPLOYEE GROUP HEALTH		
Other Expenses	23-220-2	433,500.00
POLICE		
Salaries & Wages	25-240-1	900,478.00
Other Expenses	25-240-2	46,213.00
POLICE DISPATCH/911		
Salaries & Wages	25-250-1	62,704.00

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Other Expenses	25-250-2	656.00
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OFFICE OF EMERGENCY MANAGEMENT		
Other Expenses	25-252-2	3,000.00
FIRST AID CONTRIBUTION		
Other Expenses	25-260-2	-
FIRE		
Salaries & Wages	25-265-1	57,166.00
Other Expenses	25-265-2	18,769.00
LOSAP		
Other Expenses	25-265-2	4,331.00
MUNICIPAL PROSECUTOR		
Other Expenses	25-275-2	9,188.00
STREETS & ROADS		
Salaries & Wages	26-290-1	289,413.00
Other Expenses	26-290-2	31,946.00
APARTMENT COLLECTION		
Other Expenses	26-305-2	56,175.00
PUBLIC BUILDINGS & GROUNDS		
Salaries & Wages	26-310-1	11,581.00
Other Expenses	26-310-2	46,988.00
MOTOR POOL		
Salaries & Wages	26-315-1	19,743.00
Other Expenses	26-315-2	39,113.00
BOARD OF HEALTH		
Other Expenses	27-330-2	250.00
ENVIRONMENTAL COMMISSION		
Other Expenses	27-335-2	250.00
COMMISSION ON IMMIGRANT & REFUGEE AFFAIRS		
Other Expenses	27-336-2	250.00
SAFE WALKING & CYCLING COMMITTEE		
Other Expenses	27-337-2	250.00

SUSTAINABLE HIGHLAND PARK		
Other Expenses	27-338-2	800.00
HISTORICAL COMMISSION		
Other Expenses	27-339-2	250.00
COMMUNITY SERVICES - RECREATION		
Salaries & Wages	28-370-1	15,127.00
Other Expenses	28-370-2	3,938.00
COMMUNITY SERVICES - AGING		
Salaries & Wages	28-371-1	55,587.00
Other Expenses	28-371-2	6,786.00
ARTS COMMISSION		
Other Expenses	28-374-2	250.00
SHADE TREE ADVISORY COMMITTEE		
Other Expenses	28-375-2	250.00
TEEN CENTER		
Salaries & Wages	28-373-1	17,750.00
Other Expenses	28-373-2	
ELECTRICITY		
Other Expenses	31-430-2	40,000.00
STREET LIGHTING		
Other Expenses	31-435-2	62,000.00
TELEPHONE		
Other Expenses	31-440-2	16,984.00
FUEL OIL/GASOLINE/NATURAL GAS		
Other Expenses	31-460-2	29,271.00
SANITARY LANFILL		
Other Expenses	32-465-2	69,563.00
Salaries & Wages	22-195-1	84,853.00
Other Expenses	22-195-2	4,014.00
CABLE TELEVISION		
Other Expenses	30-411-2	4,000.00
ACCUMULATED SICK LEAVE		
Salaries & Wages	30-415-1	16,275.00
COMMUNICATIONS		
Salaries & Wages	20-105-1	25,076.00
Other Expenses	20-105-2	9,883.00
MUNICIPAL COURT		
Salaries & Wages	43-490-1	55,259.00
Other Expenses	43-490-2	3,084.00
PUBLIC DEFENDER		
Other Expenses	43-495-2	1,575.00
Salaries & Wages	29-390-1	174,166.00
Other Expenses	29-390-2	90,643.00
COUNTY HEALTH SERVICES		
Other Expenses	42-401-2	11,665.00
M.C.I.A. RECYCLING		
Other Expenses	42-402-2	2,363.00

ANIMAL CONTROL SERVICES		
Other Expenses	27-340-2	3,938.00
PUBLIC AND PRIVATE PROGRAMS		
NJDEP Radon Awareness	41-707-2	2,000.00
Fire Victims Donations	41-735-2	10,015.00
Community Development Block Grant	41-708-G	58,567.00
STATUTORY EXPENDITURES		
SOCIAL SECURITY SYSTEM		
Other Expenses	36-472-2	86,121.00
UNEMPLOYMENT COMPENSATION INSURANCE		
Other Expenses	23-225	1,313.00
PUBLIC EMPLOYEES RETIREMENT SYSTEM		
Other Expenses	36-471-2	535,169.00
POLICE AND FIREMAN'S RETIREMENT SYSTEM		
Other Expenses	36-475-2	824,898.00
	SUBTOTAL	4,965,883.00
DEBT SERVICE		
BOND PRINCIPAL		
Other Expenses	45-920-2	625,000.00
INTEREST ON BONDS		
Other Expenses	45-930-2	242,369.00
M.C.I.A. LEASE/LOAN		
Other Expenses	45-950-2	79,500.00
DBIZ LOAN		
Other Expenses	45-925-2	-
	SUBTOTAL	946,869.00

GRAND TOTAL	5,912,752.00
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2019 TEMPORARY WATER AND SEWER BUDGET

DESCRIPTION	2019 TEMP
OPERATING	
Salaries & Wages	63,140.00
Other Expenses	630,933.00
Middlesex County Utilities Authority	613,650.00
STATUTORY EXPENDITURES	
Public Employee Retirement System	16,000.00
Social Security System	5,000.00
DEFERRED CHARGES	
Overexpenditure Budget Appropriation	-
	SUBTOTAL
	1,328,723.00
DEBT SERVICE	
Payment of Bond Principal	460,000.00

Interest on Bonds	67,450.00
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SUBTOTAL	527,450.00
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GRAND TOTAL	1,856,173.00
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2. Said emergency temporary appropriations will be provided for in the 2019 budget under the various captions listed herein.
3. A certified copy of this Resolution will be filed with the Director of the Division of Local Government Services.

Resolution Nos. 3-19-106 through 3-19-112 were duly adopted on motion made by Councilman George, seconded by Councilperson Kim-Chohan, and carried by the following roll call vote, to wit:
 Ayes: Councilpersons Fine, Foster-Dublin, George, Hale, Kim-Chohan.
 Opposed: None.
 Absent: Councilperson Welkovits.

The following resolution, introduced by the Finance Committee, was duly adopted as above:
No. 3-19-106

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that Mayor Brill Mittler is hereby authorized and empowered to sign and submit to the County of Middlesex the agreement attached to the original of this resolution for the Shared Services Agreement for Aerial Photogrammetric, GIS, New Certified Tax Map; and

BE IT FURTHER RESOLVED that Mayor Brill Mittler is hereby authorized to execute a contract or any other agreement necessary for the fulfillment of obligations incurred by the acceptance of this shared services agreement.

The following resolution, introduced by the Economic Development and Planning Committee, was duly adopted as above:
No. 3-19-107

WHEREAS, the following business/property owners have submitted a completed application to the Borough of Highland Park for matching grant under the Highland Park Façade Improvement Program and/or the Highland Park Awning Promotion Program, both funded through the Community Block Development Grant and further described on the Purchase Requisition attached to the original of this resolution for the location designated, to wit:

<u>APPLICANT</u>	<u>BUSINESS LOCATIONS</u>
Merey, LLC	128 Raritan Avenue
University Laundry LLC	410 Raritan Avenue

WHEREAS, the Main Street Design Committee has reviewed the applications and has recommended that the above applications be approved by the Mayor and Council; and

WHEREAS, funds for this purpose will be available in Account No. G-02-16-CD6-210 in the amount of \$4,168.19, as reflected by the Certification of Funds Available by Chief Financial Officer, shown below;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the application from the above named business/property owner be approved for funding under the Highland Park Façade Improvement and Awning Promotion Program in the amount set opposite, to wit:

<u>APPLICANT</u>	<u>AMOUNT</u>
Merey, LLC	\$3,000.00
University Laundry LLC	\$1,168.19

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the applicant, Finance Department and the Main Street Executive Director forthwith.

The following resolution, introduced by the Public Works and Public Utilities Committee, was duly adopted as above:
No. 3-19-108

WHEREAS, J. Fletcher Creamer and Son, Inc. was called out to make said emergency repairs; and

WHEREAS, the Superintendent of the Department of Public Works has confirmed that said repairs were completed by J. Fletcher Creamer and Son, Inc. and payment is due to them for said repairs; Lawrence Avenue in the amount of \$3,519.08 and South 10th Avenue in the amount of \$8,463.85 for a total amount not to exceed \$11,982.93; and

WHEREAS, funds for this purpose are available in the amount of \$11,982.93 in Account No. 9-05-55-500-423 as reflected by the certification of funds by Chief Financial Officer, shown below:

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Finance Director shall be and is hereby authorized and directed to issue payment in the amount of \$11,982.93 to J. Fletcher Creamer and Son, Inc, 101 East Broadway, Hackensack, NJ 07601, for services in connection with said water main repairs; and

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to Superintendent of Public Works Donald Rish and the Chief Financial Officer.

The following resolution, introduced by the Finance Committee, was duly adopted as above:
No. 3-19-109

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that the Borough Clerk be and is hereby authorized and directed to notify the Borough Finance Director that since the adoption of a resolution on January 2, 2019 showing the names of the officers and employees of the Borough of Highland Park whose salaries are on an annual basis, there have been the following changes, to wit:

CAITLYN DEAN, Police Officer, at annual salary of \$44,375.00 effective March 11, 2019.
 AMY MIKOSZ, Clerk Typist (Tax Office), at an annual salary of \$35,595.00 effective March 1, 2019.
 HARRY GLAZER, Public Information Officer, at an annual salary of \$35,750.00 effective April 1, 2019.

BE IT FURTHER RESOLVED that the Finance Director be and is hereby directed to make the necessary changes in the payroll records of the Finance Department in accordance with the changes established by this resolution.

The following resolution, introduced by the Recreation and Arts Committee, was duly adopted as above:

No. 3-19-110

WHEREAS, the Borough of Highland Park desires to apply for and obtain a grant from the New Jersey Department of Agriculture in 2019 for the summer camp program to provide lunch for all summer camp attendees;

NOW, THEREFORE BE IT RESOLVED, that the Borough of Highland Park does hereby authorize the application for such a grant; and upon receipt of the grant agreement from the New Jersey Department of Agriculture, does further authorize the execution of the agreement;

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Borough Administrator and the Recreation Coordinator.

The following resolution, introduced by the Finance Committee, was duly adopted as above:

No. 3-19-111

WHEREAS, several real property tax payers have redeemed liens held against their property taxes and;

WHEREAS, the Tax Collector has received proof of such payments after correspondence with said property owners;

NOW, THEREFORE BE IT RESOLVED that the Borough Council, of the Borough of Highland Park, County of Middlesex, State of New Jersey, hereby authorizes the Tax Collector to release the amount specified to the lienholders listed below.

Block	Lot	Lienholder	Amount	Premium	Total
Due					
159	26	ATCF II NJ TAXSERV CUST PO BOX 54972 New Orleans, LA 70154	\$3728.35	\$8500.00	\$12228.35
Cert No. 18-00076					
33	28	Trystone Capital Assets LLC 575 Route 70, 2 nd Floor PO Box 1030 Brick, NJ 08723	\$15767.50	\$21000.00	\$36867.50
Cert No. 18-00021					
181	43	Trystone Capital Assets LLC 575 Route 70, 2 nd Floor PO Box 1030 Brick, NJ 08723	\$12025.91	\$16700.00	\$28725.91
Cert No. 18-00021					
178	13	The Approved Realty Group PO BOX 869 Lakewood, NJ 08701	\$197.95	3%	\$197.95
Cert No. 18-00084					

The following resolution, introduced by the Finance Committee, was duly adopted as above:

No. 3-19-112

BE IT RESOLVED by the Borough Council of the Borough of Highland Park that all claims presented prior to this meeting as shown on a detailed list prepared by the Borough Treasurer, and which have been submitted and approved in accordance with Highland Park Ordinance No. 1004, shall be and the same are hereby approved; and

BE IT FURTHER RESOLVED that the Borough Clerk shall include in the minutes of this meeting a statement as to all such claims approved as shown in a Bills List Journal in accordance with said Ordinance.

The bills approved for payment at this meeting, Bills List 3/19/2019 can be found in the Bills List Journal Book No. 39.

Mayor Brill Mittler opened the meeting for public discussion and called upon all those wishing to speak to identify themselves.

Marian Sackowitz, South 5th Avenue, commented that she attended the last meeting and brought up Buck Woods. She cannot believe that she was getting assurances from the lawyer and she cannot believe that all those trees are gone. She feels the Borough has not protected them and she took issue with something that the lawyer said. She questioned why the Borough agreed to that particular addendum. That addendum said that JSM could, if additional environmental testing was necessary, remove trees. She asked why the Borough would agree, before any environmental testing was done, to give away any control over this process. Borough Attorney Schmierer noted that the Borough did retain control over the process. There was a first permit that was issued which allowed the 71 trees to go down the middle over top of the sewer and water line. Ms. Sackowitz commented that the addendum said that JSM could now remove any other trees it deemed necessary and it did not have to follow any of the borough ordinances. She does not believe it was negotiated well on behalf of the Borough.

Bill Gordeuk, 13 Lewis Street, commented that he wanted to bring to the Council's attention to a problem that arisen from discrepancies between the ordinances of Edison and Highland Park. The problem is a bus company that is operated in Edison on Crowells Road. They cannot park their vehicles in Edison because they are prohibited. They park their vehicles on Highland Park's side of Crowells Road next to his house every day and every night. They are operating these vehicles in the street and disturbs us in the morning between 5:00 and 7:00 a.m. They idle these vehicles, unoccupied, for up to a

half hour. They obstruct traffic and cause litter on his property. He proposed that Highland Park create an ordinance banning parking of commercial buses overnight. Mayor Brill Mittler asked that the Police Department look into this matter. Lt. Panichella noted that they are already working on that issue.

Marian Sackowitz, South 5th Avenue, questioned the language in the addendum. Borough Attorney Schmierer explained that the agreement says to implement the requirements of Section 388 of the code, which is the tree removal ordinance. There was no requirement to do a site plan because that is not something that falls in Chapter 388-4 of the code. The intent of that language was to say what the Borough is following in terms of the tree replacement, the posting of the bonds, etc., which all come out of that section of the code. The intention was to say that the tree removal code section was the one that would govern the issuance of the permit. Ms. Sackowitz asked why they were permitted the removal of trees on the steep slope and to clear cut, when both those things are in violation of the tree ordinance. Borough Attorney Schmierer explained that they are “investigating” the site for contamination and pollution. The State law, which allows them to do that, would allow them to go where the pollution seems to be. They started in the middle on the 55’ strip down the middle, and if they found contamination that seemed to extend beyond that, which unfortunately they did, they could get a second permit and begin to work their way out from the core. It was governed by what the tree removal ordinance says. Ms. Sackowitz commented that the addendum gave the Borough only 15 days to respond to the request for the permit. Since the tree removal permit seems to be a process designed for somebody who needs to remove a dead tree in their backyard. The tree removal process was not designed for somebody who was going to remove 179 trees and make a major change to a large tract in town. The developer was not required to come before the Planning Board and he was not required to do any environmental studies. He used this tree removal process to avoid any scrutiny by relevant commissions and professionals in town. This addendum only gave the Borough 2 weeks to respond. The Borough does not respond quickly to things. Two weeks was not enough time for the Borough to explore the magnitude of this request. Two weeks was not enough time to notify the neighbors. The notification that the tree removal was going to happen was dated May 9th and was sent regular mail. The tree removal started May 11th. Going forward she urged the Borough to be very careful with these timelines that are very strict and the Borough should have notified the neighbors immediately as soon as that tree permit request was received. Going forward, she would like the Borough not to be caught sleeping when some of these important things come in. The neighbors would have protested and would have tried to do more things at that time if they had known. Mayor Brill Mittler noted that she is feeling the frustration of all of the protesting being ignored by the developer and the Courts. Ms. Sackowitz commented that the developer has full time people that handle this and they are very adept at that. The borough did have an option when this request was put in to have our LSRP review it. His LSRP has control over the situation. If the Borough had gotten their LSRP in, they could have had them question some of the decisions made by his LSRP. His LSRP would have had to defend why they need to take down that many trees. The fact that we never consulted our LSRP and brought them in on these discussions is critical. She has seen no record of anything from our LSRP. We lost the opportunity before issuing that permit to have our LSRP weigh in and giving input and that would have carried weight and possibly would have protected those trees. She would like to think going forward that the Borough will make sure to handle these things better to make sure that anything that comes through the Court is handled in a professional manner and that people on the Council will be following these Court orders and appropriate decisions will be made.

Laurel Kornfeld, 106 No. 6th Avenue, commented that Buck Woods is not just an issue for the neighbors. This is an issue for the Borough, the State, the Country and the planet. Long before the 2009 battle started, many people here were involved in a 14-month battle against JSM from 1999-2000 in which a development for 21-24 homes was voted down. At the time of the application there were 500 mature trees. It is an aquifer recharge area and has shallow depth to bedrock, steep slopes and possibly contains wetlands. The investigation for wetlands was conducted during a drought back in the summer of 1999. There may have been later ones, but depending on when it is observed, there have been features of wetlands seen there. This developer has shown contempt for the process, for the people, and has a reputation in the State for a reason. You have to look for areas where he might have done things that are illegal or tried to cheat the system. Did he cut down trees beyond what the permit allowed, as people are saying that there is nothing left. There is concern about flooding near these residences. The Borough has lost so many open space parcels and yet we are supposed to be a green community. In the last 10-15 years there has been the Castle, the Cenacle property, Parker Assisted Living, and the Y property. In this area there were test pits and it is not clear that so many trees needed to be removed to conduct the testing. The contamination may be to the point that it is too expensive to clean up and to build any developments. One of the worst things you can do for the environment is cut down trees. She urged the Borough to be vigilant in looking for any possible area where he tries to not follow the rules because those things can be used against him and can be used to fight back.

Dan Stern Cardinale, Harper Street, asked if there is now a plan for the Buck Woods site. He asked if there are types of residences planned, number of residences planned. Borough Attorney Schmierer noted that there is not a plan yet for the site. There are 75 multi-family units that can be built on the property when the zoning is adopted. Mr. Stern Cardinale commented that he does not live adjacent to the property but he has been there. When he was in high school, the property adjacent to his house was sold and was a house with a lot of big old tall trees. He was involved in trying to oppose that development. In Highland Park you have to weigh a bunch of different factors when answering the question of what kind of town do we want to be. You need to consider being a green town, preserving open spaces, additional residential development, as well other conflicting factors. You can have a broader tax base or we can prevent further residential development and be an open and inclusive community; something we all aspire to be and something that Highland Park prides itself on aspiring to be or we can prevent additional residential development. We can try to address police bias and the underlying housing segregation because these are not two different issues or we can try to prevent further residential development. There is a conflict between those two goals. We can continue to try to fight this particular development and he doesn’t know how much money has been spent already trying to fight this particular development or we can try to preserve it as it is right now or we can try to effect what is going to ultimately be on the site. The site that he fought when he was back in high school has 3

McMansions on it and no tall trees, where it used to have one house and lots of big old trees. What is the most productive way forward? He asked if they can get a seat at the table to make sure that the development meets the needs of the town or are we going to preserve it as what it is right now and try to fight every step of the way to keep it that way for as long as possible. We can do that or we can try to make sure that the development in the zoning process before it is approved meets the needs of the community in terms of the residence who live there now, in terms of people who want to move to Highland Park but maybe can't afford to move to Highland Park and also develop it in such a way that reflects the shared goals of equity and inclusiveness that he thinks they all share. There are a lot of conflicting demands here given where it is right now. He thinks the way forward is to try to effect the zoning process rather than just hitting the brakes to stop anything further from happening at that site, because at the end of the day it seems like something is going to go there or it will sit as a dirt ravine. Mayor Brill Mittler commented that about 4 years ago, the developer approached them to say that he was ready to start developing. Councilman George noted that he had a plan for 144 units, 20% of which would have to be affordable. Plans were drawn up and there were several meetings held with the neighbors and the plan was scaled down. The Mayor was cursed out by the developer and after that they have proceeded in the way they've been proceeding. They have been trying to negotiate with him before any permits were pulled to keep the property the way it was. A private developer owns the property and you can't stop it forever. There was a tree cutting summons issued back in 2001. In the negotiations through our Affordable Housing Attorney with the Fair Share Housing people after COAH collapsed, the density was cut down from 144 units to 75 units. The ordinance that they were directed to adopt is directly out of the Fair Share Housing ordinance settlement which limits that to 75 units, lays out the location and tells us to pass the ordinance.

Gabrielle Wilders, 24 Walter Avenue, commented that she is heartbroken and infuriated by what has happened to Buck Woods. The damage has been done and there is no changing that. She is concerned about moving forward and how to protect the environment and the neighbors. How can the Borough assure them that there will be minimal further damage done to that area and to Highland Park in general? She has been here about the development at 31 River Road and that is a ½ acre space where they are looking to put 40 units. Buck Woods is 4 acres that they are looking to put 75 units on. We have Highland Cliffs, we have Merriewold, and the other developments near Cleveland. We are exploding with development and we don't have the infrastructure to take care of the kids that are unable to go to school, the public safety needs, the emergency service needs, the road needs, the traffic, etc. None of that has been addressed. Mayor Brill Mittler commented that many of the developments she mentioned were also builder's remedy developments that they were forced into because of COAH litigation. The settlement they are talking about would put an end to it. The plan is for 75 units in a small piece of land and that is what they have to work on with the zoning ordinance. This is not ending for them and they are not giving up. They have been fighting this battle for a long time. The Borough lost this case and they are not happy about it. Ms. Wilders commented that her area at 31 River Road is up in the air and she has no idea what is going on. With these other areas that have been built and not sold, she has not seen any increase in services anywhere. Nothing has changed and she sees Highland Park becoming over capacitated with people and cars. Mayor Brill Mittler commented that they need to do a better job of letting the residents know about the services that have been increased. They just hired two new Police Officers. There will be an expansion of the one armed bandit garbage collection. The Borough Administrator is working on a program to get the potholes filled. PSE&G is coming in to finish some of the roads and that will tie into the Borough's road repair programs. There are those things going on and the Borough does not talk about it enough. Ms. Wilders commented that communication continues to be an issue and she would like information about what services are being increased and not just getting an increase in her taxes. There was damage done to the environment, the neighborhood and to Highland Park. There needs to be something tangible in showing that the Borough is going to try and compensate in some way for that. Given everything that has happened, we all have to take action in compensating for the damage that's been done. She is making an emotional plea to please show that effort and show the citizens that you do care. Actions speak louder than words.

Melanie McDermott, South 3rd Avenue, commented that as a member of Highland Park's Shade Tree Advisory Committee, that they will replant every tree that that man and his company took down. They have more than enough vacant spots on our streets and they have the money in the tree replacement fund. That is their promise and they need the support of all residents to accept and care for the street trees in front of their homes going forward. As a member of the Shade Tree Committee she asked that they get confirmation in the near future about the donation for the 179 trees taken down at \$500 each. She asked that an inspection occur tomorrow to confirm that only the trees that were indicated on the permit were taken down. If not, that a fine of \$1,000 for every extra or damaged tree be assessed. Although those trees were removed nominally for environmental testing, she asked the Borough Attorney and Borough Planner, what kind of site stabilization measures is he mandated to put in place. There were no retaining walls and the next rain will wash soil off those slopes and destabilize the remaining trees. She suspects that there must be something that the Borough can require. She asked the Borough to look into what rights we have and to act on them. The looming threat of the cleanup of the property and the few remaining trees, he will hold anything hostage that he can. The only hold that the public has is he who pays the piper, calls the tune. The State decided that the LSRP is going to be hired and answerable to the developer. The only hold the Borough has is the license of that professional and that ruling that those trees had to come down in order to even conduct environmental testing does not pass the laugh test. That man has a professional license and it can be revoked. She called the DEP and they did the database search. They have found creosote, and construction debris. There is no smoking gun, there is no dioxin. This is just blackmail and they are not going to find anything on that site that the Borough can be taken to the dry cleaners for. We need to know that and if there is a claim for further testing, we should know our facts. There is nothing that is not construction related that has been found on the site thus far. We should ask for the report. She would be very surprised if Jack Morris is satisfied with the 75 units. She is not afraid of the number of new residences. She thinks that Highland Park is a destination that can accept more residents. She thinks people need to have an affordable place to live and she does think the infrastructure has to be in place to do that. We should focus our efforts on

the layout and where the development occurs and not go to the mattresses over the number of units. We need to get something on that property, because the way it is now is a true environmental hazard.

Susan Gutwill, 224 Valentine Street, asked what percentage of the 75 units would be affordable. 20%? Not great. She asked how much money is an affordable unit. Borough Administrator Jover noted that the State sets out guidelines based on income values and rents. Any units developed under this would have to comply with the State regulations. Ms. Gutwill asked if there was any way to make those 75 units more for affordable housing than for wealthy housing.

Amy Corwin, 117 North 4th Avenue, commented that she has seen many steep slopes where trees have been removed with heavy equipment. The possibility for massive erosion is severe. We have a developer who is going to push hard and will ask for everything that has been closed to be opened in his favor. She understands that the Borough Council has to stay calm and you have to be complacent about following court orders, but fight back, because this guy is going to try and take us to the cleaners and has given every evidence up till now. She has heard about affordable units in the state that get crummy construction and fall apart. She asked the Borough to watch this guy real close and don't be complacent because some Judge said so.

Paul Sauers, 242 South 6th Avenue, commented that he just moved into this neighborhood about three years ago and he was aware of the fight that happened almost twenty years ago. His family has been in this area for over fifty years. Bit by bit he has watched small parcels and then bigger parcels filled in. It is still a wonderful town, but it is disturbing that you lose things that were part of your life. He hopes that the Borough can continue to watch these things and figure out new ways to deal with these problems. He asked how they could get some housing built in the downtown where there are empty spots.

Ed Prince, 703 South 5th Avenue, thanked the members of the Council because he knows that they have been involved in this and have had to hear complaints and concerns. He asked if the plan ideally would be for the building to be as close to 6th Avenue as possible. He asked what leverage the Borough has to ensure that happens. Borough Attorney Schmierer noted that it would be built into the ordinance. Mr. Prince asked if there is anything that would prevent Mr. Morris from saying that is not the way I want to build it and reject it and say I'll see you in Court. Borough Attorney Schmierer confirmed that it is a distinct possibility. Mr. Prince commented that it is a probability since he took down far more trees than would be necessary to build the kind of buildings that were discussed. Borough Attorney Schmierer noted that the trees were taken down under the guise of environmental testing. Mr. Prince commented that there is no reason to test land that you are not going to use. Borough Attorney Schmierer noted that as the owner of the property, he is entitled to either clean up the entire property or cap it and he has elected to clean up the entire property, meaning dig it out. Mr. Prince commented that one can reasonably assume that the reason why he took down these trees is because his desire is to use that property. If you were acting in good faith and wanted to work with your community, you would want not have had to invest additional money up front in the form of a bond for all those additional trees that he took down that were not necessary to be taken down at that moment. Borough Attorney Schmierer agreed if they had a developer who wanted to work in good faith. Mr. Prince asked why he should not assume that in a year or two, after the next level of lawsuits, that Mr. Morris will say that he is really prepared to build closer but the price of him doing that would be 125 units. The Borough will be in the identical position as it is right now to say we don't want that many and have fought against that before. It seems to him that the only thing that has happened is that a whole lot of trees came down but that for practical purposes, virtually nothing has been resolved. We don't know how many units will ultimately be built, we don't know how many lawsuits will be filed. There is nothing that prevents the town from negotiating 75 units in exchange for something else. Borough Attorney Schmierer noted that if the Borough embeds our ordinance for 75 multifamily units, no more, into our affordable housing plan and get that approved and we have an excellent planning consultant who has developed, with a lot of background, what would be appropriate to develop on Buck Woods, he has every confidence that the ordinance would be upheld. Mr. Prince commented that it seems to him that what has happened throughout this entire process is that the town is playing checkers and he is playing chess and he is just faster, smarter and better than we are. The Borough is now forced to go into a long period of litigation because he challenges the ordinance, which he is entitled to do. The Borough is not challenging the Court ruling and invest the money to go to the next step. He asked where this ends and how do they know that what we want now is in fact in stone and will not change and how can that be protected. He doesn't think they have the answers now, because he doesn't think it exists because there are still too many permutations to this issue. He asked that they consider the implications of what this decision is and really decide what hill the Borough of Highland Park is prepared to take a stand and die. Barring that, it will be incremental, him against us and we lose. Borough Attorney Schmierer noted that the plan is to develop an ordinance which would be a part of the affordable housing and the land use code which would cap 75 units where we want them built. The Borough has an excellent Planner who's done a study of other multi-families in town, and he has developed the bulk regulations to build around that. He is confident that the ordinance will be the end game for the Borough. He has every right to sue if he is not happy with it.

Marsha Goldberg, 451 South 5th Avenue, commented that she wants to reiterate who we are dealing with. She was in Court on the 15th with the Borough Attorney and it's as if they are in a different room. She did not walk out of that room optimistic. We have a developer who she has never met and he certainly has all the resources. He has a lawyer who is a former Judge who belittled their concerns. You would think someone who grew up in Highland Park might want to be a good neighbor. His lawyer belittled our concerns and interrupted our Attorney. He is granted his permit and his stay is lifted at 4:45 p.m. and at 5:00 p.m. he does the equivalent of giving the whole town a middle finger. He runs his bulldozers right through the site until he lands right behind her house and he knocks down tree after tree with the bulldozers until he is legally obliged to stop at 7:00 p.m. and then back at it at 8:00 a.m. Let's not pretend that the developer will be interested in the plan developed by our Planner. He is going to do everything that he can to get exactly what we don't want just out of spite. He has already created an ugly

spot and she doesn't know how we can deal with that. Her most immediate concern is when her house starts to collapse or when she wants to put it on the market and she can't sell it for the same reasons. She hopes that's the first thing that the Borough is going to address for her sake. She has already spent a lot of money on her very good attorney. Mayor Brill Mittler noted that she wants the Borough's Planner and Engineer to visit her house. Ms. Goldberg commented that the Borough's Engineer should have been out there a year ago before he okayed the LSRP report.

Donna Gustafson, 443 Denison Street, commented that she saw the pictures of Buck Woods and she really believes that this is a town-wide tragedy. She is very sorry for the people who live in that immediate area and she is really sorry that Highland Park could not stop this from happening. She thinks that at this point, it is a waste land over there and she doesn't know what can be done. She is disappointed in the town's inability to stop such wholesale destruction, especially when we talk about ourselves as being a green space. It is one thing to not use plastic bags, but we don't have any green space left.

Hannah Shostack, North 6th Avenue, commented that she is upset and the site is a disaster area right now. She was in Court on Friday also and the Judge asked the Borough Attorney what the effect of removing the stay on the negotiations and he said that it wouldn't be good because it would make the destruction of the site the focus of town concern and the Judge removed the stay anyway. Obviously, this was not an optimistic situation at all and she thinks you have to be an incredibly rosy optimist to have left Court on Friday being optimistic. In terms of what you do to shore up the properties on South 5th Avenue, she wants to know if they can have the money included for the retaining wall in the performance guarantee charged to the developer when he comes with a plan. Borough Attorney Schmierer noted that the Borough would not be putting up retaining walls. Ms. Shostack asked if in the performance guarantee if he doesn't put them up then they could use his money to erect them. Borough Attorney Schmierer agreed. Ms. Shostack requested that when the developer comes with a development application that in advance, they do their homework and figure out how much it would cost to put up retaining walls to shore up those properties and that that amount be factored into the performance guarantee and the maintenance guarantee to make sure that those properties are shored up now and that it lasts. Borough Attorney Schmierer noted that they could do that as part of the completeness review of the application. Ms. Shostack would like to know procedurally how you go about doing that and how they are going to get an estimate so that they are prepared when he comes in. The damage is the damage, regardless of what the development looks like. He has already done site preparation for a development we know nothing about. Borough Attorney Schmierer noted that they would have to hire an expert, at his expense, to come up with what and where the retaining walls are needed, how big, what they would cost and add 20%, and that would be part of his performance and maintenance bond. Ms. Shostack commented that everything is very laid back around here. She asked about taking affirmative action ahead of the curve. If he is going to come in with a development plan, we already know that those properties are precariously situated over a steep slope. Mayor Brill Mittler noted that as she previously mentioned, she wants the Planner and Engineer to go out to the site, including Marsha's house, to do an assessment of what needs to be done as a first step. Once they have an assessment of what needs to be done to secure the property there, that's when we can find out what it would cost. Councilwoman Foster-Dublin noted that she would like to see that South 7th Avenue properties are included in the assessment as well. Mayor Brill Mittler noted that she does not talk theoretically. She is going to have the Planner and Engineer go out to that area. She will be in her office tomorrow and make the necessary calls to the Planner and Engineer. The Borough Administrator will make sure that they go out there. She cannot say what the next steps will be until the assessment is done.

Dan Stern Cardinale, Harper Street, asked if this settlement and some of the other settlements go back to the Mount Laurel ruling. The situation now is that we have a development that is court mandated due to decades of discriminatory housing policies in Highland Park. Borough Attorney Schmierer explained that the Mount Laurel ruling, that goes back to 1975, recognized that all municipalities in a region have to provide an opportunity for fair housing in their community. The Borough didn't do this because of discriminatory housing policies in Highland Park, they did it because it is required by the State. Mr. Cardinale commented that regionally throughout the State we have to remedy that history by having these mandates. Some of these developments are Highland Park's contribution to those mandates. There is housing discrimination throughout New Jersey. Part of the predicament Highland Park is in right now, is that there is this legacy of discrimination and towns were not designed to undo that. Now we need to contribute to undoing that legacy. He noted that most of the people in this room tonight are white and have all benefitted from discriminatory housing policies in the form of housing values that have increased, more favorable loans that people of color have been systematically excluded from. Now we are in the situation where we have the opportunity to contribute to the undoing of that legacy just a little bit. He doesn't know how that will affect anyone's thinking, but it has to be part of the calculus when you evaluate these types of developments. He asked that everyone keep that legacy in mind when you think about how to approach these development decisions. Councilwoman Foster-Dublin noted this Council has done a very careful consideration of not just this development but all the development that went in place. Most towns kicked the can down the road and sent it over to another town so that they get all the affordables in that area. In all the developments done, we have made sure that affordables are inserted in all of those pockets. As you correctly said, a lot of people have benefitted from persons of color or minorities.

Susan Edmunds, 440 Grant Avenue, commented that she lives on the North Side and has walked near Buck Woods many times over the years and has walked around Highland Park for many years. She wanted to add her voice to the voice of pain you have all witnessed here. The loss of these trees is a resource that cannot be replaced. She hears a lot of good will from the Council, but everything seems to be reactive and she would like to see a strong statement of value. If a mature oak tree transpires 500 gallons of water into the atmosphere, that adds up. There needs to be a plan and it needs to be understood by everyone that we value trees and you can't just take them down.

Harold Sackrowitz, 617 South 5th Avenue, commented that for the most part they feel that they are out of the loop. Instead of an occasional open hearing, identify a few people that can be a part of what is going on, except that they can't hear about litigation. They have been concerned about this for a number of years. When Morris tends to be dormant, you don't pay as much attention. Whenever you have a lapse, it is costly. The tree permit is a perfect example. They did not get notified as was promised at the previous meeting that you would be in touch and keep them abreast of what was going on. The first tree permit allowed them to take down trees in the middle of the bottom of the property and do testing and if they found contamination, they would go out further. They went way further out. He feels that a

number of things were not well thought out. He bets that not everyone on the Council is kept abreast of all the filings and things that have gone on in this case. If you had more people than just one or two of you working on this, you might get some better ideas. He is most disappointed in our responses to what Morris has submitted in his files. He is saying things that are simply not the case, and the Borough is letting him get away with it. At the hearing on Friday, time after time, the Judge let Wolfson say what's the point of waiting, those trees are coming down anyway. If we don't take them down now, after the property is capped, they will die. How would they know the property is going to be capped? They did not finish the testing. He says all sorts of things, and we don't challenge him. They asked the Borough Attorney if this would affect the negotiations. The Borough Attorney said if you do this, the town will be focused on the trees. If he does this, it changes the property. We are no longer talking about developing in Costa Rica, we are talking about developing in the Sahara Desert. He feels that if there were more people involved, the Borough could come up with better responses. When Wolfson submits a filing, that is a lot of pages and a lot of stuff to go through. What do our files look like? Not like that. He asked if their LSRP put in a remediation plan. Borough Attorney Schmierer noted that they have to do the tests before a remediation plan is submitted. Mr. Sackrowitz noted that Wolfson had no business in court saying when we cap it, the trees will die. In a remediation plan, he asked if they have to put in things like the retaining walls that were talked about. Borough Attorney Schmierer noted that the way Mr. Morris builds residential developments is that he does not cap properties but digs out any pollution and brings in fill. If he was going to do that in an area that required a retaining wall, he would have to put up a retaining wall to implement that plan. The LSRP is responsible, as the Judge found, for the property legally. If the LSRP felt that the only way you could dig out, if that's the plan, near the steep slopes or the property line, he would have to put in a plan to stabilize that work.

Colin Marx, 443 Graham Street, commented that he wanted to thank the Council for their stamina and intensity in this fight. He is curious about the remaining natural lands in Highland Park. He mentioned the Valley Place ravine and noted that he believes it is protected by Green Acres. He is curious to know if there has been a change in protection status in Highland Park for parcels of land or changes in ownership regarding protected areas in the last eight years. Borough Administrator Jover indicated that she is not prepared to answer that question and suggested that they look at the Natural Resource Inventory first. Mr. Marx noted that he is looking forward to the deer counts because the deer population is a hassle especially with what they do to gardens and how they are being displaced from the woods. Mayor Brill Mittler suggested that he could get some information about potential developments from the Planning Board.

Herb Gross, Adelaide Gardens, commented about Veteran's and that there should be more housing in these developments dedicated just for Veteran's.

Diane Reh, 68 Donaldson Street, commented that she thinks what the Council heard tonight is not a call to arms, but a call to energy. They want to see a more energized Council, a more energized public body to address these issues. Highland Park is too nice to Jack Morris. Mayor Brill Mittler addressed the comment about being too nice. She has been cursed out by Mr. Morris. They sit up here and listen because they want to be contained and polite and civil. You don't see them when they are doing their day to day jobs. You don't see the Borough Attorney having to come her down or the Borough Administrator telling her to take a deep breath. You don't see that, because she doesn't want you to see that. Ms. Reh commented that the Borough does not have the resources to go up against Jack Morris. There is a Planner that is only in the Borough a few hours a week and an Engineer that is on retainer. We are up against a big challenge.

Marian Sackrowitz, South 5th Avenue, asked if the LSRP has to take into account storm water runoff and environmental issues other than the contamination of the site. If he doesn't, then who is and how is that person going to address the other issues of contamination. Borough Attorney Schmierer noted that the LSRP's involvement has been the testing. After the testing, then the next step is a remediation plan. The remediation plan has to address all of the issues she mentioned. Ms. Sackrowitz asked how much can Highland Park review his suggestions if they are not amenable and reasonable for the residents of Highland Park. Borough Attorney Schmierer noted that if he goes beyond the scope of his duties and suggests things not covered by the statute, we can challenge that and decline to approve his remediation plan and that would be the next issue in court. He further noted that they don't intend to cap the property and intend to remove the polluted items and bring in clean fill.

No one else appearing to be heard, the Mayor closed the public discussion.

The following resolution, introduced by the Council as a Whole, was duly adopted on motion made by Councilman George, seconded by Councilwoman Kim-Chohan, and carried by the following roll call vote, to wit:

Ayes: Councilpersons Fine, Foster-Dublin, George, Hale, Kim-Chohan.

Opposed: None.

Absent: Councilperson Welkovits.

Abstained: None.

No. 3-19-113

WHEREAS, Section 8 of the Open Public Meetings Act permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Borough Council is of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Highland Park, in the County of Middlesex, State of New Jersey, as follows:

1. The public shall be excluded from the closed session at close of tonight's open session.
2. The general nature of the subject matter to be discussed is as follows:
(Negotiations – 433 Cleveland Avenue; Litigation: JSM at Highland Park)
3. It is anticipated at this time that the above stated subject matter will be made public when these matters are resolved or as soon thereafter as it is deemed to be in the public interest to do so.

4. This Resolution shall take effect immediately.

There being no further business, on motion made by Councilman George, seconded by Councilwoman Kim-Chohan, and carried by affirmative voice vote of all Councilpersons present, the meeting adjourned at 9:13 p.m.

Respectfully submitted,

Joan Hullings
Borough Clerk