

COUNCIL MEETING

TUESDAY – DECEMBER 2, 2008

8:00 P.M.

Mayor:	Martin C. Konkus
Council President:	Roger Pyrtko
Council Member:	Brian McAlindin
Council Member:	Shaun O'Rourke
Council Member:	John Kaklamanis
Council Member:	William Dikun
Council Member:	Susan Rogers
Borough Attorney:	Jerry J. Dasti

Municipal Clerk/Administrator David A. Maffei is also in attendance.

Council Members Elect Chris Leitner and John McHugh are also in attendance.

THE PLEDGE OF ALLEGIANCE TO THE FLAG WAS LED BY MAYOR KONKUS.

STATEMENT BY MAYOR KONKUS: Pursuant to the applicable portions of the New Jersey Open Public Meeting Act, adequate notice of this meeting has been given. Notice of this meeting of the Governing Body has been posted in the corridor of the Municipal Building, published in the January 15, 2008 Edition of the Asbury Park Press and Published in the January 18, 2008 Edition of the Ocean Star.

A. ORDINANCE – INTRODUCTION

1. Establishing Rules and Regulations of Borough Parks (Tabled from 11/18/08)

MOTION: ORDINANCE OF THE BOROUGH OF POINT PLEASANT, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE BOROUGH CODE, IN PARTICULAR ARTICLE III ENTITLED "POLICE REGULATIONS"

BE IT ORDAINED, by the Borough Council of the Borough of Point Pleasant Borough, County of Ocean, State of New Jersey that the Borough Code of the Borough of Point Pleasant Borough, in particular Article III entitled "Police Regulations", is hereby amended and supplemented to include new section 3-18 entitled "Park Rules and Regulations". The Rules and Regulations governing all Borough parks is incorporated herein. A copy of the Rules and Regulations governing Borough parks is on file at the office of the Borough Clerk and can be reviewed during normal business hours.

SECTION 1: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 2: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 3: This ordinance shall take effect after second reading and publication as required by law.

ATTESTED TO BY:

APPROVED:

DAVID A. MAFFEI, Clerk/Administrator **MARTIN C. KONKUS**, Mayor

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Borough Council of Point Pleasant Borough on first reading at meeting held on December 2, 2008. The Ordinance will be considered for second and final reading at a meeting of the Borough Council which is scheduled for **December 16, 2008, at 8:00 p.m.**, or as soon thereafter as the matter may be reached, at the Municipal Building located at 2233 Bridge Avenue, Point Pleasant, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.

DAVID A. MAFFEI, Clerk/Administrator

MOTION: Adopt Ordinance

MADE: Mr. McAlindin

SECOND: Ms. Rogers

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

2. Creating the Position of Municipal Housing Liaison for the Purpose of Administering Borough's Affordable Housing Program Pursuant to the Fair Housing Act

MOTION: An Ordinance to Create the Position of Municipal Housing Liaison for the Purpose of Administering Point Pleasant Borough's Affordable Housing Program Pursuant to the Fair Housing Act

BE IT ORDAINED by the Borough Council of Point Pleasant Borough in the County of Ocean and State of New Jersey that the following amendments be made to Chapter *[insert number]* of Point Pleasant Borough's municipal code:

Section 1. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of Point Pleasant Borough's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MUNICIPAL HOUSING LIAISON – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Point Pleasant Borough.

ADMINISTRATIVE AGENT – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for Point Pleasant Borough to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

Section 3. Establishment of Municipal Housing Liaison position and compensation; powers and duties.

- A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for Point Pleasant Borough.
- B. Subject to the approval of the Council on Affordable Housing (COAH) or the Court, the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Point Pleasant Borough, including the following responsibilities which may not be contracted out, exclusive of item 6 which may be contracted out:
 - (1) Serving as Point Pleasant Borough's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 - (2) Monitoring the status of all restricted units in Point Pleasant Borough's Fair Share Plan;
 - (3) Compiling, verifying, and submitting annual reports as required by COAH;
 - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - (6) If applicable, serving as the Administrative Agent for some or all of the restricted units in Point Pleasant Borough.
- D. Subject to approval by COAH or the Court, Point Pleasant Borough may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of Point Pleasant Borough, except for those responsibilities which may not be contracted out pursuant to subsection C above.

If Point Pleasant Borough contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.

- E. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.
- F. Administrative powers and duties assigned to the Municipal Housing Liaison. Only the five required responsibilities outlined in C. above will be handled by Point Pleasant Borough’s Municipal Housing Liaison. All other duties will be delegated to an approved Administrative Agent.

Section 4. Severability.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

Section 5. Inconsistent Ordinances Repealed.

All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Adopted: _____, 2008

ATTEST:

APPROVED:

David Maffei

Martin Konkus

Borough Administrator

Mayor

NOTICE

NOTICE IS HEREBY GIVEN that the following Ordinance was introduced and passed by the Borough Council of Point Pleasant Borough on first reading at meeting held on December 2, 2008. The Ordinance will be considered for second and final reading at a meeting of the Borough Council which is scheduled for December 16, 2008 at 8:00 P.M./., or as soon thereafter as the matter may be reached, at the Municipal Building located at 2233 Bridge Avenue, Point Pleasant, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this ordinance.

MOTION: Adopt Ordinance

MADE: Mr. McAlindin

SECOND: Mr. Dikun

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

3. Ordinance Establishing Affordable Housing Development Fees

MOTION: Affordable Housing Development Fee Ordinance of the Borough of Point Pleasant

1. Purpose

- (a) In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the rules adopted by the New Jersey Council on Affordable Housing's (COAH).
- (b) Pursuant to P.L. 2008, c. 46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have an approved spending plan may retain fees collected from non-residential development.
- (c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic Requirements

- (a) The Borough of Point Pleasant shall not impose development fees on any applicant pursuant to this ordinance until COAH or a Court has approved the Development Fee Ordinance pursuant to N.J.A.C. 5:96-5.1, except that residential fees may be collected pursuant to the previously approved fee ordinance until such time as this ordinance takes effect, and non-residential fees shall be collected in accordance with the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq.
- (b) The Borough of Point Pleasant shall not spend development fees until COAH or a Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

- (a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project, or a 100 percent affordable development.

- ii. “COAH” or the “Council” means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in the State.
- iii. “Development fee” means money paid by a developer for the improvement of property as permitted under N.J.A.C. 5:97-8.3.
- iv. “Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v. “Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c.123 (C. 54:1-35a through C. 54:1-35c).
- vi. “Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development Fees

(a) Imposed Fees

- i. Within all zoning districts in the Borough of Point Pleasant, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one half percent (1.5%) of the equalized assessed value for residential development, provided no increased density is permitted.
- ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers shall be required to pay a development fee of six percent (6%) of the equalized assessed value (EAV) for each additional unit above that permitted by right which may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

(b) Eligible exactions, ineligible exactions and exemptions for residential development

- i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a

zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. Nonprofit organizations which have received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
- v. Federal, state, county and local governments shall be exempted from paying a development fee.
- vi. The owner of a residential unit who rebuilds when the owner's existing dwelling unit was destroyed due to fire, flood or other natural disaster shall be exempt from paying a development fee.

5. Non-Residential Development Fees

(a) Imposed fees

- i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly-improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

(b) Eligible exactions, ineligible exactions and exemptions for non-residential development

- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half percent (2.5%) development fee, unless otherwise exempted below.
- ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

- iii. Non-residential developments shall be exempt from payment of non-residential development fees in accordance with the exemptions required pursuant to P.L. 2008, c.46, as specified in the Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” Form. Any exemption claimed by a developer shall be substantiated by that developer.
- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Point Pleasant as a lien against the real property of the owner.

6. Collection procedure

- (a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Borough’s Construction Official responsible for the issuance of a building permit.
- (b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- (d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- (e) The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- (f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee, and thereafter notify the developer of the amount of the fee.
- (g) Should the Borough of Point Pleasant fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

- (h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i) Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Point Pleasant. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Point Pleasant. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing Trust Fund

- (a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Borough's Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- (b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - 1. Payments in lieu of on-site construction of affordable units;
 - 2. Developer-contributed funds to make ten percent (10%) of the affordable entrances in a townhouse or other multistory attached development accessible;
 - 3. Rental income from municipally-operated units;
 - 4. Repayments from affordable housing program loans;
 - 5. Recapture funds;
 - 6. Proceeds from the sale of affordable units; and
 - 7. Any other funds collected in connection with the Borough of Point Pleasant's affordable housing program.
- (c) The Borough of Point Pleasant shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the Township's banking institution, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- (d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH or the Court.

8. Use of Funds

- (a) The expenditure of all funds shall conform to a spending plan approved by COAH or the Court. Funds deposited in the housing trust fund may be used for any

activity approved by COAH or the Court to address the Borough of Point Pleasant's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

- (b) Funds shall not be expended to reimburse the Borough of Point Pleasant for past housing activities.
- (c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (d) The Borough of Point Pleasant may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (e) No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- (a) The Borough of Point Pleasant shall complete and return to COAH all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in

lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Point Pleasant's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing Collection of Fees

- (a) The ability of the Borough of Point Pleasant to impose, collect and expend development fees shall expire with its substantive certification or judgment of compliance unless the Borough of Point Pleasant has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned COAH for substantive certification, or brought a declaratory relief action in Court pursuant to N.J.S.A. 52:27D-313 and has received approval of its development fee ordinance by COAH or a Court. If the Borough of Point Pleasant fails to renew its ability to impose and collect development fees prior to the expiration of its substantive certification or judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). The Borough of Point Pleasant shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or its judgment of compliance, nor shall the Borough of Point Pleasant retroactively impose a development fee on such a development. The Borough of Point Pleasant shall not expend development fees after the expiration of its substantive certification or its judgment of compliance.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council and the Borough of Point Pleasant, this Ordinance shall become effective upon final passage and publication as provided by law.

BOROUGH OF POINT PLEASANT

By: _____
Martin Konkus, Mayor

Attest:

David A. Maffei, Clerk

NOTICE

NOTICE IS HEREBY GIVEN that the following Ordinance was introduced and passed by the Borough Council of Point Pleasant Borough on first reading at meeting held on December 2, 2008. The Ordinance will be considered for second and final reading at a meeting of the Borough Council which is scheduled for December 16, 2008 at 8:00 P.M./., or as soon thereafter as the matter may be reached, at the Municipal Building located at 2233 Bridge Avenue, Point Pleasant, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this ordinance.

David A. Maffei, RMC, CMFO
Municipal Clerk/Administrator

MOTION: Adopt Ordinance

MADE: Ms. Rogers

SECOND: Mr. Dikun

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

4. Amending Chapter VIII "Building and Housing" of the Borough Code – Subcode Fees

MOTION: An Ordinance of the Borough of Point Pleasant, County of Ocean, State of New Jersey, Amending and Supplementing Chapter VIII of the Borough Code Entitled "Building and Housing"

NOW THEREFORE, BE IT ORDAINED BY the Borough Council of the Borough of Point Pleasant Borough, County of Ocean, State of New Jersey, that Chapter VIII of the Borough Code entitled "Building and Housing" in particular Subsection 8-1.2 "Fees" is hereby amended and supplemented as follows:

8-1.2 Fees.

a. Fees for construction permits shall be as follows:

1. The building subcode fees shall be as follows:

(a) For new construction: All fees shall be based on the volume of the structure and volume computations shall be made pursuant to N.J.A.C. 5:23-2.28. Use groups and types of construction are to be classified and defined as established in Articles 3 and 4 of the Building Subcode.

(1) New residential construction, alteration, or renovation:

Per cubic foot of volume	\$	00.027
Minimum fee	\$	75.00

(2) New construction all other use groups:

Per cubic foot of volume	\$	00.027
Minimum fee	\$	100.00

(ii) Structures on farms used exclusively for the storage of food or grain, or the sheltering of livestock

.....	\$	00.008
Maximum fee for (ii)	\$	1,000.00

(iii) All others

.....	\$	00.009
Minimum fee for (ii)	\$	75.00

Minimum fee for all others	\$	75.00
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(b) Renovations, alterations and repairs, etc.:

Fee based on the estimated cost of work		
\$1 to \$50,000(per thousand)	\$	18.00
\$50,001 to 100,000(per thousand)		
Add \$15.00		
Over \$100,000(per thousand)		

	Add \$7.00	
	Minimum Fee	\$ 75.00
(c)	Pool Barrier:	
	Per linear foot	\$ 00.20
	Minimum fee	\$ 75.00
(d)	Open decks:	
	Fee based on the estimated cost of work\$18.00 per \$1,000.00	
	Minimum fee	\$ 75.00
(e)	Sheds:	
	Over 100 square feet	\$ 75.00
(f)	Fireplace and masonry chimney	\$ 75.00
(g)	Woodburning stoves and chimney	\$ 75.00
(h)	Demolition:	
	Use Group R Structures less than 2,000 square feet and 30 feet high or less	\$ 100.00
	All other structures	\$ 200.00
	Together with cash bond posted with the Borough to ensure removal of debris and to protect against damage.	\$1,000.00
(i)	Signs:	
	Per square foot surface area, one side only for double-faced signs	\$ 01.20
	Minimum Fee	\$ 75.00
(j)	Swimming pools:	
	Above ground	\$ 100.00
	In ground	\$ 200.00
	Public/commercial	\$ 300.00
(k)	Elevator permits subject to NJ State permit fees	
(l)	Temporary structures/other structures that volume cannot be computed:	
	Each over 100 square feet	\$ 75.00
	The fee for tents in excess of 900 square feet or more than 30 feet in any direction shall be \$100.00	
(m)	Fire permits:	
	When fire review or inspection required	\$ 75.00
	All other permits required by UCC ¹ in which specific provision is not otherwise provided herein – Minimum	\$ 75.00

2. Other fees.

- (a) There are hereby established the following construction and subcode fees:

- (1) Electrical subcode fees.

Minimum Electrical Subcode Fee shall be
\$75.00

Electrical fixtures and devices:

¹ UCC means NJ State Uniform Construction Code Act 52:27D-119A, Chapter 23 Uniform Construction Code Regulations

The fees shall be as follows:

- A. For from one to 25 receptacles or fixtures, the fee shall be in the amount of \$75.00, for each 25 receptacles or fixtures in addition to this, the fee shall be in the amount of \$15.00, for the purpose of computing this fee, receptacles or fixtures shall include lighting outlets, wall switches, electric discharge fixtures, convenience receptacles or similar fixtures, and motors or devices of less than one horsepower or one kilowatt, burglar, fire and communication devices, etc.
 - B. For each motor or electrical device greater than or equal to one horsepower or kW and less than or equal to 10 horsepower or kW; and for transformers and generators greater than or equal to 1 kW and less than or equal to 10 kW, the fee shall be \$15.00.
 - C. For each motor or electrical device greater than 10 horsepower or kW and less than or equal to 50 horsepower or kW; for each service panel, service entrance or sub panel less than or equal to 225 amperes; and for all transformers and generators greater than 10 kW and less than or equal to 45 kW, the fee shall be \$75.00.
 - D. For each motor or electrical device greater than 50 horsepower or kW and less than or equal to 100 horsepower or kW; for each service panel, service entrance or sub panel greater than 225 amperes and less than or equal to 600 amperes; and for transformers and generators greater than 45 kW and less than or equal to 112.5 kW, the fee shall be \$150.00.
 - E. For each motor or electrical device greater than 100 horsepower or kW and less than or equal to 1,000 horsepower or kW; for each service panel, service entrance or sub panel greater than 600 amperes and less than or equal to 1,000 amperes, the fee shall be \$225.00.
 - F. For each motor or electrical device greater than 1,000 horsepower or kW; for each service panel, service entrance or sub panel greater than 1,000 amperes; and for each transformer or generator greater than 112.5 kilowatts, the fee shall be \$450.00.
 - G. For the purpose of computing fees B thru F, all motors and devices including plug-in appliances shall be counted, including control equipment, generators, transformers and all heating, cooking or other devices consuming or generating electrical current.
- (2) Fire protection subcode fees.

Minimum fire protection subcode fee shall be \$75.00.

Fire protection and other hazardous equipment: sprinklers, standpipes, detectors (smoke and heat) pre-engineered suppression systems, gas and oil-fired appliances not connected to the plumbing system, kitchen exhaust systems, incinerators and crematoriums:

- A. The fee for 20 or fewer heads shall be \$75.00

for 21 to and including 100 heads, the fee shall be \$125.00; for 101 to and including 200 heads, the fee shall be \$229.00; for 201 to and including 400 heads, the fee shall be \$594.00; for 401 to and including 1,000 heads, the fee shall be \$822.00; for over 1,000 heads, the fee shall be \$1,050.00.

- B. For from 1 to 12 detectors, the fee shall be \$75.00; for each 25 detectors in addition to this, the fee shall be \$10.00.
- C. The fee for each standpipe shall be \$229.00.
- D. The fee for each independent pre-engineered system shall be \$150.00.
- E. The fee for each gas or oil-fired appliance which is not connected to the plumbing system shall be \$50.00.
- F. The fee for each kitchen exhaust system (commercial) shall be \$75.00.
- G. The fee for each incinerator shall be \$365.00.
- H. The fee for each crematorium shall be \$365.00.
- I. The fee for suppression systems other than sprinklers including: Co2, gas, foam, dry or wet chemical and installation of hood duct and exhaust systems shall be a minimum \$100.00.
- J. The fee for woodburning fireplace or stove shall be \$75.00.
- K. Tanks:
 - Installation, each (Review) \$ 75.00
 - Residential Removal \$ 75.00
 - Commercial Removal \$ 200.00

(3) Plumbing subcode fees.

Minimum plumbing subcode fee shall be \$75.00.

Plumbing fixtures and equipment:

The fees shall be as follows:

- A. Per fixture, piece of equipment, vent or appliance connected to the plumbing system, and for each appliance connected to the gas or oil piping system, except as listed in B below \$10.00.
- B. Per special device for the following: grease traps, oil separators, water-cooled air conditioning units, refrigeration units, utility service connections, backflow preventers equipped with test ports (double check valve assembly, reduced pressure zone and pressure vacuum breaker back-flow preventers), steam boilers, hot water boilers (excluding those for domestic water heating), gas or fuel oil piping, sewer pumps, and interceptors \$75.00.

(4) Fees applicable to paragraphs (2 (a) (1), (2) and (3).

A. The fee for elevator devices where applicable shall be in accordance with N.J.A.C. 5:23-12.6.

(b) Plan review fee: For the purposes of N.J.A.C. 5:23-4.18(b), (i) and (j), the plan review fee shall be twenty (20%) percent of this schedule of fees. The amount paid for this fee shall be credited toward the amount of the fee to be charged for the construction permit.

(c) The fee for a permit for the removal of a building or structure from one (1) lot to another or to a new location on the same lot is five (\$5.00) dollars per one thousand (\$1,000.00) dollars of the sum of the estimated costs for moving, for new foundation and for placement in a completed condition in the new location, provided that the minimum fee shall be seventy-five (\$75.00) dollars, including a certificate of completion. Also provided that a one thousand (\$1,000.00) dollar bond shall be posted with the Borough to ensure the removal of all debris and to protect against damage.

(d) Certificates of Occupancy:

(1) Certificate of occupancy:	
Use Group R.....	\$ 75.00
All other use groups	\$100.00
(2) Continued use certificate	
Residential use groups, per unit	\$ 50.00
(3) Change of use	
Each unit	\$150.00
(4) Reinstatement of lapsed permit	
Each	Minimum \$150.00
(5) Temporary Certificate of Occupancy	\$ 50.00

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This Ordinance shall take effect upon publication in an official newspaper of the Borough, as required by and in conformance with law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Borough Council of the Borough of Point Pleasant on first reading at meeting held on the **2nd** day of **December, 2008**. The Ordinance will be considered for second and final reading at a meeting of the Borough Council which is scheduled for the **16th** day of **December, 2008**, at **8:00 p.m.**, or as soon thereafter as the matter may be reached, at the Municipal Building located at 2233 Bridge Avenue, Point Pleasant, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.

DAVID A. MAFFEI, Clerk/Administrator

Prepared by:

DASTI, MURPHY, McGUCKIN, ULAKY,
CHERKOS & CONNORS
Forked River, New Jersey 08731

JJD/lmh/caf/Pt. Pleasant -Ordinances.2008

MOTION: Adopt Ordinance

MADE: Mr. O'Rourke

SECOND: Mr. Dikun

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

B. OPEN PUBLIC SESSION (Resolutions and Authorizations Only)

5 Limit Per Person

Ordinance No. 530. An Ordinance to establish by laws to govern the organization and procedures of the Borough Council for meetings and deliberations. Section 5. Public Participation. Each member of the public shall keep his or her remarks brief, pertinent to the issues being discussed and shall not exceed a time period of five (5) minutes in order to adequately provide all members of the public with the opportunity to address the Governing Body consistent with good order and efficiency.

MOTION: Open the meeting to the public Ms. Rogers

SECOND: Mr. Dikun

APPROVED: All in favor

Nancy Pazienza, 2301 Pulaski Drive, asked where she can see the rules and regulations for the park.

Mr. Maffei explained they are available in his office.

C. RESOLUTIONS

1. (255-2008) Accepting and Approving the Third Amendment to a Lease Agreement with New Cingular Wireless PCS, LLC

MOTION: Resolution of the Borough Council of the Borough of Point Pleasant Borough, County of Ocean, State of New Jersey, Accepting and Approving the Third Amendment to a Lease Agreement with New Cingular Wireless PCS, LLC

WHEREAS, the Borough Council of the Borough of Point Pleasant Borough, County of Ocean, State of New Jersey (hereinafter referred to as the “Borough”), has previously entered into a Lease Agreement with New Cingular Wireless PCS, LLC, (“Cingular”); and

WHEREAS, the aforementioned Lease Agreement has been amended on two occasions, and Cingular has proposed a Third Amendment to the Lease, a true copy of which is on file at the Office of the Borough Clerk and can be reviewed by the public during normal business hours; and

WHEREAS, the Borough Solicitor has recommended that the Third Amendment to the Lease be accepted by the Borough inasmuch as it is simply a clarification of the aforementioned Lease, as previously amended, and does not change in any way the amount of compensation to be paid by the Borough by co-locators who will pay rent to install cellular antenna on the monopole constructed by Cingular on Borough property; and

WHEREAS, the Borough finds that the recommendations of the Borough Solicitor are appropriate and in the long term best interests of the Borough and its taxpayers:

NOW, THEREFORE, BE IT RESOLVED, this 2nd day of December, 2008 by the Borough Council of the Borough of Point Pleasant Borough, County of Ocean, State of New Jersey, as follows:

1. The Borough accepts the recommendations of the Borough Solicitor and approves and accepts the proposed Third Amendment to the Lease Agreement, a true copy of which on file at the Office of the Borough Clerk and can be reviewed by the public during normal business hours.

2. The Borough authorizes and directs the Mayor, Borough Clerk and Borough Administrator to execute any and all necessary documents in order to implement the intent of this resolution.

3. A certified copy of this resolution shall be forwarded by the Borough Clerk to the following:

- (a) Honorable Martin Konkus, Mayor;
- (b) David Maffei, Administrator;
- (c) Jerry J. Dasti, Esq.;
- (d) Declan O'Scanlon, Borough Consultant.

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Borough Council of Point Pleasant Borough at a regular meeting held on December 2, 2008, a quorum being present and voting in the majority.

DAVID MAFFEI, Borough Administrator/Clerk

MOTION: Adopt Resolution

MADE: Mr. Pyrtko

SECOND: Mr. Dikun

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

2, (256-2008) Awarding Five (5) Contracts for the Additions and Alternations to the Municipal Facility and Declaring a Breach and Violation of the Bid Process by Two (2) Bidders and their Associated Bonding Companies; Awards to G&P Parlamas, Inc. - \$2,972,103.00, J.G. Schmidt Steel - \$34,200.00, Three G's Plumbing and Heating - \$212,289.00, DeSesa Engineering Company, Inc. - \$277,900.00, Pat Maggio and son Electric, Inc. - \$561,000.00

MOTION: Approve Resolution as amended without the new gym

MOTION: Adopt Resolution as Amended without new gym

MADE: Ms. Rogers

SECOND: Mr. McAlindin

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

2. (257-2008) Authorize Release of Maintenance Guarantee, Block 108, Lot 24 – Cook

MOTION: Authorize Release of Maintenance Guarantee, Block 108, Lot 24 – Cook

WHEREAS, the Borough of Point Pleasant has required the posting of a Maintenance Guarantee for certain site improvements in regard to Block 108, Lot 24; and

WHEREAS, the Borough and the Borough Engineer have inspected the site and have determined that it has been satisfactorily maintained in substantial compliance with Board approvals; and

WHEREAS, the Borough Engineer has recommended the release of the balance of said Maintenance Guarantee for the improvements on Block 108, Lot 24 conditioned upon the payment of all outstanding inspection fees.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Point Pleasant, County of Ocean, State of New Jersey as follows:

- 1. That the Mayor and Borough Council do hereby authorize the release of the balance of the Maintenance Guarantee, for the improvements for Block 108, Lot 24 conditioned upon the payment of all outstanding inspection fees.**
- 2. That the Chief Financial Officer or the Borough Official holding said Maintenance Guarantee is directed not to release said Maintenance Guarantee until the Chief Financial Officer has certified that all outstanding inspection costs have been paid.**
- 3. That a certified copy of this Resolution be sent to: the Chief Financial Officer, Borough Engineer, Christopher Cook, Construction Official and any other interested parties.**

MOTION: Adopt Resolution

MADE: Mr. Pyrtko

SECOND: Mr. Dikun

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

Carries: Yes

3. (258-2008) Request Insertion to 2008 Budget: 2009 N.J.D.O.T. Municipal Aid Grant - \$250,000.00 for improvements to Riverwood Avenue

MOTION: Request Insertion to 2008 Budget: 2009 N.J.D.O.T. Municipal Aid

WHEREAS, N.J.S.A. 40A 4-67 provides that the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Point Pleasant has received \$250,000.00 from and wishes to amend its 2008 budget to include this amount as a revenue;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Point Pleasant, County of Ocean, State of New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2008 in the sum of \$250,000.00 that is now available as revenue from:

Miscellaneous Revenues
Special Items of General Revenue Anticipated with prior written consent of the Director of Local Government Services:
Public and private revenues offset with appropriations:
2009 N.J.D.O.T. Municipal Aid Program

BE IT FURTHER RESOLVED, that a sum of \$250,000.00 be and the same is hereby appropriated under the caption of:

General Appropriations:
Public and private programs offset by 2009 N.J.D.O.T. Municipal Aid Program

MOTION: Adopt Resolution

MADE: Mr. Pyrtko

SECOND: Ms. Rogers

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

4. (259-2008) Request Insertion to 2008 Budget: FY2009 Pedestrian Safety Education and Enforcement Grant

MOTION: Request Insertion to 2008 Budget: FY2009 Pedestrian Safety Education and Enforcement Grant

WHEREAS, N.J.S.A. 40A 4-67 provides that the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Point Pleasant has received \$8,320.00 from and wishes to amend its 2008 budget to include this amount as a revenue;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Point Pleasant, County of Ocean, State of New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2008 in the sum of \$8,320.00 that is now available as revenue from:

Miscellaneous Revenues
Special Items of General Revenue Anticipated with prior written consent of the Director of Local Government Services:
Public and private revenues offset with appropriations:

Pedestrian Safety Education and Enforcement Grant

BE IT FURTHER RESOLVED, that a sum of \$8,320.00 be and the same is hereby appropriated under the caption of:

General Appropriations:
Public and private programs offset by Pedestrian Safety Education and Enforcement Grant.

MOTION: Adopt Resolution

MADE: Mr. McAlindin

SECOND: Mr. Dikun

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

5. (260-2008) Authorize Adjustment and or Refund on Certain Tax or Water/Sewer Accounts

MOTION: Authorize Adjustment and/or Refund on Certain Tax or Water/Sewer Accounts

WHEREAS, the Municipal Tax Collector, from time to time, submits a schedule of adjustments and/or refunds due for various reasons; and

WHEREAS, it is the desire of the Mayor and Council to approve these adjustments and/or refunds as recommended by the Tax Collector;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Point Pleasant, County of Ocean and State of New Jersey as follows:

1. Formal authorization is hereby given to adjust as necessary the accounts listed herein

<u>BLOCK & LOT</u>	<u>NAME</u>	<u>AMOUNT</u>	<u>REASON</u>
268-1	Clossick	60.96	Reverse Sr. Cit. Pro-Rate. Assessor Error
265-1	Farrell	977.08	Refund '09 Taxes Overpayment at Closing
303-1&2	Alkoc	1000.00	Refund '08 taxes- Money due zoning Board
21-4.01	Baranello	304.49	Move '08 w/s credit to residents other prop at his request 112-19 T02
210-29	Leedy	180.59	Move '08 tax credit To '09 tax
130-26	Verni	135.81	“ “

73-30.14

Sun Trust Mtg

825.89

Refund '08 Taxes
Overpayment at
closing

MOTION: Adopt Resolution

MADE: Ms. Rogers

SECOND: Mr. Dikun

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

6. (261-2008) Approving and Authorizing the Submission of an Application for Participation in the Local Government Energy Audit Program of the New Jersey Board of Public Utilities

MOTION: Authorize Application for Local Government Energy Audit

WHEREAS, the New Jersey Board of Public Utilities, Office of Clean Energy administers the Local Government Energy Audit Program, an incentive program to assist local government agencies to conduct energy audits and to encourage implementation of energy conservation measures; and

WHEREAS, the Governing Body of Point Pleasant Borough has decided to apply to participate in the Local Government Energy Audit Program; and

WHEREAS, the facilities to be audited are in New Jersey, are owned by the Borough of Point Pleasant, are served by a new Jersey regulated public utility, and that the Borough of Point Pleasant has not already reserved \$100,000.00 in the Program this year as of this application; and

WHEREAS, it is acknowledged that acceptance into the Program is dependent on the Scope of Work and cost proposal, and that Program rules will have to be met in order to receive incentive funds; and

WHEREAS, upon acceptance into the Program, the Borough of Point Pleasant will prepare Facility Data Forms and Scopes of Work for each facility to be audited, solicit quotations from the authorized contractors, and submit the Part B application; and

WHEREAS, the Borough of Point Pleasant understands that energy audit work cannot proceed until an Application Approval Notice is received from the Program; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Point Pleasant, approves the submission of an Application for participation in the Local Government Energy Audit Program of the New Jersey Board of Public Utilities.

MOTION: Adopt Resolution

MADE: Ms. Rogers

SECOND: Mr. O'Rourke

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

7. (262-2008) Authorize Refund of Demolition Bond, Block 337, Lot 25 - TFM Builders LLC

MOTION: Authorize Refund of Demolition Bond, Block 337, Lot 25 – TFM Builders LLC

WHEREAS, TFM Builders, LLC, 2390 Riverside Terrace, Wall, N.J. 08736 did deposit with the Borough of Point Pleasant a Demolition Bond in the amount of \$1,000 to guarantee satisfactory demolition of a single family home at 1331 Sleepy Hollow Road, Point Pleasant, New Jersey, 08742.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Point Pleasant, County of Ocean, and State of New Jersey as follows:

- 1. That the proper Borough Officials are authorized and directed to return to TFM Builders, LLC, a demolition bond in the amount of \$1,000.00 deposited as security for the satisfactory demolition of a single family home at 1331 Sleep Hollow Road, Point Pleasant, N.J.**
- 2. Copies of this Resolution to: Construction Official, TFM Builders, LLC, Chief Financial Officer and any other interested parties.**

MOTION: Adopt Resolution

MADE: Mr. Dikun

SECOND: Mr. O'Rourke

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

8. (263-2008) Transfer 2008 Budget Appropriations

MOTION: Approve Transfer 2008 Budget Appropriations

WHEREAS, The date of this resolution is within the last two months of calendar year 2008 and the first three months of the year 2009; and

WHEREAS, N.J.S.A., 40:40-58 and 59 provides for making transfers between budget appropriation accounts during the five month period starting November 1, 2008;

NOW, THEREFORE, BE IT RESOLVED, (not less than two thirds of the members of the Governing Body confirming) that the following transfers be approved and the same are hereby made between the appropriation accounts in the 2008 budget:

CURRENT: (FROM):

Electric \$ 6,000.00

TOTAL \$ 6,000.00

CURRENT:(TO)

Street Lighting \$6,000.00

TOTAL \$6,000.00

MOTION: Adopt Resolution

MADE: Mr. Pyrtko

SECOND: Mr. McAlindin

Mr. Pyrtko: Yes
Mr. Kaklamanis: Yes

Mr. McAlindin: Yes
Mr. Dikun: Yes

Mr. O'Rourke: Yes
Ms. Rogers: Yes

CARRIES: Yes

9. (264-2008) Bills and Claims

MOTION: Adopt Resolution Bills and Claims

WHEREAS, The Mayor and Council of the Borough of Point Pleasant have received claims which must be paid from specified funds where and when appropriate as listed on the attached schedules; and

WHEREAS, The responsible Department Head has certified that such claims represent good and/or service which have been received by the Borough; and

WHEREAS, The Municipal Administrator has certified that said claims are appropriate under the Local Public Contracts Law 40A:11-1 et seq. And are authorized budgetary expenditures; and

WHEREAS, The Chief Financial Officer has certified that all payments listed on the attached schedules have received the signature of the Municipal Administrator signifying his review and approval; and

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available to pay said bills, and has certified by signature on each page of the attached schedules that each item accurately reflects the vendor's name, corresponding check number and appropriate amount as actually appears on the respective check; and

WHEREAS, As means of internal control a designated Borough Employee has cross checked each schedule and has certified by signature on each page that each item accurately reflects the appropriate vendor's name, corresponding check number and appropriate amount as actually appears on the respective check; and

WHEREAS, The Chief Financial Officer shall list on said schedule all void checks created as a result of the computer bill list run and that any other variations are appropriately noted in said schedules.

MOTION: Adopt Resolution

MADE: Mr. Pyrtko

SECOND: Mr. O'Rourke

Mr. Pyrtko: Yes
Mr. Kaklamanis: Yes

Mr. McAlindin: Yes
Mr. Dikun: Yes

Mr. O'Rourke: Yes
Ms. Rogers: Yes

CARRIES: Yes

10. (265-2008) Accept CFO Report – October, 2008

MOTION: Accept CFO Report – October, 2008

WHEREAS, the Chief Financial Officer has prepared a Cash Management Report for the month of October, 2008; and

WHEREAS, said report has been received by the Borough Clerk; and

WHEREAS, the Borough Clerk has submitted same to Mayor and Council for

their perusal and approval;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF POINT PLEASANT, COUNTY OF OCEAN, STATE OF NEW JERSEY, THAT;

1. The cash management plan submitted by the Chief Financial Officer for the month of October, 2008 attached hereto is hereby approved.
2. Copies of this resolution be sent to the following:
 1. Municipal Administrator
 2. Auditor
 3. Chief Financial Officer
 4. All other interested parties

MOTION: Adopt Resolution

MADE: Mr. Pyrtko

SECOND: Mr. McAlindin

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

13. (267-2008) Request Insertion to 2008 Budget: Division of Criminal Justice 2008 Body Armor Grant

MOTION: Request Insertion to 2008 Budget: Division of Criminal Justice 2008 Body Armor Grant

WHEREAS, N.J.S.A. 40A 4-67 provides that the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Point Pleasant has received \$3,397.42 from and wishes to amend its 2008 budget to include this amount as a revenue;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Point Pleasant, County of Ocean, State of New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2008 in the sum of \$3,397.42 that is now available as revenue from:

Miscellaneous Revenues
Special Items of General Revenue Anticipated with prior written consent of the
Director of Local Government Services:
Public and private revenues offset with appropriations:
Division of Criminal Justice 2008 Body Armor Grant

BE IT FURTHER RESOLVED, that a sum of \$3,397.42 be and the same is hereby appropriated under the caption of:

General Appropriations:

Public and private programs offset by Division of Criminal Justice 2008 Body
Armor Grant

MOTION: Adopt Resolution

MADE: Mr. Dikun

SECOND: Mr. Pyrtko

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

14. (268-2008) Requesting County of Ocean Board of Chosen Freeholders to Officially Establish Dog Park at Beaver Dam Creek Park

MOTION: Approve requesting County of Ocean Board of Chosen Freeholders to Officially Establish Dog Park at Beaver Dam Creek Park

WHEREAS, the Borough of Point Pleasant donated the land now known and operated at the Ocean County Beaver Dam Creek Park; and

WHEREAS, over the years many Point Pleasant Borough residents have requested that a portion of that park be officially established as a "dog park"; and

WHEREAS, there is an area at the Beaver Dam Creek park that has been unofficially used as a dog park which is almost entirely fenced in; and

WHEREAS, the Mayor and Council respectfully request that the County of Ocean complete the fencing and officially declare a section of Beaver Dam Creek Park as a "dog park" to be enjoyed not only by Point Pleasant residents but also people from our neighboring municipalities.

NOW, THEREFORE, BE IT RESOLVED BY THE Mayor and Council of the Borough of Point Pleasant, County of Ocean, State of New Jersey as follows:

1. That the Governing Body respectfully requests the Ocean County Board of Chosen Freeholders to authorize the necessary fencing and officially designate a portion of the Ocean County Beaver Dam Creek Park as a dog park.
2. That copies of this resolution be sent to the Ocean County Board of Chosen Freeholders, the Ocean County Parks Department, the Governing Bodies of Point Pleasant Beach, Borough of Bay Head, Borough of Mantoloking, Township of Brick and any other interested parties.

MOTION: Adopt Resolution

MADE: Mr. O'Rourke

SECOND: Mr. Pyrtko

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

D. AUTHORIZATIONS

1. Manual Checks

MOTION: Approve Manual Checks

MADE: Ms. Rogers

SECOND: Mr. Dikun

Mr. Pyrtko: Yes
Mr. Kaklamanis: Yes

Mr. McAlindin: Yes
Mr. Dikun: Yes

Mr. O'Rourke: Yes
Ms. Rogers: Yes

CARRIES: Yes

2. Authorize Date for 2009 Reorganization Meeting

MOTION: Authorize January 4, 2009 as date for Reorganization Meeting at Noon

MADE: Mr. O'Rourke

SECOND: Ms. Rogers

Mr. Pyrtko: Yes
Mr. Kaklamanis: Yes

Mr. McAlindin: Yes
Mr. Dikun: Yes

Mr. O'Rourke: Yes
Ms. Rogers: Yes

CARRIES: Yes

E. DISCUSSION

1. Bus Drivers

MOTION: Authorize Dennis Sears and David Maffei to look into getting employees to get CDL License for Bus Driver and include this in the budget for 2009

MADE: Mr. Kaklamanis

SECOND: Ms. Rogers

Mr. Pyrtko: Yes
Mr. Kaklamanis: Yes

Mr. McAlindin: Yes
Mr. Dikun: Yes

Mr. O'Rourke: Yes
Ms. Rogers: Yes

CARRIES: Yes

F. COMMITTEE REPORTS

Mr. O'Rourke explained the change of COAH rules and there will be upcoming Planning Board meetings needed. He wished everyone a quiet, peaceful season and asked that everyone watch out for the bicyclists.

Mr. Kaklamanis attended the Riverfront Park meeting and they are moving along well.

Ms. Rogers: Next Tuesday, the ninth of December will be the Community Watch Meeting at 7 p.m. There will be a speaker from the Red Cross will be talking about Emergency Management and Jude Walker from Fire Prevention. Lt. Colwell will speak on speeding and graffiti removal. The Christmas Tree Lighting will be on Friday, December 12, 2008 at 5:30 and the lighting will take place at 7.P.M. On an update with the Police Department we just awarded the bid so I am looking forward to getting the project started and working with Captain Williams and Chief Hilling and the Administrator to oversee the project. I am waiting for final updated numbers for November on summonses issued. I should have that at the December 16th meeting. I told the PTO that I would let everyone know that Ocean Road is having a Holiday Fair on Friday at Ocean Road at 6:30 p.m. and they have a lot of arts and crafts. I was unable to make the Open Space Meeting due to my son being sick.

Mr. Dikun: As you are aware over the last month or so we have been discussing various methods to try and remediate the noise situation at the Hardenburgh Well. Through the efforts of our Engineer we have conducted a couple of studies and we are able to pull some facts together on two methods that possibly can solve the issue. One of them we spoke about early on. That is a sound muffle type system that is placed 32 feet above the ground, above the well to try to knock down the large amount of noise that comes it. The price of that unit is \$3900. We also discussed another method of doing it by removing the piping system and bringing it totally at grade with a couple of larger motors or fans etc. The price of that is estimated at \$20,900. At this time I would like to make a motion that we move

forward with the \$3900 project. To try and afford these people some relief. Our Engineers are confident that this might be the answer to the problem. They could get to work in the next few weeks and get it done.

Mr. Pyrtko: Second

Mr. Dikun: This is for Well #4

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

Mr. McAlindin: Congratulations to Coach Calvin Thompson and his staff on another great season of the Point Boro Football Team. I found it very exciting. They only fell short by one point for the State finals and it brings great pride to the Community. We are all very proud of the team and their families. I did not have as much to say about many things. Asphalt prices went up and are coming down so the increases for the park will be less than was anticipated. I will leave this to the Engineer. We are very lucky to have a resident of the community, Jeff Surenian. About two months ago the Ocean Star ran an feature on him and he is an extraordinary talented attorney who understands a extremely complicated area of New Jersey law. Probably one of the essential examples of what I would call judicial engineering or Social engineering that came from the courts in the first Mount Laurel decision. There have been Mount Laurel 2 and Mount Laurel 3. The public has an obligation to provide affordable housing and it is an odd concept when so many people in a community like ours are trying to afford to stay in the housing that they own. It seems almost unfair that that public would be called on to an already strapped public and I have no problem trying to help those less fortunate, but the burden it places on communities, particularly suburban communities like ours is overwhelming. The estimates that have been put together regarding the effect of what has occurred in the last year, and in short, there was an appellate division decision that rendered the prior regulations void and resulted in COAH drafting new regulations and implementing them August 31st and making the municipalities comply with the regulations by December 31st. It is a remarkable burden on the municipalities and indeed a remarkable costs. This round of COAH ends in 2018. The low number I understand is \$2 billion dollars. The public will be forced to bear this in order to accomplish the goal of the COAH obligations. The high number is \$8 billion dollars. In all the talk about the credit crisis and the meltdown of credit markets somehow in some bizarre way a billion dollars has lost its significance in magnitude. It is a thousand million dollars. Two billion is two thousand million dollars. The long and short of it is in a state of 8 million people that is a ton of money and it is an unrealistic mandate that in my opinion, I hope the rules change. If the rules don't change I think it will be an event of economic consequences for the people of New Jersey. Fundamentally, the idea of affordable housing is a noble idea but I think it is short sighted in the way bureaucrats see the way positive change can be accomplished. We have with Jeff Surenian's guidance as our special COAH Counsel and the help of another gifted person in that area, Jamie Sumyak, who is our Planner for our COAH obligations and they are trying to play within the rules to try and determine what our round three COAH obligation is. The initial number was 343 units of affordable housing in Point Pleasant. The first question would be where would you put them? On what vacant land? Do Trenton bureaucrats think that type of housing could be placed. Through hard work on the part of our Planner and Mr. Surenian that number was dramatically reduced to 13 over the whole round three. We are required to have a plan in place by December 31st or we run the risk of forfeiting the funds that are in our COAH trust account. Those funds as of October 31st were \$61,233.00. I would hate to loose \$61,233.00. Again, consider what is in there based on what we have been able to collect in developer fees today. Consider the magnitude of 13 affordable housing units over the next 10 years. The math just does not add up. On December 10th the meeting of the Planning Board there will be a public hearing on part of the COAH plan and then there will be another COAH meeting on December 16th at 6:30 p.m. in this room that will be the second hearing of the COAH plan. There were a lot of ideas kicked around and it looks like our plan will try to make the best out of horrifying situations in terms of enabling us to meet that unmet round three requirement and the Borough will look for opportunities to convert existing marketing units into affordable units and also keep our eyes open for opportunities in what we expect will be nationally. The Borough may have some home foreclosures. Someone will be

out of their home because they can't afford to live there and we may be selecting that property for a candidate for our unmet affordable housing need. One of the idea was perhaps we can find a way to keep that family in that home. There is a lot that goes into that. Just because you can't afford your mortgage doesn't mean you qualify for affordable housing. This is a messy area of law and I think it is a disaster not waiting to happen but unraveling. I think if you have the same level of concern that I have you might want to contact you might want to contact New Jersey legislatures and ask them to explain how the public can meet the needs that have been mandated by the adoption of the Roberts Bill going forward. I don't see it. It is an extremely complicated area and I have a very basic understanding of it. None of it sounds like good news for the taxpayer. Happy Holidays.

Mr. Pyrtko: I would like to acknowledge two Borough residents that recently passed away. Heather Kearce had an untimely death. She was only 18 years old. When our Mayor was our and I was Acting Mayor at the Scholarships Award she was a recipient and awarded the Mayors Cup for her Performing Arts. She was an extraordinary women that this Borough lost. Our hearts go out to her family. Also, the passing of Captain Frank Scholenburger, he was a Merchant Marine and he was one of our Grand Marshalls in the Memorial Day Parade. He recently passed away due to a long illness. They were fine Borough residents. Under Public Works, it happens every year, the Public Works department crew gets together to remove the leaves and just as they are half way through the town the cold spell happens and they all drop at once. They are on time. They will start from the beginning again on the 11th of this month. I am happy to report that the Borough is a recipient of the 2008 Governor's Environmental Award for clean water in New Jersey program category. Dennis Sears, Jude Walker and myself and the Mayor have been invited and attending an award ceremony this Thursday at the Governor's Mansion in Princeton. We will be going out there this Thursday to get the award. We have done a lot for the town. We have retro fitted all of the storm drains, not to have leaves and garbage go through. We are recognized for our efforts. My hat is off to Dennis and his crew. It will be a pleasure to go out there this Thursday. Under Open Space we had a meeting last Monday and our deed for the Osborn Cemetery is in place. The fence we are working on. We talked about the Canal walk and it seemed it went to the Wayside. We want to bring that up. Brain, you were looking to contact Chris Smith to help us with that project. We have our last meeting of the year. We have plenty of salt. End of report.

Mayor Konkus; We received a quarterly newsletter from the Jersey Shore Animal Center and several years ago they went through a renovation. I have not been there to see it until last month when my wife and I decided that we were going to adopt a cat. We went for one and came home with three. I will never be seen fur free again in anything I am wearing again. My point is I was really pleasantly surprised with how clean the facility is, how dedicated the staff is, how well socialized the animals are. I came home with three cats that needed to get used to in my home and they were ready to go and social to each other and humans. If anyone is looking for a puppy or a kitten for a Christmas present I would highly recommend visiting the Jersey Shore Animal Shelter. They do have an attached thrift shop. Please pay them a visit. End of report.

G. OPEN PUBLIC SESSION – 5 Minute Limit Per Person

Council President, Roger Pyrtko read the following Ordinance.

Ordinance No. 530. An Ordinance to establish by laws to govern the organization and procedures of the Borough Council for meetings and deliberations. Section 5. Public Participation. Each member of the public shall keep his or her remarks brief, pertinent to the issues being discussed and shall not exceed a time period of five (5) minutes in order to adequately provide all members of the public with the opportunity to address the Governing Body consistent with good order and efficiency.

MOTION: Open the meeting to the public Ms. Rogers

SECOND: Mr. McAlindin

APPROVED: All in favor

Seeing no hands Mr. Pyrtko entertained a motion to close the public portion of the meeting.

Council President or Mayor then opened the meeting to the public.

MOTION TO CLOSE PUBLIC PORTION

MADE: Ms. Rogers

SECOND: Mr. O'Rourke

All in favor.

H. EXECUTIVE SESSION

MOTION: Adopt Resolution authorizing Mayor and Council to retire into Executive Session

WHEREAS, Mayor and Council are desirous of retiring into Executive Session to discuss applicable exceptions to the N.J. Open Public Meetings Act; and

WHEREAS, those matters relate to the following:

1. Contractual Matters – Union Negotiations, Teamsters Local 469 Blue Collar, white Collar, School Crossing Guards and Communications Operators, Transport Workers Union of America, Police Chief
2. Litigation Matters – Affordable Housing

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Point Pleasant, County of Ocean, State of New Jersey, as follows:

1. That the Mayor and Council shall retire into Executive Session to discuss the Aforesaid matters; and
2. That minutes shall be taken; and
3. That the matters to be discussed will be in all likelihood be known to the Public when and if the necessity for confidentiality no longer exists; and
4. That at the conclusion thereof, the meeting shall again be opened to the public.

MADE: Mr. Pyrtko

SECOND: Mr. McAlindin

Mr. Pyrtko: Yes

Mr. McAlindin: Yes

Mr. O'Rourke: Yes

Mr. Kaklamanis: Yes

Mr. Dikun: Yes

Ms. Rogers: Yes

CARRIES: Yes

Mayor and Council returned to open session

MOTION: To adjourn

MADE: Mr. Pyrtko

SECOND: Mr. McAlindin

ALL IN FAVOR.

