

**BOROUGH OF RED BANK**

**COUNTY OF MONMOUTH**

**RESOLUTION NO. 08-104**

**RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION BETWEEN THE BOROUGH OF RED BANK AND THE BLUFFS CONDOMINIUM ASSOCIATION, INC.**

Mr. DuPont offered the following resolution and moved its adoption:

**WHEREAS**, the Bluffs Condominium Association, Inc. (hereinafter, "the Bluffs") brought suit against the Borough for reimbursement of its costs for private garbage collection, snow plowing and snow removal and street lighting under the Municipal Services Act, N.J.S.A. §40:67-23.3a, *et. seq.*; and

**WHEREAS**, the Borough Attorney has advised that a Court may determine that the internal ways within the Bluffs constitute a public street thereby entitling the Bluffs to reimbursement under the Municipal Services Act; and

**WHEREAS**, the parties have negotiated a settlement under which on, or before, January 31<sup>st</sup> of each year (except for 2008), the Borough will pay to the Bluffs the sum of \$4,500.00 per year, with annual cost of living increases of 2.5%; and

**WHEREAS**, the parties desire to voluntarily enter into a Settlement Agreement to resolve this dispute and to avoid any further expense, inconvenience and delay that would be necessitated by litigation of the Borough's and/or the Bluff's claims;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Red Bank that the Mayor is hereby authorized to execute a Settlement Agreement on behalf of the Borough of Red Bank which shall provide, in pertinent part, that on, or before, January 31<sup>st</sup> of each year (not including 2008, which payment shall be due within thirty days of execution of the settlement agreement hereby authorized and receipt of a release from the Bluffs), the Borough will pay to the Bluffs the sum of \$4,500.00 per year, with annual cost of living increases of 2.5%, as reimbursement for its private costs for garbage collection, snow plowing, snow removal and street lighting pursuant to the Municipal Services Act;

**BE IT FURTHER RESOLVED** that the Mayor and the Borough Clerk are hereby authorized to execute said settlement agreement and such other documents that may be necessary to effectuate this resolution, all subject to the review and approval of the Borough Attorney;

**BE IT FURTHER RESOLVED** that the Borough Clerk is directed to provide certified copies of this Resolution to the Borough Attorney.

Seconded by Ms. Horgan and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Mr. Curley	( )	( )	( x )	( )
Mr. Murphy	( x )	( )	( )	( )
Ms. Lee	( )	( )	( )	( x )
Mr. DuPont	( x )	( )	( )	( )
Ms. Cangemi	( x )	( )	( )	( )
Ms. Horgan	( x )	( )	( )	( )

Dated: May 12, 1008