

## OPEN SESSION

Mayor Robert Patten called the meeting to order at 7:00 p.m. and read the Open Public Meetings Act statement which stated that adequate notice and posting of the meeting had taken place in accordance with the requirements of P.L. 1975, Chapter 231.

The flag salute was followed by the roll call.

### ROLL CALL

	PRESENT	ABSENT
<i>Mayor Patten</i>	✓	
<i>Councilmember Bond</i>	✓	
<i>Councilmember McGinty</i>	✓	
<i>Councilmember Quattrone</i>	✓	
<i>Councilmember Schneider</i>		✓
<i>Councilmember Sikorski</i>	✓	
<i>Councilmember Theokas</i>	✓	

Also in attendance: Candace Gallagher, Borough Clerk/Administrator; Frederick Raffetto, Borough Attorney; Carmela Roberts, Borough Engineer; and, later in the meeting, George Lang, Chief Financial Officer and James Eufemia, Chief of Police.

### APPROVAL OF AGENDA

Deleted from the agenda were the approval of the May 4, 2009 open session minutes and the introduction of Ordinance 2009-11. Added to the agenda under "New Business" was a presentation by Downtown Hightstown. The agenda was moved as amended by Council President Sikorski, seconded by Councilmember Theokas and unanimously approved.

### APPROVAL OF MINUTES

Minutes of the April 20, 2009 open and closed sessions were moved by Council President Sikorski, seconded by Councilmember Quattrone and unanimously approved as submitted.

Minutes of the May 4, 2009 closed session were moved by Council President Sikorski, seconded by Councilmember Quattrone and approved as submitted by all but Councilmember McGinty, who abstained.

## PUBLIC COMMENT I

Mayor Patten opened the floor for public comment.

**Phyllis Deal**, 305 Stockton Street, noted for the record that she was offended by a "vitriolic and unpleasant" letter she received from "Americans for A Legal and Fair America" lambasting Tailoring Unlimited on North Main Street. She plans to go to the Post Office about it. Also, Ms. Deal suggested that, in planning the brickwork for Stockton Street, the Borough look at the bricks used on George Street in New Brunswick, which she said were curved and "interesting." Lastly, Ms. Deal suggested that a large, oval island be placed in the roadway at the intersection of Stockton Street, Oak Lane, and Harron Avenue to slow traffic and provide a safe haven for children crossing the street.

**Torry Watkins**, 68 Meadow Drive, stated, regarding the time allowed for public comment, that he is "okay with three minutes" as long as the time can be extended if a speaker is in "mid-remark" when the alarm sounds. He said that he would also be okay with five minutes, but is not sure he'd support no limit at all. Speakers, he said, should be encouraged to organize their thoughts and speak from notes. Regarding the Resolutions authorizing the renewal of liquor licenses for Hedy's Liquors and Family Wines & Liquors, Mr. Watkins asked if the Borough is satisfied that these licensees are doing all that they can to prevent the sale of alcohol to minors. He said that he would like to hear from the Chief of Police about that.

**Susan Bluth**, 42 Dennis Court, reiterated a request she had made previously that Council hold periodic Q&A sessions where residents could engage in a dialogue with Borough officials.

**Frank Rivera**, 110 Broad Street, expressed support for increasing the time allowed for public comment to five minutes per session "out of courtesy and for the message it sends, and for the good will dividend." "Let's enhance civil discourse for all of us by adding two minutes," he said, noting that he would not support eliminating the limit altogether.

**Eugene Sarafin**, 600-628 South Main Street, noted that public comments on ordinances are unlimited, and he often says only, "Present." Mr. Sarafin went on to say that he attended a debate recently regarding consolidation, and went to the State Commission which studies this. He said that he asked Mr. Doria how to fund shared services, and Mr. Doria stated that this was "impossible." School districts have not resolved the issue. "Why not stop the BS about merging," Mr. Sarafin asked, "and spend your time sharing services and getting a formula for the sharing of services? You have to lobby with the legislators to get a fair way to pay."

**Esther Velazquez**, 178 Grant Avenue, stated that many homes in the Borough have let their grass grow higher than 10" and should be receiving summonses or having the Borough cut the grass and place liens on their properties. One example, she said, is the Mill property. She urged Council members and residents who notice grass violations to contact the proper authorities in the Borough to get them cleaned up.

**Kathy Patten**, 135 South Street, stated that the PAWS Walk held the prior Saturday was a big success, with over 90 dogs and over 100 people participating. It raised enough money, she said, to keep the TNR program going for another six months. She thanked all of the volunteers involved with the effort. Ms. Patten also noted that, on June 14 from 4 to 7 p.m. at St. Anthony's of Padua Church, there will be a Community Dialogue funded by the Open Society foundation to bring people together "to discuss the kind of town we want to have." We should not be defined, she said, by painted swastikas or hate mail or negative news. Lastly, Ms. Patten said that, regardless of what Council decides about the time permitted for public comment, she hopes that they will "build in a way to encourage people to follow President Obama in what he said yesterday about civil discourse, and encourage people to respect one another. I wouldn't mind listening for five minutes provided I don't have to listen to obscenities or hate."

**J. P. Gibbons**, 602 North Main Street, stated that it is a good idea to have a time limit for public comment, whether it is three or five minutes, as long as there is a provision for the time to be extended by any member of Council. He also stated that the Borough should be able to cut off a speaker when he or she becomes abusive. Mr. Gibbons went on to say that he was pleased to read about the joint committee dealing with the Minute Maid property. "It is excellent," he said, "to have East Windsor and Hightstown working together to figure out what to do with something as valuable as that." He also stated that he has no objection to the Borough's paying 50% of the costs for professional services as outlined in Resolution 125. Lastly, Mr. Gibbons stated that he received a letter from the Borough dated April 26 regarding a Toth Construction sign on his front lawn that was in violation of the Borough's sign ordinances and telling him that he had to have it removed within a certain period of time. He was away, and did not read the letter until May 5, and Toth Construction had by that time already removed the sign. He said that during the past week, he received another letter from the Borough, sent also by certified mail, stating again that if the sign was not removed he would be in violation. He asked why someone would not have driven by to see if the sign was still there before going to the time and expense of sending him that. He noted also that the date on the second letter had not been updated from the original, and was also dated April 26.

No one else came forward and the floor was closed.

## **BUDGET 2009 – PUBLIC HEARING**

Ms. Gallagher reviewed the introduced budget, which carries a proposed tax rate of 75.6 cents, an increase of 6.4 cents under the new valuations, and an increase of \$173 for the average homeowner. She provided spreadsheets detailing the primary impacts on the budget, as well as a comparison of expenditures which showed that the Borough has consistently cut controllable costs over the past several years, while those costs outside of its control have skyrocketed. In addition, Ms. Gallagher provided a breakdown of the total budget appropriations by cost center, as had been requested by Council during a previous budget meeting. Her spreadsheets are included at the end of these meeting minutes.

Mayor Patten opened the public hearing on the 2009 introduced budget.

**Eugene Sarafin**, 600-628 South Main Street, stated that municipal taxes would increase by 8.5% which, he said, is "not bad." He added that he expects that the Borough's budget will double in five or six years. He noted that police costs are a large part of the Borough's budget, illustrating "the importance of law enforcement," and suggested that Council members lobby our legislators to find an "intelligent way" to distribute costs for shared services. Hightstown would pay 16% of the cost of shared services with East Windsor if that were based on population, he said, or 13% if based on rateables. Mr. Sarafin added that Hightstown "has the finest Public Works department anywhere," and said that the Borough has "done a marvelous job on this, considering what you have to work with."

**Rob Thibault**, 504 S. Main Street, began his comments by saying, "it is a great and unique country where citizens can gather and talk about something important like the budget and not face fear of reprisal. Billions can't, and we're fortunate." He asked Council to keep in mind that the unemployment rate is now 8.3%, the highest in 15 years, which means that about 150 of our residents may be out of work. "Are you willing to make that burden worse with a tax increase?" he asked. "\$173 buys a lot of food." He stated that 30 homes in Hightstown are in either foreclosure or pre-foreclosure and asked Council to wield their power to tax carefully. He said that, by his calculations, municipal taxes increased by 93% between 1998 and 2008. "There is no such thing as uncontrollable costs," he said, and noted that one of the most significant costs

for the Borough is personnel and benefits. He calculated that the average taxpayer is paying \$304 per year just for health benefits for Borough employees, who themselves contribute only about \$280 per year (\$24/mo.) for that cost. He said that, *nationally*, local governments contribute on average about 73% of health insurance costs for employees on a family plan and 91% for employees who have single coverage, and employees contribute an average of \$354.26/mo for family coverage and \$87.69 for single coverage. However, New Jersey governments at all levels typically offer generous benefit plans, which, he said, "we can't afford anymore." Mr. Thibault stated that "it would not burden employees to bring benefit costs in line with national averages for local government" and stated that more than half of the Borough's workforce earns over \$50,000 per year. "I am not looking to place an undue burden on Borough employees," he said, "... but they need to start contributing." He also stated that employees receive LOSAP benefits, but he was quickly corrected by Council, who explained that LOSAP payments are made on behalf of fire and first aid volunteers only. Mr. Thibault went on to say that the numbers of sick days and vacation days earned and accumulated by our employees are "well above private sector averages and national averages" and it is not fair to have "a transfer of wealth from the private sector to public sector." If taxes continue to increase, he said, it will drive people out.

**Torry Watkins**, 68 Meadow Drive, said that he attended almost all of the Borough's budget workshops, and thanked Council "for a job well done and the quality of your discussions and thinking." "Once again," he said, "despite your best efforts, we end up with the fact that our Borough is unsustainable. It is time to begin to shut down in an orderly manner. We need a study on consolidation, and before that, contract out all that we can, especially police with East Windsor. We already have their cars speeding through 24/7." Mr. Watkins said that the budget subcommittee made some excellent recommendations, including the institution of a Pay To Throw program. He said that he hopes this will be implemented. He also stated that the question of "vacancy control" arose during budget talks and he was "shocked" that vacancies had been filled in the Public Works department "without a nod to the governing body." When a vacancy occurs, he said, Council should decide if filling the position is essential, or if it can be left unfilled for awhile.

**Neal Schloss**, owner of a business located at 109 Mercer Street, stated that the Borough is "one spoke in a big wheel of Federal and State government" and has to set an example for other jurisdictions. He said that, while we hope that the economy will keep growing, the reality setting in is that it is failing. The Borough needs to set an example for other towns and cut costs to the point where people don't come up to argue about having to pay more. Mr. Schloss said that he reviewed the Borough's budget, and his only concern was that health benefits costs increased by 36%. He has personally switched policies in order to lower his premium cost, he said, and he urged the Borough to look at all options to keep these costs down.

**J. P. Gibbons**, 602 N. Main Street, said that he has an advanced degree in economics, and each year, he applauds the Borough for what they do on the "expenditure side" of the budget. There *are* fixed costs, he said, which are indeed uncontrollable; however, the Borough needs the flexibility with its unions to renegotiate some things. He stated that, although "appalling," Council must consider furloughs. He applauded Council on their efforts to save money, and said, "You have to make automatic expenditures controllable. The biggest problem is not how hard you work, but items you feel are beyond your control. Extraordinary Aid was a gift last year. We have to go back and ask the basic question ... is Hightstown sustainable?"

With respect to the "revenue side" of the budget, Mr. Gibbons said that "the three largest property owners in the Borough are not stepping up to the plate." Princeton Township, he said, went back to the University and negotiated a larger contribution, despite the University's complaint that they have lost billions in endowments. Residents lost money too, Mr. Gibbons

said, adding, "If you don't open up negotiations on the revenue side, there won't *be* an expenditure side. ... The revenue side has to be increased because there is no more to cut on the expenditure side." Mr. Gibbons went on to question why the Borough would authorize the State to spend \$50,000 of public monies to study shared police and court services if we knew a private study was also being done.

Mr. Gibbons went on to say that he believes that Hightstown *is* sustainable if we can get the largest property owners to pay their portion of property taxes. He noted that, later in this meeting, the Borough may authorize another \$154,000 in bonding, and noted that this cost will impact the Borough in future years. He closed his comments by saying, "There is nothing more to do on this budget. Go to the four major property owners and try to negotiate. Good faith should be worth something. Ask them to help us out, because we need it now. If not, publicize that. I applaud you for what you've tried to do," he said, "but you've missed the ball on the revenue side."

**Mr. Sarafin** spoke again to say that he hears intelligent comments from business people, and urged Council to listen to them. He urged Council to begin lobbying. "You represent 5,300 people," he said. "You have unbelievable power that you never use. ... Say 'we want a formula for sharing of services.'" Put the issue before the legislators so they can help in running our communities."

**Mr. Thibault** spoke again, and said that, when he referred to LOSAP earlier, he meant to refer to longevity earned by Borough employees, over and above salary increases. This is unheard of in the private sector, he said, and is a "bonus just for showing up." He noted also that a Borough employee with 10 years experience receives 20 paid vacation days, 12 sick days and 12 paid holidays, which, he said, is much higher than the standard in private industry.

No one else came forward and the hearing was closed.

## ENGINEER'S ITEMS

### NJEIT FUNDING FOR WATER MAINS

Ms. Roberts stated that the Borough submitted an application for funding for replacement of certain water mains, and has recently been notified that we will not receive Economic Stimulus funding for that project; however, we can receive a loan through the New Jersey Environmental Infrastructure Trust. 75% of the amount would be with no interest, and 25% at market rate. Last year, she said, the market rate was about 4.5%. The blended cost could come in at about 1%. The payback period is about 20 years. In order to receive that loan, the Borough would need to make a recommitment prior to June 15. Ms. Roberts said that she feels that this is an opportune time to do this, given that it can be financed for around 1%, and that the current economic climate has caused a drop in construction prices. This is being reviewed by the water and sewer committee, and she is hopeful that the committee will have a recommendation for Council before the next meeting.

Councilmember Bond stated that he serves as water and sewer liaison, and he, Mayor Patten and Council President Sikorski met with representatives of NJDEP and the NJEIT about this project. While there was an anticipation that we might get some grant money for the project, he said, he "never held out hope for that." He anticipates that the project cost will be about \$1.8 or \$1.9 million. It will continue what was started with the installation of a 10" line at Peddie School (which was paid for by Peddie and Meadow Lakes) and, when finished, will give the town a "complete loop" and replace a lot of very old pipes on Leshin Lane and Mercer Street. "I am

looking at this as a 'pay as you go' project," he said. "If we don't do it now, we will have to do something later," and he added that bids are likely to come in low now due to the economy. "I think it's a good project that should go forward," he said.

The matter will be discussed again at the next meeting.

## **RESOLUTION 2009-123, AUTHORIZING PAYMENT NO. 6 – B&H CONTRACTING, INC. (WELL #3)**

Mayor Patten asked when this project started. Ms. Roberts replied that this well had been discussed for the past 30 years, and the Borough "got serious" about it in the late 1990s. The well itself was drilled and completed in 2003 or 2004, and now, five years later, we are getting close to being able to actually use it. We will have it tested within the next two weeks, and then, after certification to DEP and their further review and approval, we can begin using it. She anticipates that this could happen in four to six months.

Resolution 2009-123 was moved by Council President Sikorski and seconded by Councilmember Bond.

Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes. Councilmember Schneider was absent.

Resolution adopted, 5-0.

### **RESOLUTION 2009-123 AUTHORIZING PAYMENT NO. 6 – B&H CONTRACTING, INC. (WELL #3)**

**WHEREAS**, on August 4, 2008 the Borough Council awarded a contract for water treatment plant improvements (Well House No. 3) to B & H Contracting of Folsom, New Jersey in the amount of Five Hundred Seventy-Five Thousand Three Hundred Dollars (\$575,300.00); and

**WHEREAS**, Change Order No. 1 to this contract was subsequently approved in the amount of Seventeen Thousand and Seventy-Eight Dollars (\$17,078.00), bringing the total contract price to Five Hundred Ninety Two Thousand Three Hundred and Seventy-Eight Dollars (\$592,378.00); and

**WHEREAS**, the contractor has submitted Payment Request No. 6 for work done in the total amount of \$37,365.44; and

**WHEREAS** the Borough Engineer has recommended approval of this payment request, subject to receipt of the required certified payrolls;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that Payment Request No. 6 from B & H Contracting of Folsom, New Jersey in the amount of \$37,365.44, as detailed herein, is hereby approved subject to receipt of the required certified payrolls, and the Treasurer is authorized to issue same.

## **COAH ISSUES**

Mayor Patten noted that Borough Planner Tamara Lee was present at his request to participate in this discussion.

Councilmember McGinty reported that the COAH subcommittee met several times since last January. On May 11, the committee met along with other parties who have worked with COAH issues, including Borough Attorney Fred Raffetto, Planning Board Attorney Gary Rosensweig, Planner Tamara Lee, Housing Liaison Gail Pfister, Ms. Gallagher and three representatives of the Planning Board. The group reached consensus and recommends that no change be made at this

time to the Borough's existing COAH ordinances. If it is determined to be appropriate as time goes on, changes can be made then.

The immediate issue at hand, Ms. McGinty said, was the \$21,750 payment required by our ordinance from single unit developers. The consensus of the group is to "hold fast" for now, she said, due to additional issues brought up at that meeting, and in light of information that had been given at Planning Board meetings to each of the two developers who have been charged that fee to date. "We'll continue to consider this," she said, "but right now, no change is recommended."

Other issues discussed at the May 11 meeting, Councilmember McGinty said, were the need for an Administrative Agent, a general discussion regarding the status of our COAH plan, and the utility of having in place a standing committee (to include representatives of both Council and the Planning Board) to meet on a somewhat regular basis to stay on top of COAH issues. It was very productive, she said, to bring all those connected with COAH together to reach a consensus. The group also discussed the litigation initiated by the League of Municipalities regarding COAH. There had been a \$500 fee requested of towns to participate, and at the time, the Borough declined to do so. However, Councilmember McGinty said, it may be wise for the Borough to consider spending that money, as it is "a small cost for the added protection that the Borough will probably continue to need as time goes by." She asked that this be considered by Council.

Mayor Patten asked Ms. Lee why this process has taken so long, noting that the committee was formed in January. "The \$21,750 fee ... was shot down by COAH, right?" he asked.

Ms. Lee replied that there have been two sets of COAH rules for Round Three. The first set was shot down by the courts. When we adopted the ordinance that required that fee, the ratios for COAH construction were one affordable home for every eight market rate units. That ratio is what the fee is based on, and everything that the Borough did in setting that fee and adopting the ordinance was legal, she said. At the same time, the whole issue went to court. The court didn't shoot down the issue of Growth Share, she said, but they said that the formulas could not be substantiated, and COAH was directed to "fix that." COAH then generated new rules, and the ratio is now 1:4 rather than 1:8, and one for every 16 jobs created, not one for every 25. Under the new rules, the burden is on municipalities to provide incentives such as breaks in fees, expedited approvals and variances, and if the developer does not like the incentives offered, they can appeal to the state. The new set of rules was less well received than the first, Ms. Lee said, and they're working their way through the courts. As a result, all towns are in limbo right now. The second set of Round Three rules are those we have to play by, but they're in court. The court put a stay on things for awhile with respect to Growth Share. It was not automatically repealed, but it can be challenged on a town by town basis. In the meantime, our ordinance as it exists continues to be valid.

Ms. Lee said that the recommendation of herself and Gary Rosensweig is that the Borough "sit tight and keep what we have." She added that the \$21,750 fee still reflects the 1:8 ratio, but our obligations now are 1:4, so by staying with what we have, the Borough is actually *underfunding* our COAH account.

Mayor Patten stated, "We're in limbo right now, and yet we're spending money from our trust fund on our professionals that I'd rather see held and used for actual housing. ... I'd like to put a hold on this. We won't get hurt one way or another." He went on to say that he serves on the League's Affordable Housing Committee, and the Borough did pass a Resolution not to join the lawsuit. "It's been five months," he said. "We're trying to get some kind of resolution, and we haven't been able to do it. Where do we go from here?"

Councilmember Bond stated that the Borough's COAH plan is "very good." With the fees charged, we are trying to build up a fund to finance the plan. Commercial fees have been set at 2.5% and there is nothing we can do to change that, but we do have the ability to change the residential component, and the existing fee does put a burden on homeowners like Mike Sheenan. Not many infill houses will be built over the next 10 years, he said, so reducing that fee would not have a significant impact.

"We need to win our argument before COAH," Ms Lee said. "It is possible to write an ordinance to exempt those building just one unit, but we can't do that until we get the Borough's obligation reduced." She noted that three or four applicants have been approved by the Planning Board who would also be subject to that fee if they move forward. Mr. Lang stated that there is about \$400,000 in the COAH trust fund at present.

Ms. Lee went on to explain that part of the problem is that, when we submitted our housing plan, we also submitted a spending plan that indicated how much we could generate. If we fall even shorter, COAH can look at our plan and say "you have no way of generating any funds at all," in which case we could be forced to go to inclusionary zoning, which means zoning one whole area for affordable housing only. That, she said, might change the character of the town.

Councilmember Bond again stated that those building individual infill housing (of which, he estimated, there have been only about 15 over the last 10 years) for their own use should not have to pay a \$21,750 COAH fee in addition to connection fees and other costs. "THAT's exclusionary!" he said. Ms. Lee said that it would be possible to exclude builders of a single unit, but it may not be able to be based on whether or not the owner resides there. However, she cautioned, under the current COAH climate, doing so might "back the Borough into an undesirable corner."

Councilmember Theokas agreed with Mr. Bond, and said, "We're toeing a line that keeps moving. We need to do what we need to do without fear of repercussions. We don't know the future of COAH as it is. If we did get called, we could point to a lot of things in the Borough that are already affordable." Ms. Lee said that the Mayor has requested a meeting with the COAH Director to describe for them our concept, and show that we are not exclusionary. After our submission, there were some comments which COAH is now reviewing. She said that she hopes that the meeting will take place soon, as she would like the opportunity to "make our case." She recommended again that no action be taken until at least that time.

Councilmember Bond said, "You got creative with the report, and I applaud you for that. Why can't we get just as creative with that ordinance and throw it at them? There should be a fee, but \$3,000 or \$4,000, not \$21,000. It should be a percentage. We have \$400,000 in that fund and we will, over time, get more through commercial stuff, including Peddie. It's not fair for a relatively small house."

Councilmember McGinty noted that language in the draft ordinance reviewed by the committee did provide that developers of single units would pay a percentage, or would not be charged, and that prompted additional discussion with input from the Borough Attorney and Planning Board Attorney. "The COAH rules right now," she said, "have the force of law, and they're in litigation. They affect every town in the state. Some have opted out at their peril, and could be subjected to builder's remedies, putting them at the mercy of builders and the courts. Some would say that is far too great a risk for us to take. ... We did have ordinance drafts before us that would bring us to the result you're asking for. We would have taken a major step forward from which we might not be able to get back. It would resolve this for one or two whose pain we feel, but the result for the Borough would also be that others who are similarly situated, and there are some, would have to be given similar treatment, which puts into question the integrity



of ordinances we have enforced in the past." Ms. McGinty said that our plan is before COAH pending approval. There have been objections to it, and it has its weaknesses. If we change our ordinances or refund monies and further deplete what is not a particularly large account while our plan remains pending with some weakness, we would be undermining the financial integrity of our COAH accounts, and could put ourselves in a weaker position. The recommendation of the Borough's legal counsel was that there are potential hazards, and it may be to our detriment if we take these steps now. We can always take action further down the road. "This is a drastic change," she said, "and we're limited in what we can do as far as collecting fees, and there are limitations on what we can do to remedy what we may see as problems we created in past. After COAH has reviewed our proposal and gotten past the objections, we may be differently situated, but we're not there now." She added, "This has taken so long because it's not simple. The regulations are prescriptive as to what you can do."

Mayor Patten said, "These things are already being talked about in the courts. It is redundant for us to discuss them. Let's pause, and see what happens." He said that he would contact the COAH Director regarding the requested meeting, and added that any dialogues between the subcommittee and our professionals should be put on hold until he receives some input from COAH. Councilmember Bond agreed. "Our professionals are doing a good job," he said, "but we can't afford to continue that."

At this time, Ms. Gallagher and Ms. Lee reviewed the provisions of Resolution 2009-124 and recommended its adoption. COAH requires us to appoint a qualified Administrative Agent, and using the State agency is the most cost effective way to accomplish this. The cost comes from the housing fund, and other fees would come directly from landlords, developers and homeowners. We have delayed doing this until now, but cannot do so any longer because an Administrative Agent is needed to deal with the Ordenez property.

It was discussed and generally agreed that the Borough has essentially no choice in this matter, and Councilmember McGinty noted that it is "money well spent ... to have persons trouble-shooting COAH issues and taking care of what we need to do to have our Plan in place and operational.... The alternatives are far more costly."

Resolution 2009-124 was moved by Councilmember Quattrone and seconded by Councilmember McGinty.

Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes.  
Councilmember Schneider was absent.

Resolution adopted, 5-0.

**RESOLUTION 2009-124      RESOLUTION AUTHORIZING ENTERING INTO A CONTRACT WITH AN  
ADMINISTRATIVE AGENT FOR THE ADMINISTRATION OF AFFORDABLE  
UNITS**

**WHEREAS**, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq., hereinafter the "Act") the Borough of Hightstown is implementing a program to provide affordable housing units to low- and moderate-income households desiring to live within the Borough; and

**WHEREAS**, at Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code, the State has promulgated affordability controls in regulations designed to implement the Act, by assuring that low- and moderate-income units that are created under the Act are occupied by low- and moderate-income households for an appropriate period of time (the "Rules"); and

**WHEREAS**, Section 5:80-26.14 of the Rules provides that affordability controls are to be administered by an administrative agent acting on behalf of a municipality, and provides further that a municipality may select the Agency's Housing Affordability Service ("HAS") to administer such controls; and

**WHEREAS**, it is the desire of the Mayor and Council to select HAS to be the Borough's administrative agent for the purposes of providing affordability control services for all affordable housing constructed and to be constructed within the municipality, in accordance with the provisions of the agreement which is attached hereto and made a part hereof<sup>1</sup>;

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor is hereby authorized to sign the agreement with the New Jersey Housing and Mortgage Finance Agency which is attached hereto and made a part hereof.

## **ORDINANCES**

### **PUBLIC HEARING AND FINAL READING: ORDINANCE 2009-10, BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO MEMORIAL PARK PARKING LOT IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$425,000 THEREOF AND AUTHORIZING THE ISSUANCE OF \$154,500 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF**

Ms. Gallagher reviewed the provisions of Ordinance 2009-10, and Ms. Roberts described the work that would be done, which will include street lighting and brickwork. The exit from the bank's drive-thru lane will change, and will no longer exit onto Main Street near the dam, but instead will loop back through the bank's parking area. This was discussed with the bank before the grant application was submitted, Ms. Roberts said, and they were agreeable at that time.

Mayor Patten opened the public hearing on Ordinance 2009-10. No one came forward and the hearing was closed.

Ordinance 2009-10 was moved for adoption by Council President Sikorski and seconded by Councilmember Quattrone.

Councilmember Quattrone asked that the Parks Commission be kept informed and that preliminary drawings be shared with them. Ms. Roberts agreed to do this. Councilmember Bond asked that, when the final drawings are complete, a short presentation be made to Council, and the Mayor agreed, saying other boards and commissions would be invited to attend.

Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes.  
Councilmember Schneider was absent.

Ordinance adopted, 5-0.

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<sup>1</sup> The agreement is on file in the Clerk's office with the original copy of Resolution 2009-124.

**ORDINANCE 2009-10**

**BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO MEMORIAL PARK PARKING LOT IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$425,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$154,500 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section i) The improvement described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Borough of Hightstown, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3, there is hereby appropriated the sum of \$425,000, including a Local Aid Centers of Place Grant expected to be received from the New Jersey Department of Transportation in the amount of \$350,000 (the "State Grant"). Although no down payment is required pursuant to N.J.S.A. 40A:2-11(c) as the cost of the improvement or purpose described in Section 3(a) hereof is being partially funded by the State Grant, an amount equal to \$8,000 is, nevertheless, provided for as a down payment. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section ii) In order to finance the cost of the improvement or purpose not covered by application of the down payment and in anticipation of receipt of the State Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$154,500 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section iii) (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is improvements to Memorial Park parking lot, consisting of new lighting, drainage, landscaping improvements, more green space and additional parking spaces, including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section iv) All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section v) The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section vi) The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this ordinance, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$154,500, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$75,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or, if other than the State Grant referred to in Section 1 hereof, to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

## **RESOLUTIONS**

### **RESOLUTION 2009-125, RESOLUTION REGARDING JOINT COMMITTEE WORK FOR USE OF THE FORMER MINUTE MAID PROPERTY**

Planning Board Chair Steve Misiura was present, and stated that this work began with the reexamination of the Master Plan in 2004. At that time, the Minute Maid site was vacant, and

that review recommended that the 37-acre site which straddles the Hightstown-East Windsor border be developed jointly by both towns. In 2007, a developer made a presentation to our Planning Board showing a concept plan that included only the portion of the property which lies in Hightstown. In reviewing it, the Board felt that they needed to work with East Windsor on this, and they reached out to the Township, who agreed to meet. A series of meetings ensued, and the towns are generally "on the same page" about the development of the property. They looked at what other towns had done, and met with Plainsboro officials who walked them through their process. "We're at the stage now," Mr. Misiura said, "where we're ready to start doing some real work. It may involve pursuing grant funding, and we may need to hire professionals." He said that the subcommittee (made up of representatives of the Councils and the Planning Boards of both towns) would like the formal backing of both towns to continue its work. They are hoping to achieve identical zoning at that site.

Resolution 2009-125 was moved by Council President Sikorski and seconded by Councilmember Bond.

Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes.  
Councilmember Schneider was absent.

Resolution adopted, 5-0.

**RESOLUTION 2009-125 RESOLUTION REGARDING JOINT COMMITTEE WORK FOR USE OF THE  
FORMER MINUTE MAID PROPERTY**

**WHEREAS**, a Committee has been formed consisting of members of the respective Councils, Planning Boards, and Economic Development Committees of both East Windsor Township and Hightstown Borough for the purpose of studying the land use of the former Minute Maid property, being approximately 37 acres and situated in both municipalities at their border; and

**WHEREAS**, said Committee has met numerous times during the past year and has formulated several preliminary concepts and approaches regarding use of the site; and

**WHEREAS**, the Committee has determined that it is in the best interests of both communities to develop a land use plan for the entire site without regard to the municipal border; and

**WHEREAS**, as such, the Committee has recommended to the respective planning boards and councils that a new, homogeneous zoning ordinance be adopted by both municipalities; and

**WHEREAS**, it is the desire of the Committee to continue to meet to formulate this land use plan and to utilize proper consultants for same, equally sharing in their cost; and

**WHEREAS**, it is the desire of the Mayor and Council to accept and act upon the Committee's recommendations as set forth herein;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown as follows:

1. Committee members representing the Borough of Hightstown are hereby authorized and directed to continue to meet with Committee members representing East Windsor Township for the purpose of developing a new, homogenous zoning ordinance with respect to the former Minute Maid property.
2. Consultants engaged by said Committee shall be authorized by Resolution of both municipalities, and costs for same shall be shared equally between East Windsor Township and Hightstown Borough.
3. Approval of this Resolution is contingent upon approval by East Windsor Township of a substantially similar Resolution.

Council President Sikorski thanked Mr. Misiura and the members of the subcommittee. "This is an excellent example of cooperation between both towns," he said, "and it works to our mutual advantage."

## **RESOLUTION 2009-126, ENDORSING THE BOROUGH'S GRANT APPLICATION FOR NJDOT SAFE ROUTES TO TRANSIT FUNDING FOR THE STOCKTON STREET HISTORIC DISTRICT PROJECT**

Following a brief review by Ms. Gallagher, Resolution 2009-126 was moved by Councilmember Theokas and seconded by Council President Sikorski.

Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes.  
Councilmember Schneider was absent.

Resolution adopted, 5-0.

### **RESOLUTION 2009-126      ENDORSING THE BOROUGH'S GRANT APPLICATION FOR NJDOT SAFE ROUTES TO TRANSIT FUNDING FOR THE STOCKTON STREET HISTORIC DISTRICT PROJECT**

**WHEREAS**, the Borough of Hightstown is preparing a grant application to the New Jersey Department of Transportation for funding through their Safe Routes To Transit program; and

**WHEREAS**, the Borough of Hightstown wishes to seek funding through this program for the Stockton Street Historic District Project, a street and public space infrastructure project, which has been planned for some time and is construction-ready, lacking only a funding source in order to proceed with these improvements, and

**WHEREAS**, engineering plans and specifications for this streetscape infrastructure project were prepared during 2008 through the award of a New Jersey Historic Trust grant in the amount of \$42,000.00; and

**WHEREAS**, walking is the most environmentally friendly and low-cost way to get people to and from public transportation. When given sidewalks and traffic calmed streets to walk along, safe and convenient ways to cross streets, and a comfortable and attractive environment, most people are willing to walk further to reach public transportation; and

**WHEREAS**, the Project area contains a mass transportation bus route used by NJ Transit, Suburban Transit and Academy Bus Lines, provides pedestrian access to eight bus stops and borders two regional elementary schools; and

**WHEREAS**, the Stockton Street Historic District Project will enhance pedestrian safety by replacing deteriorated curb and sidewalk on Rogers Avenue and Stockton Street (also known as Mercer County Route 571), creating new crosswalks, and reducing the length of the crosswalk at Rogers Avenue from 135 feet to 80 feet, and will bring the District's public spaces into compliance with the Americans with Disabilities Act; and

**WHEREAS**, these streetscape infrastructure improvements will create safe and accessible pedestrian linkages to transit facilities, in order to promote increased usage of transit by all segments of the population;

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough is pleased to support and endorse the above mentioned grant application to the State of New Jersey Department of Transportation Safe Routes To Transit program; and

**BE IT FURTHER RESOLVED** that the Mayor of Hightstown and the Hightstown Borough Clerk are hereby authorized to submit an electronic grant application identified as SST-2010-Hightstown Borough-00015 to the New Jersey Department of Transportation on behalf of the Borough of Hightstown; and

**BE IT FURTHER RESOLVED** that the Mayor of Hightstown and the Hightstown Borough Clerk are hereby authorized to sign the grant agreement on behalf of Hightstown Borough and that their signatures will constitute acceptance of the terms and conditions of the grant agreement and will approve the execution of the grant agreement.

## **RESOLUTION 2009-127, REVISING/REMOVING THE TIME LIMITS FOR PUBLIC COMMENT AT MEETINGS OF THE HIGHTSTOWN BOROUGH COUNCIL**

Two versions of Resolution 2009-127 were presented. Version A would extend the three minute limit to five minutes. Version B would remove the time limit altogether. Both versions included a provision wherein Council would have the option, if the first public comment session went longer than 45 minutes, to delay the remainder of that session until later in the meeting. Version A also included a provision wherein the time limit for any speaker could be extended beyond five minutes upon consent of any one member of the governing body.

Council President Sikorski stated that he had asked Ms. Gallagher to survey other towns regarding what time limits, if any, they place on public comment. The results were distributed to Council and indicated that most of the towns who responded place a five minute limit on individual comments. It was unknown whether the towns surveyed allow one or two comment sessions.

Mr. Sikorski went on to say that he would be willing to vote for Version A of the Resolution if the two provisions noted above were deleted. "Five minutes," he said, "will teach you to be organized and not to ramble." Councilmember Quattrone indicated that he would vote the same way.

Councilmember McGinty said that it is rare that someone speaks for longer than three or five minutes, and when they do, it is usually "on point," as on the budget. Parliamentary procedure, she pointed out, allows for a point of order to stop a speaker that has become offensive or insulting to an individual or a particular group and make a determination as to whether he or she should be allowed to continue. Unlimited comment, then, should not be a concern. "Even if a speaker is going on at such great length it seems interminable," she said, "we can raise a point of order that others are waiting to speak."

Mayor Patten stated that he conducts the meetings and the public comment sessions in accordance with the rules that Council has adopted, such as in not responding directly to questions from the public. He pointed out that, at this meeting alone, two speakers were permitted to continue after the time limit expired, and said "we've been doing that for years."

Councilmember Bond said "I think the system we have is not broken, and does not need to be changed." He added that Mayor Patten is unjustly criticized at times. He conducts meetings, Mr. Bond said, under the rules agreed upon by Council, adding "he's never cut anyone off that I would not cut off if I were Mayor." Mr. Bond said that a person who is succinct can say what they have to say in two three-minute sessions and, while he appreciates the work that went into this, he is not in favor of either version of the Resolution as presently constituted.

Councilmember Theokas agreed with Councilmember Bond that the system "is fine as it is." "We were elected to conduct business," he said, adding "it's not our place to talk about this." He said that he feels there is already a significant opportunity for public comment at meetings of the Council and other bodies, including unlimited comment on ordinances and the budget. He would vote no on either version of this Resolution, he said.

At this time, Council President Sikorski moved that Council maintain its current system of two three-minute public comment sessions and unlimited time for comments on ordinances and the budget. Councilmember Bond seconded his motion.

Mr. Raffetto noted that, with regard to the issue of public hearings on ordinances or on the budget, it is mandatory that time for comment be unrestricted. Mayor Patten asked if Council would be permitted to set ground rules, in the event that a large number of people wanted to speak, to provide a time limit for each speaker with the provision that they could speak again after everyone else had had an opportunity to do so. Mr. Raffetto stated that this is permissible.

After brief further discussion during which the need for a Resolution to maintain the status quo was called into question, Council President Sikorski withdrew his motion.

Councilmember McGinty then moved the adoption of Version B of Resolution 2009-127, which would remove time limits altogether. No second was heard and the motion died.

Councilmember McGinty at that time moved the adoption of Version A of the Resolution, which would extend the time limit for public comment to five minutes. The motion was seconded by Councilmember Quattrone.

Ms. McGinty stated that, at the last meeting, eight people spoke of the need to expand the time allowed beyond three minutes. At the beginning of this meeting, she said, she listened to residents who spoke of liking five minutes. Some came here specifically to speak about that, she said, adding, "sometimes it is lengthy, but you could give persons in our community an additional two minutes."

Roll Call: Councilmembers McGinty and Quattrone voted yes, Councilmembers Bond, Sikorski and Theokas voted no. Councilmember Schneider was absent.

Resolution DEFEATED, 3-2.

## CONSENT AGENDA

Prior to proceeding with the consent agenda, Council asked Chief Eufemia if he is satisfied that Hedy's Liquors and Family Wines and Liquors have measures in place to avoid selling alcohol to minors. "Yes, I am," the Chief replied.

Resolutions 2009-128 through 2009-131 were then moved by Council President Sikorski and seconded by Councilmember Theokas.

Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes. Councilmember Schneider was absent.

Resolutions adopted, 5-0.

### **RESOLUTION 2009-128 AUTHORIZING PAYMENT OF BILLS**

**WHEREAS**, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the bills be paid on audit and approval of the Borough Administrator and the Treasurer in the amount of **\$1,009,959.97** from the following accounts:



Current	\$ 790,634.44
W/S Operating	83,121.54
General Capital	8,108.75
W/S Capital	50,325.38
Animal Control	270.00
Trust	11,718.59
Law Enforcement Trust	700.00
RCA COAH	1,592.00
Housing Trust	1,155.00
Grant	300.00
Public Defender	300.00
Escrow - Subdivision & Site Plan	<u>61,734.27</u>
<b>Total</b>	<b>\$ <u>1,009,959.97</u></b>

**RESOLUTION 2009-129      AUTHORIZING RENEWAL OF ALCOHOLIC BEVERAGE LICENSE #1104-44-002-010 – FAMILY WINES AND LIQUORS, INC. (T/A HIGHTSTOWN LIQUOR)**

**WHEREAS**, Family Wines and Liquors, Inc. has made application to the Borough for renewal of their Plenary Retail Distribution License #1104-44-002-010, together with the required fees; and

**WHEREAS**, the State of New Jersey Division of Taxation has certified, by issuance of an ABC Retail Licensee Clearance Certificate, that Family Wines and Liquors, LLC, is in compliance with Chapter 161, Laws of New Jersey 1995, and that they have no objections to renewal of said license; and

**WHEREAS**, the Chief of Police has been consulted and has no objections to renewal of this license;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Municipal Clerk is hereby authorized to issue the following Alcoholic Beverage License to Family Wines and Liquors, Inc. doing business as Hightstown Liquor at 107 Stockton Street:

**2009-10 Plenary Retail Distribution License  
License #1104-44-002-010  
Fee: \$2,500.00**

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to the Division of Alcoholic Beverage Control.

**RESOLUTION 2009-130      AUTHORIZING RENEWAL OF ALCOHOLIC BEVERAGE LICENSE #1104-32-001-005 – WINE DEPOT CORPORATION, T/A HEDY'S LIQUORS**

**WHEREAS**, Wine Depot Corporation has made application to the Borough for renewal of their Plenary Retail Consumption License with Broad Package Privilege License #1104-32-001-005, together with the required fees; and

**WHEREAS**, the State of New Jersey Division of Taxation has certified, by issuance of an ABC Retail Licensee Clearance Certificate, that Wine Depot Corporation is in compliance with Chapter 161, Laws of New Jersey 1995, and that they have no objections to the renewal of this license; and

**WHEREAS**, the Chief of Police has been consulted and has no objections to renewal of this license;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Municipal Clerk is hereby authorized to issue the following Alcoholic Beverage License to Wine Depot Corporation, doing business as Hedy's Liquors at 500 Mercer Street:

**2009-10 Plenary Retail Consumption License with Broad Package Privilege**  
**License #1104-32-001-005**  
**Fee: \$2,500.00**

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to the Division of Alcoholic Beverage Control.

**RESOLUTION 2009-131      AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS  
PRIOR TO ADOPTION OF THE 2009 BUDGET**

**WHEREAS**, an emergent condition has arisen with respect to inadequate appropriation balances remaining in some line items of the 2009 temporary budget; and

**WHEREAS**, N.J.S.A. 40A:4-20 provides for the creation of emergency appropriations for the purposes above mentioned; and

**WHEREAS**, it is the desire of the Mayor and Council to create emergency temporary appropriations as set forth on Schedule "A," attached; and

**WHEREAS**, the total emergency temporary appropriations in resolutions adopted in the year 2009 pursuant to the provisions of N.J.S.A. 40A:4-20 (Chapter 96, P.L. 1951, as amended), including this resolution, total:

	<b><i>THIS RESOLUTION</i></b>	<b><i>PREVIOUS TOTAL</i></b>	<b><i>CUMULATIVE TOTAL</i></b>
Current	254,200.00	1,397,464.00	1,651,664.00
Capital Outlay – Current	0.00	0.00	0.00
Debt Service - Current	0.00	0.00	0.00
Water/Sewer	58,800.00	907,302.00	966,102.00
Capital Outlay – W/S	2,470.00	7,530.00	10,000.00
Debt Service - W/S	0.00	110,908.50	110,908.50
<b>TOTAL</b>	<b>315,470.00</b>	<b>2,423,204.50</b>	<b>2,738,674.50</b>

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Hightstown (not less than two-thirds of all the members of thereof affirmatively concurring) that, in accordance with N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation is hereby made for each item listed on the schedules that are attached hereto and made a part hereof<sup>2</sup>.
2. Each emergency appropriation listed will be provided for in the 2009 budget under the same title as written herein;
3. One certified copy of this resolution will be filed with the Director of Local Government Services, and a copy provided to the Treasurer.

## **NEW BUSINESS**

### **NJ TRANSIT BUS STOPS**

Chief Eufemia reported that the Borough was contacted by NJ Transit regarding bus stops in town. Presently, there are no officially designated bus stops here. NJ Transit has proposed that

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<sup>2</sup> Schedule is on file in the Borough Clerk's office with original copy of Resolution 2009-131.

bus stops be formally designated by the Borough, after which they will provide proper signage and install shelters at locations approved by us.

There would be two stops on Rogers Avenue, two on Franklin Street near the library, and two on Stockton Street near the schools. The stops would be on each side of the street. Shelters would be placed at each location except on the westbound side of Franklin Street.

NJ Transit has done all of the legwork and paperwork for Council's approval, including draft resolutions and the information needed to place these shelters. As late as that day, Chief Eufemia said, they agreed that one bus stop on Rogers Avenue could be located farther up the street, just west of the Rogers Avenue entrance to the municipal parking lot, in order for the Borough to retain three parking spaces on Rogers Avenue that would otherwise need to be removed.

NJ Transit has been very cooperative, Chief Eufemia said, and he is in favor of all parts of this proposal. The shelters would be provided and installed by them at no cost to the Borough, and the Borough would then maintain them. They will also provide garbage receptacles.

Councilmember Quattrone asked if NJ Transit mentioned anything about advertising. Chief Eufemia stated that they plan to post bus routes for their lines, but advertising was not mentioned. Once installed, the shelters are the property of the Borough. "Not long ago," Mr. Quattrone said, "we were discussing the type of shelter we wanted. Is this what we were looking for?" "Better," the Chief replied. Councilmember Bond asked if installing a shelter near the railroad would disturb the sleepers there. Chief Eufemia stated that it would not, although some hedges would need to be removed.

Council expressed a preference for the "Trenton" shelter design, and agreed to take action at the next meeting to designate the stops and approve the shelters.

## **DOWNTOWN HIGHTSTOWN – ALLEYWAY PLANS**

Mike Vanderbeck addressed the governing body to request permission for the Downtown Hightstown group to proceed with an initiative to build a trellis in the Borough's downtown alleyway (Block 33, Lot 7). Construction Official George Chin has already reviewed and approved the plans. It would be constructed of pressure treated wood, and Mr. Vanderbeck provided an artist's rendition of the anticipated outcome. The project would be privately funded, at no cost to the Borough. Once constructed, they plan to decorate it with planters or vines. The trellis could be constructed within a week or two.

Mr. Vanderbeck added that it would be great to include the Downtown Hightstown group in discussions regarding the Memorial Park improvements and the Farmer's Market.

Council President Sikorski asked if there is any plan to include lighting as part of this project. Mr. Vanderbeck said that there is a possibility that solar lighting could be installed.

Mr. Raffetto stated that Council could approve this by a voice vote and it would be reduced to writing in the form of a Resolution. He suggested that we include a requirement to obtain a Hold Harmless agreement from whatever contractor is engaged to perform the work.

Councilmember Quattrone then moved for approval of this project. The motion was seconded by Councilmember Theokas and a roll call vote was taken.

Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes.  
Councilmember Schneider was absent.

Resolution adopted, 5-0.

**RESOLUTION 2009-133 AUTHORIZING INSTALLATION OF A TRELLIS IN ALLEYWAY LOCATED  
AT BLOCK 33, LOT 7**  
*(included at end of these 5/18/09 minutes)*

**RESOLUTION 2009-132, A RESOLUTION AUTHORIZING THE BOROUGH  
OF HIGHTSTOWN TO ENTER INTO AN AGREEMENT WITH TAMARA  
LEE CONSULTING, LLC, FOR PROFESSIONAL SERVICES  
RELATING TO EXISTING LITIGATION IN WHICH THE BOROUGH IS  
A PARTY**

At this time, Ms. Gallagher requested that an additional Resolution be addressed which she had intended to add to the agenda at the beginning of the meeting. The Resolution would authorize an agreement with Tamara Lee for professional services relating to the Greystone litigation, as had been discussed by Council in closed session at a prior meeting.

Resolution 2009-132 was moved by Councilmember Theokas and seconded by Councilmember Quattrone.

Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes.  
Councilmember Schneider was absent.

Resolution adopted, 5-0.

**RESOLUTION 2009-132 A RESOLUTION AUTHORIZING THE BOROUGH OF HIGHTSTOWN TO  
ENTER INTO AN AGREEMENT WITH TAMARA LEE CONSULTING, LLC,  
FOR PROFESSIONAL SERVICES RELATING TO EXISTING LITIGATION  
IN WHICH THE BOROUGH IS A PARTY**

**WHEREAS**, the Borough of Hightstown has a need to retain a professional planner to serve as an expert witness on behalf of the Borough in certain litigation which is currently pending before the Superior Court of New Jersey, Law Division, Mercer County, known as Greystone Capital Partners NJ, LLC vs. Borough of Hightstown, et als, bearing Docket Nos. MER-L-270-08 and MER-L-2887-08; and

**WHEREAS**, the firm of Tamara Lee Consulting, LLC (the "contractor") has offered to perform such services at the rate of \$105.00 per hour, as set forth in the attached letter dated February 2, 2009; and

**WHEREAS**, the services that are required are considered to be "professional services," as defined under the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

**WHEREAS**, the Local Public Contracts Law authorizes the awarding of a contract for "professional services" without public advertising for bids and bidding therefor, provided that the Resolution authorizing the contract and the contract itself are available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation within the municipality; and

**WHEREAS**, the proposed contract for the within services is attached hereto and made a part hereof; and

**WHEREAS**, it is not anticipated that the within contract shall exceed \$17,500.00; however, it is possible that all contracts involving the Borough and the contractor for the year 2009 may collectively exceed \$17,500.00; and therefore the contracts shall be subject to the provisions of the State's Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the State Pay-to-Play Law); and

**WHEREAS**, the within contract is intended to be awarded as a "restricted" (or "non-fair and open") contract pursuant to and in accordance with the State Pay-to-Play Law; and

**WHEREAS**, the contractor has previously completed and submitted all necessary certifications required pursuant to the State Pay-to-Play law and/or by Borough Ordinance; and

**WHEREAS**, the anticipated term of the within contract is not to exceed one (1) year; and

**WHEREAS**, the Borough has certified to the availability of funds for this contract.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown in the County of Mercer, New Jersey, as follows:

1. That the Mayor is hereby authorized to execute and the Borough Clerk to attest the attached professional services agreement between the Borough of Hightstown and Tamara Lee Consulting, LLC, to serve as an expert witness on behalf of the Borough in the litigation referenced above.
2. That this contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the contractor is a firm whose planner(s) are authorized by law to practice a recognized profession.
3. That this contract is further awarded as a "restricted" contract in accordance with the State Pay-to-Play Law, and all required certifications shall be placed on file with this Resolution.
4. That notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the Borough.
5. That a certified copy of this Resolution shall be provided to each of the following:
  - a. Tamara Lee Consulting, LLC
  - b. Candace B. Gallagher, Borough Administrator/Clerk
  - c. Frederick C. Raffetto, Esquire, Borough Attorney
  - d. Arlene O'Rourke, Borough Treasurer
6. That a copy of this Resolution as well as the agreement shall be placed on file in the office of the Borough Clerk.

## PUBLIC COMMENT II

Mayor Patten opened the floor once again for public comment.

**Eugene Sarafin**, 600-628 South Main Street, stated that the Borough imposes a "flush tax" on its residents through expenses allocated to the utility budget.

**Torry Watkins**, 68 Meadow Drive, stated that he is glad that the drawing of the trellis which was presented is only a concept drawing, because, he said, it was "the ugliest thing I ever saw." He asked for clarification regarding time limits for public comment and whether it is the intent of Council that time may be extended. Mayor Patten said that he has the ability to allow that, "and we have been doing that." Mr. Watkins said that he heard Council President Sikorski say that the public was not entitled to additional time, and he heard Councilmember Theokas say that Council "was so busy with important business that the public had no right to be listened to," which, he said, he found to be disturbing coming from one who had been on Council for only five months.

**Paul Byrne**, 320 Stockton Street, commended Councilmember McGinty for her efforts regarding extension of the three minute time limit and Councilmember Quattrone for his vote on that issue, and he asked what the problem would have been in trying it for six months. He said that "this vote flew in the face" of comments by the public about this.

**Mike Vanderbeck**, 344 Stockton Street, stated that the proposed agreement with NJ Transit provides that the Borough cannot advertise on the bus shelters without the approval of NJDOT, but there is no language that would require the approval of the Borough for the State to advertise on them. He asked that we check to be sure this can't happen.

**Dan Buriak**, 194 Stockton Street, stated that he rides the bus regularly and, because no stop is officially designated here, riders often have to chase the bus down and "bargain with the drivers." It would be helpful, he said, if it were "a real stop." He asked that, if shelters are to be installed, the Borough develop an ordinance that will keep them clean, without advertising or postings, and said that he would be willing to help draft that.

No one else came forward and the floor was closed.

## COUNCIL COMMENTS AND COMMITTEE REPORTS

Mayor Patten stated that he has decided to have Council comments at the end of each meeting from this point forward.

Councilmember Theokas spoke regarding several issues:

- He reported that the Economic Development Committee will meet on the following night and on the third Tuesday of every month going forward.
- He said that he, Councilmember Bond and Ms. Gallagher are meeting as a subcommittee to discuss contract negotiations for the upcoming union contracts, and reducing benefits costs is a priority.
- He commended those involved in the downtown project which features historic photographs on our buildings. "It's a great project," he said, "and that is the spirit we are looking for."
- With respect to public comments, he said that his intention is *not* that the public is not to be listened to at all – it is, in fact, just the opposite. There are a lot of opportunities, he said, and "we *do* listen to the public, in a lot of different ways. My intention is not to quash that in any way." He said that his time on council has no relevance to his opinions on that matter, and added that he does recognize that eight people spoke in favor of increasing the limit, "but we represent 5,200 people, and the business that we do is for all the residents. That should be our primary focus."

Councilmember McGinty spoke regarding several issues:

- She stated that she was most distressed to hear of the incident where 77 swastikas were painted in our community. "It is extremely upsetting," she said. "There is no way we can give too much attention to this. The swastika is an emblem of hate and divisiveness."

- She said that the Environmental Commission will meet during the following week. She then presented the Mayor with a T-shirt donated to him for his work during the Commission's Clean Up Day last month.
- She reported that a "Walkability Assessment" will be conducted on Thursday, May 28, and will document the "walkability" of the Borough. More information is available on the Downtown Hightstown website.
- She noted that our Memorial Day parade is coming up, and that there will be a Farmers Market at Memorial Park on Fridays during June from 3 to 7 p.m., an initiative organized by Chris Moraitis.
- She said that she is following up with the Chief about police issues that were raised by the public at the last meeting.
- She reported that the solid waste committee will be meeting again and will be following up on solid waste issues mentioned by the public.
- She reported that, regarding property maintenance issues raised at the last meeting with respect to two properties, she, Mayor Patten and others have followed up on those and they have been resolved.
- She thanked Dan Buriak for his work on obtaining funding for the Stockton Street Historic District improvements and getting endorsements for same.

Councilmember Bond said that he sits on the water and sewer committee and the solid waste committee, and added, "we will be making bold recommendations to Council." He also reported that painting of the firehouse will begin soon.

Council President Sikorski reported that the Planning Board will be reviewing the draft ordinance regarding the Historic Preservation Commission, and it will then come to Council for action. He also reported that he spoke with the Borough's Tax Assessor and learned that there are 45 owners appealing their assessments in the county system, and five large properties in tax court. 13 of the properties appealing are in Wyckoff's Mill, he said, but they are owned by just two individuals. Lastly, Mr. Sikorski said that he did follow up on property maintenance issues raised at the last meeting. There is no ordinance to prevent a homeowner from placing indoor furniture on the porch, he said. Regarding the burned out house on Mechanic Street, Council President Sikorski said that he spent "many hours" trying to get that property rehabilitated. Grass complaints, he added, should be lodged with George Chin or Tim Murray in the construction office. They have been following up on these, he said, "but you have to call."

Councilmember Quattrone stated that plans are almost final for the Memorial Day parade, and that things are going well in Public Works and at the First Aid Squad. The Squad is working on being able to cover a fourth night, he said. Mr. Quattrone reported that the Parks and Recreation Commission has revised the parks rules, and in the process reduced the fee for a park permit. With respect to COAH issues, Mr. Quattrone said that, when Council considered whether to spend \$500 to join the League's litigation, he voted against it. However, after learning more as part of the COAH committee, he said, "that may be one of the best \$500 we could have spent – and we still can. There is lots of information that would keep us abreast of what's going on. We might want to consider spending that \$500." Lastly, Councilmember Quattrone asked if the Borough would need to budget for any matching funds for grants referenced by Mr. Misiura to be sought with respect to the Minute Maid property. Councilmember Bond said that this would not be something we'd need to address in the 2009 budget.

Ms. Gallagher noted that ALL voting in primary and general elections from this point forward will take place at one location – in the gymnasium at St. Anthony of Padua Church Hall.

Mayor Patten spoke regarding several issues:

- He stated that he would like to see the Borough's property maintenance code revisited, and he feels it is a problem to allow five days for someone to cut grass that is already 12" high. He said that a lot of properties are not being maintained, and people are putting their garbage out too early.
- He reported that Better Beginnings children recently participated with Peddie students in an event hosted by Peddie School at Mariboe Gallery. "What a treat," he said. "Good things are happening with Better Beginnings. Let's keep supporting it."
- He asked the solid waste subcommittee to consider charging fees for certain items to be put out, and said that he is looking forward to the Memorial Day Parade.
- Regarding public comment, he said that the public can speak at Council or other meetings, and he often gets calls at home or on his cell phone, as well as emails, faxes and personal visits from residents. "There is always a mechanism to communicate to us their concerns or praise," he said. "We encourage that."
- He commended *Windsor Hights Herald* reporter Sean Ruppert for his article on David Rousseau, a former resident. In that article, Mr. Rousseau stated that shared services is the best way for municipalities to try to reduce expenditures, and the Mayor noted that shared services can extend beyond neighboring municipalities to regional sharing, and/or sharing with other governmental entities.
- He commended Ms. Gallagher for her budget presentation, and suggested that perhaps someone could help finance an overhead projector and screen for future presentations. Ms. Gallagher said that she would add this to the Borough's online "wish list."
- Regarding the "sustainability" of the Borough, he said that he hears people saying that the Borough is "going belly up." Twenty years ago, he said, he discovered that his right kidney was cancerous. He decided to have it removed and *didn't* go "belly up." "I hate to hear people say we're dead ... that we can't survive. This community *can* survive," he said, "and we have great people who are making it happen. We are getting recognized all over the state as viable. I take pride in that. We still have people moving here because they love it."
- He reported that the Borough will be receiving \$147,000 from NJDOT for Summit Street sidewalks.
- He commended the Environmental Commission for coming up with "great eco initiatives."

## EXECUTIVE SESSION

Ms. Gallagher read aloud Resolution 2009-122, authorizing a closed session for the purpose of discussing contract negotiations, litigation and personnel. The Resolution was moved by Council President Sikorski and seconded by Councilmember Theokas.



Roll Call: Councilmembers Bond, McGinty, Quattrone, Sikorski and Theokas voted yes.  
Councilmember Schneider was absent.

Resolution adopted, 5-0.

**RESOLUTION 2009-122 AUTHORIZING A MEETING WHICH EXCLUDES THE PUBLIC**

**BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that this body will hold a meeting on May 18, 2009 at approximately 10:55 p.m. at Borough Hall that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7b of the Open Public Meetings Act.

The general nature of the subject or subjects to be discussed:

**Litigation** (*Crest Engineering v. Turco v. Borough*)  
**Contract Negotiations** (*Garbage Collection – Dumpsters*)  
**Personnel**

Stated as precisely as presently possible the following is the time when and the circumstances under which the discussion conducted at said meeting can be disclosed to the public: August 18, 2009, or when the need for confidentiality no longer exists.

The public is excluded from said meeting, and further notice is dispensed with, all in accordance with sections 8 and 4a of the Open Public Meetings Act.

Upon reconvening into open session, adjournment was moved by Council President Sikorski, seconded by Councilmember Quattrone and unanimously approved. The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Candace B. Gallagher, RMC  
Borough Clerk