

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; James M. Eufemia, Chief of Police, and Frederick Raffetto, Esq., Borough Attorney.

APPROVAL OF AGENDA

Councilmember McGinty questioned a proposed addition to the agenda of a presentation by the Greater Hightstown – East Windsor Improvement Project. She asked the Borough Attorney how it could be proper to proceed with that given that the Open Public Meetings Act requires 48 hours notice to the public.

Mr. Raffetto stated that the Open Public Meetings Act requirement is intended to ensure that the public is aware of the tentative agenda to the extent that it is known when posted. It is possible to make additions to the agenda if Council wishes to do so.

After some further discussion, Council President Sikorski moved the approval of the agenda, as amended to include the GHEWIP presentation. The motion was seconded by Councilmember Theokas and approved by all but Councilmember McGinty.

APPROVAL OF MINUTES

The minutes of the December 15, 2008 closed session were moved by Council President Sikorski, seconded by Councilmember Schneider and approved by all but Councilmember McGinty, who abstained.

The minutes of the December 30, 2008 closed session were moved by Council President Sikorski, seconded by Councilmember Schneider and approved by all but Councilmember McGinty, who abstained.

The minutes of the January 20, 2009 open and closed sessions were moved by Council President Sikorski, seconded by Councilmember Quattrone and approved by all.

PRESENTATION

HIGHTSTOWN POLICE DEPARTMENT – REPORT REGARDING K-9 PROGRAM

Police Chief James Eufemia reported on the activities of the Department's K-9 unit over the past year. Officer Frank Marchione and his K-9 partner, Neko, received the necessary training and now ride together at all times. Neko is used to detect narcotics in vehicles and assists other police departments as part of our mutual aid arrangement. This has been very successful, and, recently, the City of Trenton and the DEA seized cash, handguns and narcotics that Neko found. As a result, the Borough will be receiving about \$3,000 that will be placed into the fund that supports the K-9 unit's activities.

Within Hightstown, Neko has participated in the Borough's Health Fair, 5K Run and Paws Walk, and has received positive feedback from the community. In addition, Chief Eufemia said, "the word goes forth when you have a narcotics dog," and people are less likely "to be standing around with illegal substances." Neko has been instrumental in "clearing some corners throughout town," the Chief said.

The Chief went on to report that, from July 2008 to date, Officer Marchione and Neko have responded to 42 canine assists, resulting in "enormous seizures." Neko also functions as a tracking dog, and can find lost children or elderly persons, and locate discarded handguns or drug stashes that "no human could find from searching alone." So far, Chief Eufemia said, Neko has had a positive impact on the Borough at negligible cost to our taxpayers. Only \$300 of taxpayer funds was used during 2008 for the program, and the Chief promised that they "will continue to be as frugal as possible in the future."

PRESENTATIONS BY POLICE DEPARTMENT

JOSHUA SHANE FOUNDATION AND MATT LUCAS

Chief Eufemia was joined by Officer Marchione, Neko, Mayor Patten and Councilmember McGinty (Police Liaison) as he presented plaques of appreciation to the Joshua Shane Foundation and to Matt Lucas for their support of the K-9 program. Mark Shane spoke on behalf of the foundation to say that they were proud to have sponsored the program, and that they are available for continued assistance for Neko and the department.

Ms. McGinty stated that she did not know much about the K-9 program, and met recently with Chief Eufemia to review it. She expressed support for the program, noting that Neko has served as a supplement to our police force, and his work has brought funds into the department that we

otherwise would not have. Prevention is an important part of law enforcement, she said, and we are aided in that by having a K-9 unit.

GREATER HIGHTSTOWN – EAST WINDSOR IMPROVEMENT PROJECT

"OUR VISION FOR HIGHTSTOWN"

Eugene O'Conner of the Greater Hightstown – East Windsor Improvement Project (GHEWIP) stated that he chaired a GHEWIP committee that began in April 2008 to study the feasibility of consolidating Hightstown and East Windsor into a single municipality. That committee's work, he said, resulted in a report that he plans to present at this meeting. The report is meant, he said, to allow Council to determine whether continued study of the issue should take place. In preparing the report, the group retained a qualified consultant with extensive expertise in municipal government, and all costs were paid by GHEWIP. They will present the same study to East Windsor's Mayor and Council on the following night.

At this time, Councilmember McGinty called "Point of Order," and again objected to inclusion of this item on the meeting agenda without prior notification, and questioned whether this is permissible under the Open Public Meetings Act. Mayor Patten noted that this is a private group making a presentation of a privately funded study, and it does not involve any action by Council.

Mr. Raffetto again stated that the Open Public Meetings Act notification requirement references the agenda "to the extent known," therefore this inclusion does not violate that Act. However, he added, "if Council feels that this matter is of such importance, it can certainly defer the presentation to the following meeting." Councilmembers Quattrone and Schneider expressed their objections to continuing with the presentation at this meeting, given such short notice. Council President Sikorski stated that, while, generally, he concurs with the idea of having information in advance of Council meetings, "the point of this presentation is purely informational, and no action is to be taken at this time." He said that he could see no harm in allowing those "who generously contributed toward the report" to continue with their presentation, since no action is contemplated and no public funds were expended to create the study.

Councilmember McGinty again expressed her strong objection to continuing and asked Mr. Raffetto if doing so was legal. Mr. Raffetto replied that the Open Public Meetings Act requires advance disclosure of the meeting agenda *to the extent known*, and as such, Council may legally continue to hear the presentation; however, he added that, since this a matter of importance regarding potential consolidation, and not a routine matter, "unless it is of such urgency that you need to hear this tonight, perhaps it should be deferred."

Councilmember Schneider moved that the presentation be deferred to the following meeting. The motion was seconded by Councilmember McGinty. Councilmember Schneider stated that, while he has no problem with the report, he had been unaware that it was being formulated and it appears to include a dramatic reduction in police personnel. He would like to have the chance to review it before it is presented, so that he can be informed enough to ask pertinent questions. Councilmember Theokas stated, "That's the point of them giving us the study now – to allow us to look at it. What would prevent them from speaking during public comment? What would be the difference?"

Councilmember Quattrone asked if the report is now considered to be a public record, as copies were disseminated by Mr. O'Connor at the beginning of his presentation. Mr. Raffetto confirmed that it would be considered a public record.

A roll call vote was taken on the motion to postpone the presentation.

Roll Call: Councilmembers McGinty, Quattrone, and Schneider voted yes. Councilmembers Bond, Sikorski and Theokas voted no. Mayor Patten voted no to break the tie.

Motion defeated, 4-3. The presentation would continue.

Mr. O'Conner stated, "We believe that this will be helpful. There has to be some way for us to provide you with this document. We haven't meant to violate anything, we just wanted to facilitate our giving you the report. Its purpose is to allow you to decide if necessary additional study will take place."

He then introduced Gregory Fehrenbach of Government Management Advisors, the group that did the study. Mr. Fehrenbach stated, "Consolidation is not always the solution. We wanted to provide the greatest opportunity to each of you to raise questions, but also to highlight important points. Analysis of fiscal performance can't lead to firm conclusions about the performance of a consolidated town, because a new governing body would make the decisions. It can only provide indicators for what is possible." Mr. Fehrenbach introduced Reagan Burkholder, his colleague, who reviewed the study document¹ in some detail.

Mr. Burkholder explained how the study was conducted, and said that the preliminary findings were that as many as 20 full-time positions could be eliminated through consolidation, saving \$1.2 million in salaries and benefits. This is based, he said, on the projected workload for one town that was formerly two, and the norms from around the state on what it would need. They reviewed trash collection, but, he said, this is far too detailed an issue for a complete study. They did find that simply combining the operations would yield an operating cost per unit that is significantly higher than the average in other towns. Utilities would also require more intensive study, but there is a possibility of enhanced efficiency in this area through consolidation. Their analysis indicated that, assuming the budget of the new town is equal to the sum of the budgets of the two towns that form it, there would be a \$942 reduction in taxes for Hightstown residents and a \$164 increase for East Windsor residents. If you factor in savings gained from efficiencies, he said, the tax reduction for Hightstown would be over \$1,000 per resident, and East Windsor residents would see a \$12 increase.

Mr. Burkholder went on to say that their study revealed that taxes in both towns are rising faster than expenses are rising, which is "a function of the way real estate tax operates in New Jersey." For most towns, he said, non-tax revenues are stagnant or decreasing. The two towns are similar in the proportion of residential to other properties (72% to 75% residential and 16% to 18% commercial). The big difference between Hightstown and East Windsor, he said, is in tax exempt properties, which are five times higher in Hightstown than in East Windsor. In Hightstown, 30% of property is tax exempt. Another difference is in the use of surplus. Because the State requires the use of all surplus by towns applying for Extraordinary Aid, the Borough has no reserves. East Windsor, however, has been in a position to manage and increase their surplus.

Mr. Burkholder went on to say that a consolidated town would be able to liquidate duplicate facilities, such as Borough Hall and the police station, as well as one of the two public works facilities. That would yield potentially significant revenue for the new community and would provide "a great opportunity to transform the center of Hightstown." He noted that there may be State aid that would assist a consolidated municipality, but the state's rules are still in flux. He further noted that consolidation would require the approval of voters in both towns. "Consolidation," he said, "would offer the opportunity for a do over. It's a new town." He noted

¹ Clerk's note: A full copy of the study is available for review in the Borough Clerk's office and on the Borough website.

that contracts and benefit packages would be renegotiated. Lastly, Mr. Burkholder stated that the greatest opportunities noted were in the area of public safety, including coordination among volunteer groups. In addition, planning, land use, economic development and business relations would be done by one entity rather than two.

Mr. Fehrenbach spoke again to say that the report recommends that the governing bodies create a Joint Study Commission to study the consolidation issue further and in greater detail. This is a transparent and open process designed to reach a consensus for what is best while representing the interests of both towns. It is funded through the New Jersey Department of Community Affairs, and a representative of the DCA sits on the Commission.

Mr. Fehrenbach clarified that the report does *not* suggest that five officers from Hightstown would be eliminated. Rather, it discusses appropriate staffing for a newly consolidated town. He added that, geographically, economically and socially, Hightstown and East Windsor are already a single community. "When we separated in 1853," he said, "there were reasons. They no longer exist." He added that the new municipality would be one of 75 in the state with a population in excess of 30,000, and the fourth largest in Mercer County. This, he said, would give the new town more influence.

At the conclusion of the presentation, it was moved by Council President Sikorski that any questions and discussion by Council regarding this matter be postponed to February 17.

Councilmember McGinty stated, "The procedure that we have just seen is most unfortunate in our town." She noted the importance of this issue and said, "We have just set back informed discussion" because the focus now will be on the secrecy of the study. In addition, she said, our public servants may be in fear of their jobs.

Councilmember Theokas disagreed, saying "This is a step forward," and "the beginning of many upon many open discussions." Councilmember Bond also disagreed with Ms. McGinty. He said that, although he is a former member and chair of GHEWIP, he knew nothing about this study. "They put this together because they wanted to," he said, "with the idea of thinking outside the box and presenting something to the community that hasn't been presented before. Someone spent their own money, and they came forth and presented this to us. There is no secrecy, and no harm whatsoever. It will all be a part of the public record, and is a start for something that people have been talking about for a long time. I'm happy they did this."

Councilmember Quattrone stated that GHEWIP has been very good to Hightstown and to East Windsor, and "this report is fine," but added that he had a problem with the procedure that was undertaken. "The public shouldn't find out through the newspaper," he said.

Mayor Patten stated that there has been no secrecy and the Borough was asked to provide GHEWIP with information available under the Open Public Records Act. He noted that Council President Sikorski has requested that Council take two weeks to review this information, and then come back and continue the discussion. The study is now a public document, he said, and this is a deliberate process. "We can have a good interaction and discussion," he added. "We're famous for openness."

Councilmember Schneider stated that, since GHEWIP did make their presentation, he would like to have the opportunity now to ask some questions; however, he is still hoping to have them return for the next meeting.

The roll was called on the motion to defer discussion.

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

Motion carried (discussion postponed), 5-1.

Mayor Patten invited the GHEWIP representatives and their consultants to return on February 17.

PUBLIC COMMENT I

Mayor Patten opened the floor for public comment.

Phyllis Deal, 305 Stockton Street, asked who requested that GHEWIP perform this study, and if East Windsor had been given advance notice of it. She also requested that the Borough ask the New Jersey Turnpike Authority to install sound barriers when redoing Exit 8 so that traffic noise will be deflected away from Borough residents.

Mike Vanderbeck, 344 Stockton Street, stated that the Borough's Economic Development Committee has "morphed into the Downtown Hightstown group.... What the EDC had been addressing is now pretty much completely taken care of under that approach. The energy has shifted to that group." He noted that the Ordinance which created the Committee states that they "shall meet monthly," and recommended that this be changed to indicate that they will meet only as needed. In closing, Mr. Vanderbeck distributed conceptual drawings for improvements to the downtown alleyway².

Pegi Ballister-Howells spoke as manager of the Tri County Auction Market to note that the Market is still without water following the water main break at Precious Pets. It may cost more than \$20,000 to reconnect. She said that it is unlikely that the 6" water main was privately installed, as there are fire hydrants on that main which are owned and maintained by the Borough. She said that East Windsor Township permitted the buildings which were eventually constructed on top of that main, and asked, "Whose fault is that? Did they not check? ... Someone should have known it was there." "We didn't do any building," she said, "and we didn't draw the maps [which do not show the main], but we're the ones without water." She said that the weight of the building had to have compromised the water main which broke. "The Auction is in the black for the first time in 20 years," she said. "These are salt-of-the-earth farmers, who bring in locally produced food. It's their primary outlet. \$20,000 means bankruptcy. We need a decision. We need water, and we need this taken care of. It's not our fault."

Anthony Perugini, a new resident of Enchantment, stated that a letter sent by the Mayor a few months ago regarding where tax monies go stated that residents receive street cleaning. "We clean our own streets," he said. He further stated that Enchantment provides its own snow removal. The Mayor's letter also stated, he said, that residents receive water and sewer service; however, those are billed separately to residents. Lastly, Mr. Perugini reported that, at least three times during the past year, the Borough's recycling contractor has not arrived on recycling day, but on the following day. On windy days, he said, he has had to go out and pick up all the cans and plastics. "It would be good," he said, "if they came when scheduled."

Gail Doren, 201 Hutchinson Street, asked how she could obtain a copy of the report that was presented by GHEWIP. Ms. Gallagher said that it would be available in her office the next day. Ms. Doren asked, "How can you think that the presentation of a consolidation study is not

² A copy of this drawing is included at the end of these 2/2/09 minutes.

important enough to give the public notice?" She asked if, in the future, updates to the agenda could be indicated on the copies that are provided to the public at the meeting.

Jan Guthrie, 425 Stockton Street, said that the presentation given was very thorough, but she felt "sad that people weren't informed so that they could come and hear it. I don't see how two more weeks could have made such a difference."

Steve Bergenfield, proprietor of Precious Pets, asked if the Borough owns the fire hydrants which are situated on the water main which broke under his building. Mayor Patten stated that Borough officials did meet with him and are continuing to seek information, and will contact him.

Susan Bluth, 42 Dennis Court, stated that many Wyckoff's Mill residents were present at the last meeting, and the next day Mayor Patten told her that "Council listened and something would be done." She hasn't heard anything yet and implored Council not to forget about them. "I will become a thorn in your side," she said, adding "Please address this immediately. I don't want to have to bring them all back again." Regarding the consolidation study, Ms. Bluth recommended that Council schedule an extended presentation for an upcoming meeting.

Meredith Murphy, 20 Dennis Court, applauded those who voted to allow the presentation by GHEWIP to be made at this meeting, noting that it can be publicized that discussion of the report will take place on February 17, which will allow people to come out after having reviewed the report itself, which is now a public document. Ms. Murphy went on to state that Wyckoff's Mill has to pay for snow removal and recycling, despite paying taxes, which concerns her. Lastly, Ms. Murphy asked why sidewalks on North Main Street and Stockton Street are not repaired instead of others which are in better shape.

Eugene Sarafin, 600-628 South Main Street, stated that he enjoyed this meeting because he "loves dissension," and that Councilmember McGinty is "his heroine." He recalled that, 40 years ago, there was a merger study, and the issue was voted on and passed in Hightstown but failed in East Windsor. He stated that the "actual savings [from consolidation] are \$2 million" and requested that the report be placed on the Borough's website, which he referred to as "the best internet site in the State." Lastly, Mr. Sarafin stated, "Where else but in Hightstown can you have this kind of discussion? Hightstown is the center of democracy." He stated that the "points of the [consolidation] study are wonderful" and said that he agrees in terms of the impact and the threat to employees, but there is a threat to him in not merging.

Torry Watkins, 68 Meadow Drive, stated that the GHEWIP presentation was interesting, that he looks forward to reading the report, and that he is grateful to GHEWIP for commissioning it, but objected to the "veil of secrecy" around it. He thanked Ms. McGinty for expressing her sentiments about that.

John Hauser, 336 Hightstown Road in Old Bridge, New Jersey, stated that he one of the fourth generation of farmers at the Tri-County Auction Market, and sits on its board. The cooperative, he said, is owned by farmers and passed on from generation to generation. As the facility is currently without water following the water main break at Precious Pets, Mr. Hauser expressed concern about fire protection there, and noted that, although the Market is not yet open for business this year, the office is open and preparing for the season. Having no water is a hardship. He asked Council to try to uncover the history of that pipe line, and asked if a temporary water connection could be made for the time being.

On another topic, Mr. Hauser stated that he participates in Council meetings in his town of Old Bridge, and Council members there "take the same abuse." He applauded members of the

governing body for “taking the time to sit in public office and trying to do your best job.” He asked again for their help with the water situation.

No one else came forward and the floor was closed.

ORDINANCES

PUBLIC HEARING AND FINAL READING: ORDINANCE 2009-01, BOND ORDINANCE PROVIDING FOR THE RECONSTRUCTION OF MORRISON AVENUE IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$292,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$115,200 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART THE COST THEREOF

Following a brief review by Ms. Gallagher, Mayor Patten opened the public hearing on Ordinance 2009-01.

Eugene Sarafin, 600-628 South Main Street, expressed support for the project and asked how the Borough can be assured that it is getting competitive bidding, given recent reports of collusion in the bonding market.

No one else came forward and the floor was closed.

The ordinance was moved for adoption by Council President Sikorski and seconded by Councilmember Schneider.

Councilmember McGinty stated that it would be good for the public to have an answer to Mr. Sarafin's question before adoption of this bond ordinance. Council President Sikorski and Ms. Gallagher noted that the Borough's bond counsel, McManimon and Scotland, handle our bond sales and created this bond ordinance, and Mr. Sikorski stated that the issues mentioned by Mr. Sarafin are not relevant to small towns. Ms. McGinty stated that she had a discussion that day with the Borough's Chief Financial Officer, George Lang, and he answered her questions regarding bonding.

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

Ordinance adopted, 6-0.

**ORDINANCE 2009-01 BOND ORDINANCE PROVIDING FOR THE RECONSTRUCTION OF MORRISON AVENUE
IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW
JERSEY, APPROPRIATING \$292,000 THEREFOR AND AUTHORIZING THE ISSUANCE
OF \$115,200 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 1. 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 \$292,000, including a \$228,500 State of New Jersey Department of Transportation Grant (the "State Grant"). Although no down payment is required pursuant to N.J.S.A. 40A:2-11(c) as the improvement or purpose described in Section 3 hereof is being partially funded by the State Grant, an amount equal to \$5,800 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 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment and the State Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$115,200 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 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the reconstruction of Morrison Avenue between Summit Street and South Academy Street, consisting of the installation/replacement of curb and sidewalks and pavement replacement, including all work and materials necessary therefore 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 therefore.

Section 4. 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 5. 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 6. 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 10 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 \$115,200, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$52,000 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.

PUBLIC HEARING AND FINAL READING, ORDINANCE 2009-02, BOND ORDINANCE PROVIDING FOR MORRISON AVENUE WATER AND SEWER CAPITAL IMPROVEMENTS IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$215,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$81,900 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Following a brief review by Ms. Gallagher, Mayor Patten opened the public hearing on Ordinance 2009-02.

Eugene Sarafin, 600-628 South Main Street, asked if the Borough requires residents on the streets where water and sewer work is done to make connections, and asked if that issue is resolved in this bond ordinance. "We should protect the homeowner," Mr. Sarafin said. "If you're

going to pass this, make sure that the Engineer has a plan for people to be fairly treated regarding connections from their homes.”

No one else came forward and the floor was closed.

The ordinance was moved for adoption by Councilmember Quattrone and seconded by Councilmember Schneider.

Councilmember McGinty asked if it is possible to answer the question posed by Mr. Sarafin. Ms. Gallagher stated that she does not know at this time what plans will be made regarding connections, and added that this ordinance is strictly a funding ordinance and would not address those issues. Councilmember Bond stated that, in the past, there have been instances where arrangements have been made with the contractor, and other instances where the homeowners had to pay.

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

Ordinance adopted, 6-0.

ORDINANCE 2009-02 BOND ORDINANCE PROVIDING FOR MORRISON AVENUE WATER AND SEWER CAPITAL IMPROVEMENTS IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$215,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$81,900 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 1. 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 \$215,000, including a \$171,500 State of New Jersey Department of Transportation Grant (the “State Grant”). Although no down payment is required pursuant to N.J.S.A. 40A:2-11(c) as the improvement or purpose described in Section 3 hereof is being partially funded by the State Grant, an amount equal to \$4,100 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 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment and the State Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$81,900 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 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the replacement of water main and water services and improvements to the sanitary sewer system on Morrison Avenue between Summit Street and South Academy Street, 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 4. 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 5. 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 6. 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 40 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 \$81,900, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$35,000 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.

**PUBLIC HEARING AND FINAL READING, ORDINANCE 2009-03,
AN ORDINANCE AUTHORIZING THE BOROUGH TO ACCEPT THE
DEDICATION OF A SIGHT TRIANGLE EASEMENT UPON, OVER AND ACROSS
BLOCK 28, LOT 42.01**

Following a brief review by Ms. Gallagher, Mayor Patten opened the public hearing on Ordinance 2009-03.

Eugene Sarafin, 600-628 South Main Street, stated that there should be a sight triangle at South Main Street and Leshin Lane, and that when coming out of Bank Street, one can't see past a van parked there. He said that this issue should be addressed throughout the Borough. "I'm glad we're taking care of this," he said, "but ask the Chief to review all the sight triangles in town and come up with a way to mark them off."

No one else came forward and the floor was closed.

The ordinance was moved for adoption by Council President Sikorski and seconded by Councilmember Schneider.

Councilmember McGinty asked Ms. Gallagher to explain what a "sight triangle" is. She replied that establishing a sight triangle there would mean that there can't be anything planted or placed in that area that is over 36" high, or which would obstruct the view of traffic at that intersection.

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

Ordinance adopted, 6-0.

ORDINANCE 2009-03

AN ORDINANCE AUTHORIZING THE BOROUGH TO ACCEPT THE DEDICATION OF A SIGHT TRIANGLE EASEMENT UPON, OVER AND ACROSS BLOCK 28, LOT 42.01

WHEREAS, in connection with certain subdivision and site plan approvals that were granted to The Peddie School concerning the property located at 169 South Main Street (Block 28, Lot 42), The Peddie School is required to dedicate a sight triangle easement to the Borough upon, over and across proposed new Lot 42.01; and

WHEREAS, the area that is subject to the sight triangle easement, which measures approximately 316 square feet, is set forth in more detail in a legal description prepared by Van Cleef Engineering Associates, dated September 23, 2008, a copy of which is attached hereto and made a part hereof; and

WHEREAS, a proposed Deed of Sight Triangle Easement concerning the area in question is also attached hereto and made a part hereof; and

WHEREAS, the New Jersey Local Lands and Buildings Law, N.J.S.A. §40A:12-1, et seq., authorizes a municipality, through the adoption of an Ordinance, to acquire any interest in real property which is deemed to be in the best interests of the municipality, including an easement.

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

1. That, pursuant to N.J.S.A. §40A:12-1, et seq., the Borough is hereby authorized to accept the dedication of the above-referenced sight triangle easement from The Peddie School, as set forth in the attached documents.
2. That the Borough Attorney, the Mayor and the Borough Clerk are hereby authorized and directed to draft and execute any additional documents that may be necessary in order to effectuate the purposes of this Ordinance.
3. That, upon the adoption of the within Ordinance, the attached Deed of Sight Triangle Easement shall be recorded with the Mercer County Clerk's Office.
4. That if any section, paragraph, subdivision, clause or provisions of this Ordinance shall be adjusted invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision as adjudged and the remainder of this Ordinance shall be deemed valid and effective.
5. That all other Ordinances and provisions thereof that are inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency.
6. That this Ordinance shall take effect immediately upon its adoption and publication in accordance with the law.

PUBLIC HEARING AND FINAL READING, ORDINANCE 2009-04,

**AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY
LOCATED AT 250 SOUTH ACADEMY STREET (BLOCK 40, LOT 28) TO
HABITAT FOR HUMANITY INTERNATIONAL, INC. FOR THE CONSTRUCTION
OF NEW AFFORDABLE HOUSING UNITS**

Following a brief review by Ms. Gallagher, Mayor Patten opened the public hearing on Ordinance 2009-04.

Eugene Sarafin, 600-628 South Main Street, stated that he and Torry Watkins have worked for years with Habitat for Humanity, and the people that buy these homes maintain them and pay taxes. He objected to selling the property to Habitat and recommended instead that it be given to them for \$1.

Torry Watkins, 68 Meadow Drive, expressed support for this ordinance and said that it is a “great project.” He noted that there will be a Pancake Breakfast on February 22 at St. Anthony’s to benefit Habitat for Humanity, and added, “this will be everyone’s chance to help in a tangible way.”

No one else came forward and the floor was closed.

Councilmember McGinty noted that, when Habitat for Humanity addressed Council about this project in December, they were willing to pay for the property. She said that she spoke that day with a group that provides social services to residents of the Borough, and they need money. “It does go to other entities within our Borough,” she said, and expressed support for selling the property at that price.

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

Ordinance adopted, 6-0.

ORDINANCE 2009-04 AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY LOCATED AT 250 SOUTH ACADEMY STREET (BLOCK 40, LOT 28) TO HABITAT FOR HUMANITY INTERNATIONAL, INC. FOR THE CONSTRUCTION OF NEW AFFORDABLE HOUSING UNIT(S)

WHEREAS, the Borough of Hightstown (the “Borough”) is the record owner of certain real property located at 250 South Academy Street, more commonly known and designated as Block 40, Lot 28 on the Hightstown Borough Tax Map (the “property”); and

WHEREAS, the property is an unimproved vacant lot with a land area of approximately 4,800 square feet; and

WHEREAS, the property is a non-conforming lot within the R-3 Zoning District, which cannot be built upon without obtaining variance relief from the Planning Board; and

WHEREAS, Habitat for Humanity International, Inc., with a principal place of business located at 121 Habitat Street, Americus, Georgia, and a local office located at 120 Main Street, Hightstown, New Jersey, is a duly incorporated nonprofit 501(c)(3) tax exempt corporation organized for the purpose of constructing modest but adequate housing for the benefit of persons in need; and

WHEREAS, the Borough has been engaged in negotiations with Habitat regarding the proposed sale of the property to Habitat; and

WHEREAS, Habitat is interested in purchasing the property, as well as an adjacent property, so that it may combine the two lots and then undertake the construction of one (1) or two (2) new affordable housing units at the combined site, subject to Planning Board review, comment and approvals; and

WHEREAS, the Borough acknowledges that there is a need for the construction of new affordable housing units within the Borough and within the region; and

WHEREAS, the parties have negotiated a proposed sale of the property to Habitat for the sum of fifteen thousand dollars (\$15,000.00); and

WHEREAS, N.J.S.A. §40A:12-21(l) permits a municipality, through the adoption of an Ordinance, to sell, by private sale, any real property that is not otherwise needed for public use to any duly incorporated nonprofit housing corporation for the purpose of constructing housing for low or moderate income persons, which sale may be for nominal consideration; and

WHEREAS, the proposed sale of the property to Habitat is in furtherance of the Borough’s continuing commitment to foster the construction of additional new affordable housing units within the Borough; and

WHEREAS, the Borough believes that the sale of the property to Habitat for affordable housing purposes, for the compensation set forth above, is in the best interests of the public; and

WHEREAS, the Borough now wishes to authorize the transfer of the said property to Habitat.

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

1. That the sale of the property to Habitat for the construction of one (1) or two (2) new affordable housing units, subject to Planning Board review, comment and approvals, for the sum of fifteen thousand dollars (\$15,000.00), is hereby approved and authorized.

2. That the Borough Attorney is hereby authorized and directed to prepare a contract of sale for the transaction, which is consistent with the intentions set forth in this Ordinance, and the Mayor is hereby authorized to execute, and the Borough Clerk to attest, the said contract of sale.

3. That the Mayor is hereby further authorized to execute, and the Borough Clerk to attest, a Deed which shall effectuate the conveyance of the property to Habitat, under the terms and conditions referenced above as well as those set forth in the said contract of sale.

4. That the Borough Attorney, the Mayor and the Borough Clerk are hereby authorized and directed to draft and execute any additional documents that are necessary in order to close title to the property and to effectuate the purposes of this Ordinance.

5. That if any section, paragraph, subdivision, clause or provisions of this Ordinance shall be adjusted invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision as adjudged and the remainder of this Ordinance shall be deemed valid and effective.

6. That all other Ordinances and provisions thereof that are inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency.

7. That this Ordinance shall take effect immediately upon its adoption and publication in accordance with the law.

CONSENT AGENDA

At Council President Sikorski's request, Resolution 2009-49 was pulled for separate consideration.

Resolutions 2009-50 through 2009-53 were moved by Council President Sikorski and seconded by Councilmember Theokas.

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

Resolutions adopted, 6-0.

RESOLUTION 2009-50 AUTHORIZING A TRANSFER OF FUNDS IN THE 2008 BUDGET

WHEREAS, N.J.S.A 40A:4-59 provides that the governing body may authorize a transfer of funds in the budget during the first three months of the succeeding fiscal year;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the following transfers in the 2008 CURRENT budget are hereby authorized:

		FROM:	TO:
INSIDE CAP:			
Legal Services & Costs	Other Expenses		\$1,502.00
Litigation	Other Expenses	\$1,502.00	
Recycling	Other Expenses	15.00	

OUTSIDE CAP:			
Recycling Tax	Other Expenses		15.00
TOTAL		\$1,517.00	\$1,517.00

RESOLUTION 2009-51 AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL-197 TO EAST WINDSOR P.A.L.

WHEREAS, the East Windsor P.A.L. wishes to hold an on-premise 50/50 raffle at the Peddie School on February 14, 2009; and

WHEREAS, the group has submitted application number RA-197 for this raffle; and

WHEREAS, no fees are due and payable at this time because the amount of the prize is anticipated to be less than \$400.00; and

WHEREAS, the Borough Clerk and the Chief of Police have reviewed the application and have determined that the requirements of N.J.S.A. 5:8-53, regarding the applicant, the members in charge of the game, and the game itself, have been met;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Raffle License No. RL-197 to the East Windsor P.A.L. for their raffle to be held on February 14, 2009.

RESOLUTION 2009-52 RESOLUTION AUTHORIZING THE MAYOR AND MUNICIPAL CLERK OF THE BOROUGH OF HIGHTSTOWN TO EXECUTE AN AGREEMENT FOR CONTINUED PARTICIPATION IN THE HOME INVESTMENTS PARTNERSHIPS PROGRAM CONSORTIUM WITH THE COUNTY OF MERCER

WHEREAS, the HOME Investment Partnerships Program seeks to expand the supply of decent and affordable housing, particularly rental housing, for low and very low income Americans; and,

WHEREAS, the HOME Investment Partnerships Program seeks to strengthen the abilities of state and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing; and,

WHEREAS, the HOME Investment Partnerships Program seeks to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of affordable housing; and,

WHEREAS, the HOME Investment Partnerships Program provides state and local governments with the flexibility to decide what kind of housing assistance is most appropriate for meeting their housing needs; and,

WHEREAS, the HOME Investment Partnerships Program encourages state and local governments to use HOME funds efficiently and to undertake the most cost-efficient housing activities requiring the smallest state and local matching contributions for Federal funds; and,

WHEREAS, in order to qualify for funding under this program, a municipality or consortium of municipalities must have a minimum "critical housing need" of \$500,000.00; and,

WHEREAS, the City of Trenton is the only municipality within Mercer County eligible on an independent basis for HOME Investment Partnerships Program funds; and,

WHEREAS, the remaining Mercer County municipalities interested in participating in the HOME Investment Partnerships Program must pool together a consortium to be eligible for funding; and,

WHEREAS, there is no cost to municipalities to participate in the Mercer County HOME Investment Partnerships Program Consortium, aside from the required matching funds for any project a municipality may undertake; and,

WHEREAS, the Mercer County HOME Investment Partnerships Program Consortium would be a source of funding for a project the Borough of Hightstown may undertake in its own affordable housing program without requiring the Borough of Hightstown to undertake any specific projects; and,

WHEREAS, participation by the Borough of Hightstown in the Mercer County HOME Investment Partnerships Program Consortium would be beneficial to its relations with other Mercer County municipalities who would then, as a whole, meet the eligibility requirements for participation in the HOME Investment Partnerships Program;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough's continued participation in the Mercer County HOME Investment Partnerships Program Consortium is hereby endorsed; and,

BE IT FURTHER RESOLVED, that the Mayor and the Municipal Clerk are hereby authorized and directed to execute said Mercer County HOME Investment Partnerships Program Consortium Agreement.

**RESOLUTION 2009-53 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:

	<i>THIS RESOLUTION</i>	<i>PREVIOUS TOTAL</i>	<i>CUMULATIVE TOTAL</i>
Current	228,580.00	0.00	228,580.00
Capital Outlay – Current	0.00	0.00	0.00
Debt Service - Current	0.00	0.00	0.00
Water/Sewer	215,860.00	0.00	215,860.00
Capital Outlay – W/S	0.00	0.00	0.00
Debt Service - W/S	0.00	0.00	0.00
TOTAL	444,440.00	0.00	444,440.00

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.
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.

Resolution 2009-49 was moved by Council President Sikorski and seconded by Councilmember Schneider.

Council President Sikorski asked members of Council if they had had adequate time to review the bill list, and whether they had any questions about it. None were heard. He then asked Ms. Gallagher about a payment for meals. She stated that, during a recent water main break where our crew was out all night, food was purchased for them.

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

Resolution adopted, 6-0.

RESOLUTION 2009-49 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 **\$1,416,343.94** from the following accounts:

Current	\$ 1,076,558.60
W/S Operating	219,967.21
General Capital	732.27
W/S Capital	106,228.50
Trust	1,691.85
Grant	2,372.03
Animal Control	1,800.00
Unemployment Trust	1,033.91
Escrow Subdivision	4,229.25
Housing Trust	<u>1,730.32</u>
Total	\$ <u>1,416,343.94</u>

PUBLIC COMMENT II

Mayor Patten opened the floor once again for public comment.

Eugene Sarafin, 600-628 South Main Street, stated, regarding the \$15,000 to be charged to Habitat for Humanity, "Okay, we'll give the money to those who need it." Mr. Sarafin also urged the governing body to restore water service to Precious Pets and the Farmer's Market. He noted that water service generates revenues. Mr. Sarafin also stated that the Borough knew at the time that a building was being constructed on top of that main.

No one else came forward and the floor was closed.

EXECUTIVE SESSION

Ms. Gallagher read aloud Resolution 2009-48, authorizing a closed session for the purpose of discussing litigation. The Resolution was moved by Council President Sikorski and seconded by Councilmember Theokas.

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

Resolution adopted, 6-0.

RESOLUTION 2009-48 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 February 2, 2009 at approximately 9 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

(Greystone Capital Partners; Hightstown Development Associates)

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: May 2, 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, **Resolution 2009-54** was moved by Council President Sikorski and seconded by Councilmember Schneider.

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

Resolution adopted, 6-0.

RESOLUTION 2009-54 A RESOLUTION AUTHORIZING THE BOROUGH OF HIGHTSTOWN TO SETTLE CERTAIN TAX LITIGATION KNOWN AS HIGHTSTOWN DEV. ASSOCS. VS. BOROUGH OF HIGHTSTOWN.

WHEREAS, the Borough of Hightstown (the "Borough") is currently a party to certain litigation that is pending before the Tax Court of New Jersey known as Hightstown Dev. Assocs. vs. Borough of Hightstown, bearing Docket Nos. 001288-2005, 004947-2006, 004925-2007 and 007896-2008; and

WHEREAS, said litigation contests the tax assessed value of certain real properties that are owned by the Plaintiff for tax years 2005 through 2008; and

WHEREAS, the properties at issue are located along Westerlea Avenue, and are more commonly known and designated as Block 55, Lot 74 and Block 61.01, Lot 26 on the Hightstown Borough Tax Map; and

WHEREAS, the properties are the site of the Westerlea and Deerfield Apartment complex; and

WHEREAS, the properties are assessed for each of the tax years in questions as follows:

Block 55, Lot 74	\$3,000,000.00
Block 61.01, Lot 26	\$2,450,000.00; and

WHEREAS, the combined total assessment of the properties for each of the years in question is \$5,450,000.00; and

WHEREAS, the Borough was operating at assessment ratios for each of the years in question as follows:

2005 – 59.87%
2006 – 51.05%
2007 – 44.47%
2008 – 41.62%; and

WHEREAS, the parties have negotiated an amicable settlement of the pending matters, which the Borough believes is in the best interests of the Borough; and

WHEREAS, the proposed settlement will result in the Plaintiff withdrawing its appeals in the 2005, 2006 and 2007 tax years, and the Borough withdrawing its counter-claims in each of those years; and

WHEREAS, the proposed settlement will also result in the Plaintiff receiving a reduction in the combined total assessed value of the properties in tax year 2008, from \$5,450,000.00 to \$4,500,000.00; and

WHEREAS, the proposed settlement will also result in no further tax appeals being filed by the Plaintiff, or any successor in interest, in tax years 2009 or 2010; and

WHEREAS, the Borough's Tax Assessor, Appraiser and Attorney have each recommended the proposed settlement to the Borough; and

WHEREAS, the Borough Council believes that the proposed settlement is in the best interests of the Borough.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, as follows:

1. That the Borough Council hereby approves the proposed settlement of the pending tax appeals concerning the above-referenced properties for tax years 2005 through 2008, as set forth above.
2. That the Borough hereby authorizes the withdrawal of the Borough's counter-claims in tax years 2005 through 2007.
3. That the Borough Attorney is hereby authorized and directed to execute a Stipulation of Settlement on behalf of the Borough for the tax year 2008, which reduces the combined total assessed value of the properties from a total of \$5,450,000.00 to \$4,500,000.00, and to forward same to the Tax Court for the entry of an appropriate Judgment.
4. That all relevant Borough Officials are hereby authorized and directed to take all appropriate actions in order to finalize the proposed settlement in accordance with the terms and conditions set forth above.
5. That a certified copy of this Resolution shall be provided to each of the following:
 - (a) Ken Pacera, Tax Assessor
 - (b) Peter Sockler, MAI
 - (c) Frederick C. Raffetto, Esquire, Borough Attorney
 - (d) Candace B. Gallagher, Borough Business Administrator
 - (e) George Lang, Borough Chief Financial Officer

Upon motion by Council President Sikorski, seconded by Councilmember Bond and unanimously approved, the meeting was adjourned at 9:27 p.m.

Respectfully submitted,

Candace B. Gallagher, RMC
Borough Clerk