

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; James Eufemia, Chief of Police; and Carmela Roberts, Borough Engineer.

APPROVAL OF AGENDA

The executive session listed on the agenda was amended to include a discussion regarding litigation. The agenda was then moved as amended by Council President Sikorski, seconded by Councilmember Quattrone and approved by all.

APPROVAL OF MINUTES

Minutes of the July 6, 2009 open session were moved by Council President Sikorski, seconded by Councilmember McGinty and approved as submitted by all but Councilmember Quattrone, who abstained.

Minutes of the July 6, 2009 closed session were moved by Council President Sikorski, seconded by Councilmember McGinty and approved as submitted by all but Councilmember Quattrone, who abstained.

PRESENTATION

MAIN STREET NJ PROGRAM

Mike Vanderbeck of the Borough's Economic Development Committee spoke regarding the Main Street NJ program. He reviewed the history of the Borough's downtown revitalization, which, he

said, began many years ago, when a coach light fund was created following the dredging of the lake. Each council since then, he said, has recognized that our downtown is the heart of our community. If stores are boarded up, the town is perceived to have failed. "We're nowhere near that," he said. "We hear comments from all over the state about how attractive our downtown is. That's what we're looking to protect."

The revitalization, Mr. Vanderbeck said, "picked up steam 10 years ago" when Phase I of the Downtown Revitalization Project began, followed by Phases II and III. The Borough and the State have made a huge investment in our downtown, he said, which has produced positive results, and it is important to protect that past investment. The EDC has voted unanimously to support the Borough's participation in the Main Street NJ program, and will seek Council's support in the form of a Resolution at the next meeting. Mr. Vanderbeck said that, given the Borough's financial constraints, they are not asking for funding from the Borough – that would be provided by other stakeholders in town. He asked Council to continue their support of and commitment to the Borough's downtown, with the understanding that "it is what identifies Hightstown, as perceived statewide." He said that he would provide additional information to Council prior to the September 8 meeting, and noted that the Resolution will include the Borough's four-year commitment to the program.

Council President Sikorski asked if it is possible for Council to formally endorse the concept without making a financial commitment. Mr. Vanderbeck stated that, in order for the Borough's application to be considered complete, it requires Council's resolution and a funding commitment. He added that he and other volunteers will be working on this over the next three weeks.

Council President Sikorski stated that he recently attended a two-day workshop in Trenton regarding the Main Street NJ program, and noted that the Borough is already doing many of the things that are part of this program, such as our decorative signage, flowering baskets and traffic calming measures. Mr. Vanderbeck stated that this is why the Borough will have such a strong application. Mr. Sikorski expressed his "serious reservations" about any financial commitment by the Borough, and Mr. Vanderbeck said that he is hopeful that we would be able to meet the funding requirements without the use of taxpayer dollars.

PUBLIC COMMENT I

Mayor Patten opened the floor for public comment.

Phyllis Deal, 305 Stockton Street, thanked Mr. Vanderbeck for his comments, and asked if traffic calming measures could be implemented to slow truck traffic entering town along Mercer Street. She suggested traffic islands similar to those used on Village Road, which include trees.

Dan Buriak, 194 Stockton Street, stated that the Borough's Master Plan is founded on its Historic Element, and it is important that there is a "pervading historic ethos within the community." The Main Street NJ program area, he said, will include the Stockton Street Historic District. As a way of "rebranding" the town's identity with this historic ethos, he proposed that banners be installed on utility poles within the Historic District, similar to those in the downtown area, which would identify the Historic District. He provided samples of the banners, which were designed by Ryan Rosenberg and would complement, but be distinct from, the banners in place downtown. He said that he would personally cover the cost of the banners, approximately \$3,300, and would provide pole numbers so that the Borough could obtain the permission from JCP&L. He added that he would be donating these funds through Downtown Hightstown, and his employer (Pfizer) would

probably match those funds, providing an additional \$3,300 for other improvements within the Historic District.

Ms. Deal spoke again to note that some utility poles are surrounded by trees, and banners on those poles would not be visible. Mr. Buriak acknowledged this and said that, for this reason, banners are not proposed for every pole in the district.

Dimitri Musing, 137 Stockton Street, expressed support for Mr. Buriak's proposal of placing banners along Stockton Street. "From my view as a Stockton Street business owner," he said, "it adds a lot of flair, which is always a benefit." He noted that, in Europe, banners have been used for "ages and ages," and it is a great idea to showcase Hightstown and continue with the Main Street NJ program. "Anything that can make Hightstown memorable is a great idea," he said.

Mike Vanderbeck, 344 Stockton Street, expressed support for the banners proposed by Mr. Buriak, calling it an "asset-based positive change." He thanked him for his suggestion and willingness to cover that cost.

No one else came forward and the floor was closed.

ENGINEER'S ITEMS

RESOLUTION 2009-157, AWARDING CONTRACT FOR PEDDIE LAKE DAM IMPROVEMENTS – B AND B CONSTRUCTION, LLC

Ms. Roberts reviewed the provisions of this Resolution. Mayor Patten asked about the timing of the lake lowering (which would be necessary in conjunction with this work), in anticipation of the upcoming Triathlon (September 27) and Community Fair (October 10). Ms. Roberts stated that the work must be done as soon as possible. The DEP has issued our permit and wants the project complete by November 9. There are only certain times that the Division of Fish, Game and Wildlife will allow the lake to be lowered, and October is our window for that. She added that it would be lowered by just one or two feet, and there would still be water in the lake. She said that she would let Mr. Blake know that Council would not want the lake lowered until after the Triathlon on September 27. However, waiting until after October 10 to do this could compromise our ability to complete the project by the November 9 deadline. She said that, once the project has started, she could contact NJDEP to request an extension of that date.

Councilmember Bond noted that, in the area where the pedal boats would be used, the water is at least four or five feet deep, and the lowering should not present a problem. Darek Hahn, chair of the Parks and Recreation Commission, agreed, and said that his concern would be in the area around the docks, where people would be getting into and out of the boats.

Council President Sikorski asked if this contract includes any work on the railings at the dam. Ms. Roberts replied that it does not.

Resolution 2009-157 was moved by Council President Sikorski and seconded by Councilmember Quattrone. Discussion continued.

Councilmember Bond asked Ms. Roberts if she had any reservations about the low bidder. Ms. Roberts stated that some of the references she received were good and some were not, and acknowledged that she did have some reservations. She said that she was warned to expect an attempt by the contractor for a lot of change orders, and she will monitor the project closely. The bid did come in within the expected budget, she said, and although the references "aren't

the greatest," the Borough itself has no negative experience with this contractor, therefore cannot dismiss them on that basis. Mr. Raffetto agreed, and said that the only way to reject and rebid would be to substantially revise the bid documents.

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

Resolution adopted, 5-0.

RESOLUTION 2009-157 AWARDING CONTRACT FOR PEDDIE LAKE DAM IMPROVEMENTS – B AND B CONSTRUCTION, LLC

WHEREAS, following revision of bid specifications and re-advertisement pursuant to Resolution 2009-151, adopted by the Borough Council on June 15, 2009, two (2) bids were received on June 26, 2009 for Peddie Lake Dam improvements; and

WHEREAS, the bids have been reviewed by the Borough Engineer and it is the firm's recommendation that a contract be awarded to the low bidder, B and B Construction, Inc. of Howell, New Jersey; and

WHEREAS, the Borough Attorney has reviewed the bids and has determined that the bid submitted by B and B Construction is in order with respect to legal compliance; and

WHEREAS, the Chief Financial Officer has certified the availability of funds for this expenditure;

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

1. The contract for Peddie Lake Dam improvements is hereby awarded to B and B Construction, LLC, of Howell, New Jersey in the amount of One Hundred Forty-Three Thousand Dollars (\$143,000.00).
2. The Mayor and Borough Clerk are hereby authorized to execute an agreement with B and B Construction, LLC, subject to approval of the Borough Attorney.
3. Approvals and authorizations granted herein are subject to the expiration of the 20-day waiting period following adoption and publication of Bond Ordinance 2009-13.

ORDINANCES

**PUBLIC HEARING AND FINAL READING: ORDINANCE 2009-12,
AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 26-4,
ENTITLED "PROVISIONS APPLICABLE TO PLANNING BOARD," AND SECTION
26-9, ENTITLED "SUBDIVISION AND SITE PLAN CHECKLISTS," OF THE
*REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN***

Following a brief review by Ms. Gallagher and Ms. Roberts, Mayor Patten opened the public hearing on Ordinance 2009-12.

Eugene Sarafin, 600-628 South Main Street, asked why the section of the ordinance dealing with affidavits of publication was rephrased. Ms. Roberts explained that the language was changed to require the submission of certified mail receipts in a particular format.

Mayor Patten at this time stated that this is a public hearing on an ordinance, and not a question and answer session. He noted that, in the past, Mr. Raffetto has advised Council not to respond directly to questions from the public, and asked him to comment. Mr. Raffetto stated that a mandatory public hearing on an ordinance is different than a public comment session, where

Council may not want to engage in dialogue. In a public hearing, Mr. Raffetto said, questions from the public are not out of order. Mayor Patten asked Council how they would like to proceed, and the general consensus was that questions should be allowed during public hearings.

Mr. Sarafin commented on the cost of providing drawings, and said that he is amazed that we aren't able to do that electronically.

Torry Watkins, 68 Meadow Drive, stated that, during public hearings, a member of the public must sometimes seek clarification regarding the language or the intent of language contained in an ordinance in order to make an intelligent comment about it, and he would hope "that the presiding officer would recognize that."

No one else came forward and the floor was closed.

Councilmember McGinty stated that the public must be allowed to comment on ordinances, and they have the right to ask questions about them.

Ordinance 2009-12 was moved for adoption by Council President Sikorski and seconded by Councilmember Theokas.

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

Ordinance adopted, 5-0.

ORDINANCE 2009-12 AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 26-4, ENTITLED "PROVISIONS APPLICABLE TO PLANNING BOARD," AND SECTION 26-9, ENTITLED "SUBDIVISION AND SITE PLAN CHECKLISTS" OF CHAPTER 26, "LAND USE," OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN

WHEREAS, the Hightstown Borough Council has determined that it is appropriate to amend the certain regulations governing land use within the Borough, in accordance with recommendations made by the Planning Board;

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

Section 1. Subsection 26-4-6 (a)(1) of the *Revised General Ordinances of the Borough of Hightstown*, regarding notice requirements for hearings, is hereby amended as follows (additions underlined, deletions in ~~strikeout text~~):

- a. Public notice shall be given by publication in the official newspaper of the municipality at least ten (10) days prior to the date of the hearing as provided by *N.J.S.A. 40:55D-12* through 12.3. Notice shall be given for:
 1. Any application for development ~~except for a minor subdivision;~~ as defined in N.J.S.A 40:55D-3

Section 2. Various subsections of Section 26-9 of the *Revised General Ordinances of the Borough of Hightstown*, regarding subdivision and site plan checklists, are hereby amended as follows (additions underlined, deletions in ~~strikeout text~~):

Subsection 26-9-00, "Filing," is hereby amended as follows:

Subsection 26-9-00 Filing.

Applicants seeking subdivision, site plan and/or variance approval shall file ~~sixteen (16)~~twenty-one (21) completed copies of the following checklist along with the information and documents required therein. No application will be deemed complete until all of the appropriate checklists are complied with and all fees are paid.

Various line items in Subsection 26-9-1, "Checklist for Subdivision Plans," are hereby amended and supplemented as follows:

MAJOR SUBDIVISION:

4. ~~Twenty-one~~Eighteen (1821) copies of all drawings and documents. ~~Twelve (12)~~Fifteen (15) sets of drawings shall be half-size with graphical scale and six (6) sets of drawings shall be full-size.:

25. Affidavit of Service of Notice of Hearing on all owners of property within two Hundred (200) feet of subject property as shown on the current Borough Tax duplicate. Certified list of property owners obtained from Borough Tax Assessor and Affidavit along with certified mail receipts arranged in the same order as the certified list of property owners (mounted on 8½ x 11" bond paper, six (6) receipts to a page) shall be submitted to Planning Board Secretary at least forty-eight (48) hours prior to hearing.

MINOR SUBDIVISION:

4. ~~Twenty-one~~Eighteen (1821) copies of all drawings and documents. ~~Twelve (12)~~Fifteen (15) sets of drawings shall be half-size with graphical scale and six (6) sets of drawings shall be full-size.

5. Affidavit of Service of Notice of Hearing on all owners of property within two Hundred (200) feet of subject property as shown on the current Borough Tax duplicate. A certified list of property owners obtained from the Borough Tax Assessor and Affidavit, along with certified mail receipts arranged in the same order as the certified list of property owners (mounted on 8½ x 11" bond paper, six (6) receipts to a page), shall be submitted to the Planning Board Secretary at least forty-eight (48) hours prior to the hearing.~~Notice shall be given to the owners of all real property as shown on the current tax duplicate located within two hundred (200') feet in all directions of the property which is the subject of the hearing. Notice shall be given by serving upon the owner or certified mail. Owners living outside of the municipality will be served by certified mail.~~

Item (a)(5) of Subsection 26-9-2, "Checklist for Site Plan Approval," is hereby amended as follows:

a. Requirements.

5. ~~Twenty-one~~Eighteen (1821) copies of all drawings and documents. ~~Fifteen (15)~~Twelve (12) sets of drawings shall be half-size with graphical scale and six (6) sets of drawings shall be full-size.

The first paragraph of Subsection 26-9-3, "Checklist for Variance Application," and items 1, 2 and 3 thereunder, are hereby amended as follows:

Subsection 26-9-3 Checklist for Variance Application.

Applicants seeking variance relief shall file ~~Twenty-one~~sixteen (1621) completed copies of the following checklist along with the information and documents required therein:

1. ~~Twenty-one~~Eighteen (1821) copies of completed application.
2. ~~Twenty-one~~Eighteen (1821) copies of survey showing location of existing and proposed structures on subject.
3. ~~Twenty-one~~Eighteen (1821) copies of plans of the proposed structure which describe its appearance and prove its compliance with building codes.

The first paragraph of Subsection 26-9-4, "Checklist for Sign Variance Application," is hereby amended as follows:

Subsection 26-9-4 Checklist for Sign Variance Application.

Applicants seeking sign variance relief shall file ~~sixteen~~ eighteen (~~16~~18) completed copies of the following checklist along with the information and documents required therein:

Section 3. 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.

Section 4. 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.

Section 5. This Ordinance shall take effect immediately upon its adoption and publication in accordance with the law.

**PUBLIC HEARING AND FINAL READING: ORDINANCE 2009-13,
BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF
\$50,000 FOR PEDDIE LAKE DAM IMPROVEMENTS IN AND BY THE
BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY
AND AUTHORIZING THE ISSUANCE OF \$47,500 BONDS OR NOTES OF THE
BOROUGH FOR FINANCING PART OF THE APPROPRIATION**

Ms. Gallagher provided a brief review of this Ordinance, noting that the contract just awarded for dam improvements is contingent upon the adoption of this ordinance and will not become effective until the ordinance has been adopted and published for at least 20 days.

Mayor Patten opened the public hearing on Ordinance 2009-13.

Eugene Sarafin, 600-628 South Main Street, stated that, based on the Borough Engineer's comments regarding the contractor that was just awarded this bid, he would recommend that Council defeat this ordinance. This would, in effect, nullify the award.

No one else came forward and the floor was closed.

The ordinance was moved for adoption by Councilmember Theokas and seconded by Council President Sikorski. Discussion ensued.

Councilmember McGinty asked Ms. Roberts if she would recommend the adoption of this Ordinance. Ms. Roberts replied that she would, given that under the Local Public Contracts Law, the Borough has no alternative but to make an award. Mr. Raffetto agreed, and said that, if the bid had come in higher than what we had budgeted, or if Council considered substantially revising the bid specifications, we could reject it; however, if the Borough is interested in having the work done sooner rather than later, there is little room to do this. Ms. Roberts stated that some of the comments made by references which were provided by the contractor did "give her pause," and she would prefer that we had a different contractor; however, the Borough has no choice at this time. The work must be done for safety reasons, she said, and there is no further modification possible to the project and bid specifications. She noted that we are approaching the November deadline, and if the project were delayed, the Borough may lose the low interest loan granted by NJDEP for the project. The Borough is both time constrained and loan constrained, she said, and added, "It just means I'll have to deal with the contractor to a greater degree than anticipated."

Councilmember Bond stated that he looked at the work that needs to be done, and it must be done now. "We can't wait anymore," he said. "The pointing is in bad shape. It might be more difficult for the engineer, but it is best that we know that going in." He said that he is certain

that Ms. Roberts and Mr. Blake will keep a close eye on things, and it is important not to let another year go by. "That area of town doesn't need any more floods," he said. "We have no choice but to move on with this."

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

Ordinance adopted, 5-0.

ORDINANCE 2009-13 BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$50,000 FOR PEDDIE LAKE DAM IMPROVEMENTS IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$47,500 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION

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 has heretofore been 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 supplemental amount of \$50,000, such sum being in addition to the \$166,250 appropriated therefor by bond ordinance #2005-24 of the Borough, finally adopted July 5, 2005, and including the sum of \$2,500 as the additional down payment required by the Local Bond Law. The additional 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 additional cost of the improvement or purpose not covered by application of the additional down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$47,500 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 heretofore authorized and the purpose for the financing of which the bonds are to be issued is Peddie Lake Dam improvements, including re-pointing of the dam face, automation of flood control valve, updating Emergency Action Plan and the conversion of flood maps to digital files, as described in bond ordinance #2005-24 of the Borough, finally adopted July 5, 2005, 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 \$205,800, including the \$158,300 bonds or notes authorized by bond ordinance #2005-24 of the Borough, finally adopted July 5, 2005, and the \$47,500 bonds or notes authorized herein.

(c) The estimated cost of the improvement or purpose is \$216,250, including the \$166,250 appropriated by bond ordinance #2005-24 of the Borough, finally adopted July 5, 2005, and the \$50,000 appropriated herein.

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 bond 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 \$47,500, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$56,250 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. Of this amount, \$56,250 was estimated for these items of expense in bond ordinance #2005-24 of the Borough, finally adopted July 5, 2005, and there is no additional amount estimated herein.

Section vii) The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 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 viii) 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 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 ix) 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 x) 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 xi) 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 2009-14, AN ORDINANCE TO AMEND SUBSECTION 2-31.5 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, REGARDING THE POWERS AND DUTIES OF THE BOARD OF RECREATION COMMISSIONERS

Following a brief review by Ms. Gallagher, Mayor Patten opened the public hearing on Ordinance 2009-14.

Eugene Sarafin, 600-628 South Main Street, expressed support for the ordinance.

Darek Hahn, 102 Manlove Avenue, who serves as chair of the Parks and Recreation Commission, recalled that Councilmember Schneider, at the ordinance's introduction, had questioned whether the language should be changed to refer to "Memorial Park including Peddie Lake" so that Memorial Park and Peddie Lake would be perceived as a single entity.

This was discussed briefly by Council and it was determined that the two should be listed individually in the ordinance, as written. Mr. Hahn concurred following that discussion.

No one else came forward and the floor was closed.

Ordinance 2009-14 was moved for adoption by Councilmember Quattrone and seconded by Councilmember Bond.

Councilmember McGinty noted that Memorial Park extends along only a short portion of Peddie Lake, and the area of the lake used by those authorized to do so under the regulations adopted by the Parks and Recreation Commission is not just that portion of the lake which abuts Memorial Park. It is appropriate, she said, that Peddie Lake is listed separately in the ordinance.

Council President Sikorski stated that he still has some concern that an appointed body would have control over such a large area, and is uncomfortable taking away Council's jurisdiction over the lake. He will "err on the side of caution" and vote against this ordinance, he said.

Councilmember Quattrone expressed his strong support for the ordinance, and said that the Parks and Recreation Commission has answered the Mayor's call to put more emphasis on recreational opportunities in the Borough, and this is one example of that. He noted that the ordinance refers to Grant Avenue Park, and the proper name of that park is Association Park. He would like to see that corrected, and also suggested that the ordinance be amended prior to its adoption to insert the words "the recreational use of" before the list of areas over which the Commission has jurisdiction.

Council President Sikorski stated that, with that change, he would vote in favor of the ordinance. Mr. Raffetto confirmed that these changes were not substantive, and that the ordinance could be amended and adopted at this meeting.

Councilmember Quattrone amended his motion to move the ordinance as so revised, and Councilmember Bond amended his second accordingly.

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

Ordinance adopted as amended, 5-0.

ORDIINANCE 2009-14 AN ORDINANCE TO AMEND SUBSECTION 2-31.5 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, REGARDING THE POWERS AND DUTIES OF THE BOARD OF RECREATION COMMISSIONERS

WHEREAS, the Board of Recreation Commissioners was established by Ordinance on July 20, 1998 with the adoption of Ordinance 1998-18, later codified as Section 2-31 of the *Revised General Ordinances of the Borough of Hightstown*; and

WHEREAS, said Ordinance sets forth those areas over which the Board has jurisdiction, as follows: Dawes Park, Grant Avenue Park, Bank Street Park, including the Hightstown Environmental Resource Area, and Memorial Park, and

WHEREAS, the Ordinance further provides that the Borough Council may, by amendment to the Ordinance, designate for inclusion therein additional land, playgrounds or recreation places in the Borough over which the Board would have jurisdiction; and

WHEREAS, the Board of Recreation Commissioners has recently engaged in certain recreational and fundraising activities utilizing Peddie Lake, including a Triathlon that is anticipated to be an annual event; and

WHEREAS, it is the recommendation of the Borough Attorney and the desire of the Mayor and Council to amend the Borough Code to include Peddie Lake as an area over which the Board of Recreation Commissioners has jurisdiction;

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

1. Paragraph (a) of Subsection 2-31.5, "Powers and Duties" of Section 2-31, "Board of Recreation Commissioners," of the Revised General Ordinances of the Borough of Hightstown is hereby amended as follows (additions underlined):

a. The Board shall have control over all lands, playgrounds and recreation places in the Borough acquired or used for the purposes set forth in N.J.S.A. 40:12-1 et seq. and may adopt suitable rules, regulations and bylaws for the use thereof, and the conduct of all persons while on or using the same; and any person who shall violate any of such rules, regulations or bylaws shall be deemed and adjudged to be a disorderly person. The jurisdiction of the Hightstown Board of Recreation Commissioners shall be limited to [the recreational use of Peddie Lake](#), Dawes Park, ~~Grant Avenue~~[Association](#) Park, Bank Street Park, including the Hightstown Environmental Resource Area, and Memorial Park. Notwithstanding the foregoing, the Borough Council may, by amendment to this section, designate for inclusion herein additional land, playgrounds or recreation places in the Borough.

2. This Ordinance shall take effect upon its passage and publication in accordance with the law.

**INTRODUCTION AND FIRST READING: ORDINANCE 2009-15,
BOND ORDINANCE PROVIDING FOR WATER MAIN EXTENSION
IMPROVEMENTS TO VARIOUS ROADS IN AND BY THE BOROUGH OF
HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING
\$2,200,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF
\$2,200,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF
THE COST THEREOF**

Ms. Gallagher reviewed the provisions of Ordinance 2009-15, noting that this amount will not be bonded, but rather borrowed at a very low rate of interest from the NJ Environmental Infrastructure Trust (75% at zero interest and 25% at market rate). The bond ordinance is the instrument through which the funds are borrowed. The \$2.2 million includes the project cost, professional fees and NJEIT administrative costs. Any excess appropriation will be cancelled once the total costs are known. The ordinance was moved for introduction by Councilmember Bond and seconded by Council President Sikorski.

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

Ordinance introduced, 5-0.

The public hearing and final reading for Ordinance 2009-15 was scheduled for September 8, 2009.

**INTRODUCTION AND FIRST READING: ORDINANCE 2009-16,
AN ORDINANCE APPROPRIATING \$21,700 FROM THE GENERAL CAPITAL
FUND BALANCE FOR IMPROVEMENTS TO BOROUGH FIRE TRUCKS**

Following a brief review by Ms. Gallagher and Fire Chief Larry Van Kirk, Ordinance 2009-16 was moved for introduction by Council President Sikorski and seconded by Councilmember Theokas. Ms. Gallagher noted that the funds being appropriated from capital with this ordinance are those funds which are being cancelled (with the adoption of Resolution 2009-181 in this meeting's consent agenda) and returned to capital from the bond ordinance adopted a few years ago for purchase of a new fire truck. They would be used for various repairs to fire apparatus and the purchase of new turnout gear.

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

Ordinance introduced, 5-0.

The public hearing and final reading for Ordinance 2009-15 was scheduled for September 8, 2009.

**INTRODUCTION AND FIRST READING: ORDINANCE 2009-17,
AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 4-21,
ENTITLED "TAXICAB LICENSING," OF CHAPTER 4, "GENERAL LICENSING,"
OF THE *REVISED GENERAL ORDINANCES OF THE BOROUGH OF
HIGHTSTOWN, NEW JERSEY***

Ms. Gallagher stated that this Ordinance represents the changes presented by the Borough's taxi committee, and she reviewed the changes included in the ordinance, including:

- Limiting the number of taxi companies to a maximum of seven;
- Limiting the number of taxicabs per company to a maximum of five;
- Providing the applications must be submitted no later than September 1 of each year for the following year; and
- Eliminating the reciprocal provision whereby those drivers holding a license in another Mercer County town would be exempt from certain requirements of the application process.

The ordinance was moved for introduction by Councilmember Quattrone and seconded by Councilmember Theokas. Discussion ensued.

Councilmember Bond asked that "the cheerleaders of this Ordinance" speak to explain the reasons for these changes.

Councilmember Theokas stated that, although he is a member of the taxi committee, he does not support this ordinance. The committee, he said, is comprised of himself, Mayor Patten, Councilmember Quattrone, Esther Velasquez (who could not attend this meeting), Police Chief James Eufemia, and Deputy Borough Clerk Leona Baylor. It was formed because the number of taxis operating in the Borough has increased substantially within a short period of time, and the Borough had received several complaints from residents. The committee first drafted an ordinance that, among other provisions, would allow a maximum of three companies to be licensed by the Borough, and a maximum of three vehicles to be operated per company. There were some outside opinions that a limitation of three companies and three vehicles was somewhat drastic, he said, and added that he agreed. However, there are currently seven companies operating in the Borough, so to limit the number of companies to seven, as this ordinance would, represents no change.

"This accomplishes nothing," Councilmember Theokas said. "We were charged with addressing a problem articulated by the public and backed up by the Chief, Leona and others. I thought we had compromised at a limit of four companies and four cars each. That is manageable and would ease residents' concerns. This, as it stands, even though I was on the committee, I can not support." Mr. Theokas said that he would recommend introducing the ordinance with a

maximum of four companies to be licensed and a maximum of four vehicles per company. Mr. Raffetto stated that the Borough could do this legally, and that there is precedent for that.

Councilmember Quattrone agreed with Councilmember Theokas that four companies with four taxis each is the right number, and said that he could not support this ordinance.

"Who *did* support this?" Councilmember McGinty asked.

Chief Eufemia stated that he was glad to be a part of the taxi committee. Geography is important, he said – the size of the town vs. the number of cabs operating within its borders. It was clear when we held the State inspection, he said, how many vehicles were registered, but not all of them were registered with the Borough. "No one on the committee got involved to try to put someone out of business or curtail their ability to make money," Chief Eufemia said, "but for a town that is one and a half square miles with 23 miles of roadways, 35 cabs is much too much." He said that, while the department will enforce whatever ordinance Council chooses to go with, this becomes difficult with that many taxicabs operating.

Councilmember Theokas thanked the Chief for his comments, and said that neither he, Councilmember Quattrone or Chief Eufemia were able to attend the committee meeting where this was decided. "I don't know how these numbers got into the ordinance," he said.

Mayor Patten stated that, if Council does not feel that the numbers in the proposed ordinance are appropriate, they can change its language before introducing it.

Councilmember McGinty stated that the initial ordinance drafted by the committee was removed from the agenda. The draft which was circulated at that time addressed the entire section of the Borough Code dealing with taxicab licensing. This ordinance, she noted, deals only with two sections. All other changes have been eliminated. She said it would be a "major step back" to enact this ordinance, and recommended that it not be introduced. "It needs work," she said, "and should have the consensus of the committee if it's going to be brought before us. The number of cabs is fundamental. It needs to go back to committee."

Ms. McGinty went on to say that, in June, she raised the issue of lifting the moratorium on the renewal of licenses, and asked if anyone has looked at the file to determine who has applied. Currently, she said, we do not have an inventory of the cabs, companies and drivers operating in our town. Lifting the moratorium was previously put aside, she said, because it was assumed that the taxi ordinance would be introduced at this meeting and "would breeze right through." She recommended that the moratorium be addressed now. "We have an ordinance that we can enforce," she said. "The issue is who the owners and drivers are."

Councilmember Bond asked how many taxi companies are licensed presently, and he was informed that seven taxi companies hold extended 2008 licenses. Councilmember McGinty stated that 20 drivers and 20 vehicles are licensed in the Borough, but not all came in for the inspection. Some may no longer be operating. 36 cabs were inspected, and there appear to be 40 on our streets. Mr. Bond asked if the existing ordinance limits the number of taxicab companies or vehicles. Ms. Gallagher and Chief Eufemia stated that it does not. Councilmember Bond stated that, if we were to lift the moratorium, the number of licensed vehicles could "skyrocket" to 40 or 45. If we were to subsequently limit the number of companies and taxicabs, a lot of those in the business would be upset. We could create a larger problem by lifting the moratorium, he said, and then having to tell the licensees that there would be some process to determine which of them would be licensed going forward.

Councilmember McGinty said that, right now, we can't tally which cabs are out there. Based on the inspections, we could expect that 36 cabs would seek to be licensed.

Mayor Patten said that one of the committee's concerns was that, if we reduced the number of cabs that could be licensed, we could see an increase in the number of "gypsy cabs" operating here, which would make things even more difficult for the police department.

Councilmember Theokas stated that "a reduced number of cabs is the answer ... and we can prosecute gypsy cabs. ... We can't allow it to play us, we have to play it."

Mayor Patten recommended that Council defeat the ordinance as drafted and send it back to the committee.

Councilmember Bond stated that the insurance requirement listed in the ordinance (\$50,000 / \$100,000) should be increased. Chief Eufemia noted that, regardless of the minimum coverage required by our ordinance, companies are generally unable to obtain omnibus license plates without having higher levels of coverage. Mr. Bond also recommended that the ordinance be changed to decrease the number of points on a license that would disqualify a driver from obtaining a Borough license. Currently, a driver with up to eight points on his license can obtain a taxi driver's license.

Chief Eufemia stated that complaints received have ranged from taxis parked in residential areas to taxis blowing their horns at odd hours, but "one complaint that we've never gotten is that no one has been able to get a cab. We are not looking to put anyone out of business," he said, "but the number of cabs is substantial for this area."

Councilmember McGinty noted that the State statute deals with the amount of insurance required for taxi companies.

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

Ordinance DEFEATED, 5-0.

INTRODUCTION AND FIRST READING: ORDINANCE 2009-18, AN ORDINANCE TO AMEND SECTION 18-1, "GARBAGE AND RUBBISH," AND SECTION 18-2, "RECYCLING," OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN

Following a review of its provisions by Ms. Gallagher, Ordinance 2009-18 was moved for introduction by Councilmember Bond and seconded by Councilmember Quattrone.

During her review, Ms. Gallagher noted that the ordinance was crafted by the solid waste committee to update our existing Code to reflect current practice under the automated collection system, to formally recognize the Solid Waste Committee, to establish a pay-to-throw program for bulk items and white goods and to increase the maximum fine for recycling violations from \$25 to \$500.

Councilmember McGinty stated that the solid waste committee is "in agreement that we support what we are presenting." Councilmember Bond, who also serves on that committee, commended Ms. Gallagher for her work in putting the ordinance together, and said "it is exactly where we want it. It's a good ordinance."

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

Ordinance introduced, 5-0.

The public hearing and final reading for Ordinance 2009-18 was scheduled for September 8, 2009.

RESOLUTIONS

RESOLUTION 2009-173, RESOLUTION ENDORSING THE 2009 HIGHTSTOWN TRIATHLON

Resolution 2009-173 was moved by Councilmember Quattrone and seconded by Councilmember Bond.

Councilmember Quattrone expressed his support for this Resolution. Councilmember Theokas expressed support for the Triathlon but questioned the need to adopt this Resolution, since an ordinance was just adopted to give the Parks Commission jurisdiction over recreational activities at Peddie Lake. Mr. Raffetto stated that, given that prior action, adoption of this Resolution "could be deemed to be superfluous," but could be adopted simply to show the support of Council. He recommended that the words "and hereby endorses any and all Borough advertising for the Triathlon" be removed from the Resolution.

Councilmember McGinty moved that the Resolution be so amended and her motion was seconded by Councilmember Theokas.

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

Motion carried (Resolution amended), 5-0. Discussion continued.

Councilmember McGinty expressed support for the Resolution, noting that the Triathlon may have been the Borough's most significant event last year. "There was an extraordinary effort by our volunteers at great personal cost in making sure this went forward," she said. "This Resolution tells them that we as Council appreciate and support them, and are willing to help them."

Councilmember Theokas stated that he would support and vote yes on this Resolution, but noted that there are other important Borough events as well, such as the Memorial Day parade, Community Fair, and Borough-wide garage sale.

Council President Sikorski questioned whether the Borough's endorsement of the Triathlon would incur a financial obligation, and asked who would pay for police protection for the event. He said that, while he is not questioning the merit of the activity itself, he will vote against the Resolution.

Mr. Raffetto noted that the Parks and Recreation Commission is empowered under the statutory framework to charge and collect fees associated with events and place them in a special account. Those funds, then, are to be available for all things associated with those events. If expenses went above and beyond the funds raised, he said, the Borough would be responsible

anyway, and this Resolution would not cause any greater financial liability on the Borough's part than would otherwise exist.

Mayor Patten questioned whether this Resolution would set a precedent wherein all Borough events would need a Resolution of support from Council. "Are we micromanaging?" he asked.

Councilmember McGinty stated that, last year, Council sponsored a Triathlon and some members were not aware that they did that. This is not a precedent, she said, but rather a recognition that, this year, Council is paying attention, and that they are involved in the Triathlon.

Resolution 2009-173, as amended, was then moved by Councilmember Theokas and seconded by Councilmember Quattrone.

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

Resolution adopted, 3-2.

RESOLUTION 2009-173 RESOLUTION ENDORSING THE 2009 HIGHTSTOWN TRIATHLON

WHEREAS, the Hightstown Board of Recreation Commissioners (the "Board") wishes to conduct the Second Annual Hightstown Triathlon (the "Triathlon") on September 27, 2009, as a fundraiser to support Board activities; and

WHEREAS, the 2008 Triathlon was an extremely successful event for the Borough; and

WHEREAS, in accordance with Section 2-31.6 of the Borough Code, the funds received as a result of the Triathlon shall be paid over to the Borough Treasurer and kept in a special fund which shall be under the control of the Board and used exclusively for the purposes enumerated in Section 2-31.6.

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 Borough hereby endorses the Triathlon as an official recreational event of the Borough.
2. That all funds received as a result of the Triathlon shall be paid over to the Borough Treasurer and kept in a special fund which shall be under the control of the Board and used exclusively for the purposes enumerated in Section 2-31.6.
3. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Board of Recreation Commissioners
 - b. Candace B. Gallagher, Borough Administrator/Clerk
 - c. Frederick C. Raffetto, Esquire, Borough Attorney
 - d. Arlene O'Rourke, Borough Treasurer

RESOLUTION 2009-177, RESOLUTION ESTABLISHING DEADLINE FOR PLACEMENT OF ITEMS ON BOROUGH COUNCIL MEETING AGENDA

Resolution 2009-187 was moved for adoption by Council President Sikorski and seconded by Councilmember Quattrone.

Council President Sikorski stated that adding things to the agenda at the last minute has been the "bane of his existence," and he expressed support for this Resolution.

Councilmember McGinty expressed concern that there was no provision in the Resolution for the addition of emergency items, and recalled that, early in the year, there was a "surprise addition" to the agenda, supported by Council President Sikorski, of a study by GHEWIP regarding consolidation. It can be difficult, she said, getting matters added to the agenda, and added, "I would be loathe to support any Resolution to add impediments to the preparation of the agenda. The simple recourse is to object, or vote against the amendment, or to consider the emergency or circumstances by which a matter is brought to us on short notice."

Mayor Patten noted that the agenda presented on meeting night is a proposed agenda, and Council can accept or amend it at the meeting.

Council President Sikorski apologized for the circumstances surrounding the addition of the GHEWIP study and said that he has taken steps to assure that it will not happen again. He said that he has approved several agenda changes, but objects to a Resolution presented at 7:00 for passage at that meeting.

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

Resolution adopted, 4-1.

**RESOLUTION 2009-177 RESOLUTION ESTABLISHING DEADLINE FOR PLACEMENT OF ITEMS
ON BOROUGH COUNCIL MEETING AGENDA**

WHEREAS, in order to provide adequate time for thoughtful and thorough review by members of the governing body, the Borough Council wishes to establish a firm deadline for placement of items on Council meeting agendas;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that no items shall be added to the agenda following the close of the business day on the Wednesday prior to such meeting, and that the agenda as drafted and approved by the Mayor shall be considered final at that time.

**RESOLUTION 2009-187, RESOLUTION OF THE BOROUGH OF HIGHTSTOWN, IN THE
COUNTY OF MERCER, NEW JERSEY MAKING APPLICATION TO THE LOCAL
FINANCE BOARD PURSUANT TO N.J.S.A. 58:11B-9(A) AND N.J.S.A. 2-
26(E)**

Following a brief review by Ms. Gallagher, Resolution 2009-187 was moved by Councilmember Theokas and seconded by Councilmember Bond.

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

Resolution adopted, 4-1.

**RESOLUTION 2009-187 RESOLUTION OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER,
NEW JERSEY MAKING APPLICATION TO THE LOCAL FINANCE BOARD PURSUANT TO
N.J.S.A. 58:11B-9(A) AND N.J.S.A. 2-26(E)**

WHEREAS, the Borough of Hightstown, in the County of Mercer, New Jersey (the "Borough") desires to make application to the Local Finance Board for its approval (i) pursuant to N.J.S.A. 58:11B-9(a) of a proposed financing through the 2009 New Jersey Environmental Infrastructure Trust Financing Program for water main improvements to Etra Road and Mercer Street and (ii) pursuant to N.J.S.A. 40A:2-26(e) of a non-conforming maturity schedule in connection with such financing;

WHEREAS, the Borough believes that:

- (a) it is in the public interest to accomplish such purpose;
- (b) said purpose or improvements are for the health, welfare, convenience or betterment of the inhabitants of the local unit or units;
- (c) the amounts to be expended for said purpose or improvements are not unreasonable or exorbitant;
- (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the local unit or units and will not create an undue financial burden to be placed upon the local unit or units;

NOW THEREFORE, BE IT RESOLVED BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY as follows:

Section 1. The application to the Local Finance Board is hereby approved, and the Borough's Bond Counsel and financial advisor, along with other representatives of the Borough, are hereby authorized to prepare such application and to represent the Borough in matters pertaining thereto.

Section 2. The Clerk of the Borough is hereby directed to prepare and file a copy of this resolution and an introduced bond ordinance with the Local Finance Board as part of such application.

Section 3. The Local Finance Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approvals as provided by the applicable New Jersey Statute.

CONSENT AGENDA

Resolutions 2009-178 through 2009-186 were moved for adoption 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 2009-178 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 **\$2,061,052.73** from the following accounts:

Current	\$ 1,843,704.37
W/S Operating	136,215.73
General Capital	11,741.75
W/S Capital	15,676.50
Animal Control	255.00
Trust	7,494.83
Grant	1,020.00
Public Defender	300.00
Unemployment Trust	10,699.25
Escrow - Subdivision & Site Plan	16,532.28
Lien Trust	16,094.02
Housing Trust	<u>1,319.00</u>

Total

\$ 2,061,052.73

RESOLUTION 2009-179

AUTHORIZING SANITARY SEWER CLEANING SERVICE

WHEREAS, in 2003, the Borough began a program to clean three to five miles of sanitary sewer pipe each year; and

WHEREAS, the Superintendent of the Advanced Wastewater Treatment Plant has obtained competitive quotes for the 2009 portion of this service and has recommended that the Borough engage Russell Reid of Keasbey, New Jersey to perform the cleaning for an estimated ten day period at a cost of \$1,365.00 per eight-hour day, as detailed on their quotation dated July 15, 2009; and

WHEREAS, the Chief Financial Officer has certified that funds for this expenditure are available;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough is hereby authorized to engage Russell Reid of Keasbey, New Jersey to perform sanitary sewer cleaning services as detailed herein.

RESOLUTION 2009-180

**ACCEPTING MEMBERSHIP OF SCOTT M. KRAKOWSKI
IN HIGHTSTOWN ENGINE CO. NO. 1**

WHEREAS, Scott M. Krakowski of Hightstown, New Jersey has applied for membership in Hightstown Engine Company No. 1; and

WHEREAS Mr. Krakowski has undergone and passed the required physical examination, and his membership application has been reviewed and approved by Fire Chief Lawrence Van Kirk;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the membership of Scott M. Krakowski in Hightstown Engine Company No. 1 is hereby accepted.

RESOLUTION 2009-181

**CANCELING UNEXPENDED BALANCE REMAINING IN BOND
ORDINANCE 2006-16**

WHEREAS, an unexpended balance of \$21,742.74 remains in Ordinance 2006-16, which funded the acquisition of a fire truck; and

WHEREAS, the purchase authorized therein has been completed and no further expenditures are necessary in connection with this project; and

WHEREAS, it is the recommendation of the Chief Financial Officer that the unexpended balance be canceled and credited to the General Capital Fund balance;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the unexpended balance of \$21,742.74 remaining in Ordinance 2006-16 is hereby canceled, and that said amount shall be credited to the Borough's General Capital Fund balance.

RESOLUTION 2009-182

MAKING APPOINTMENTS TO THE ECONOMIC DEVELOPMENT COMMITTEE

WHEREAS, the Mayor has recommended the following appointments to the Borough's Economic Development Committee to fill vacancies which currently exist:

Brent Rivenburgh
Tom Olsen

Unexpired two year term ending 12/31/2009
Unexpired two year term ending 12/31/2010; and

WHEREAS, it is the desire of the Borough Council to accept the Mayor's recommendations and confirm said appointments;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that Brent Rivenburgh and Tom Olsen are hereby appointed to the Economic Development Committee as detailed herein.

RESOLUTION 2009-183

MAKING APPOINTMENTS TO THE ENVIRONMENTAL COMMISSION

WHEREAS, due to the resignation of Ann Fischbach, a vacancy exists on the Environmental Commission; and

WHEREAS, the Mayor has recommended that Mellany Alio, currently serving as Alternate Member #1 of the Environmental Commission, be appointed to fill Ms. Fischbach's unexpired term, and that Harold Mulleavey be appointed to fill the position of Alternate #1, which would then be vacant; and

WHEREAS, it is the desire of the Borough Council to accept the Mayor's recommendations and confirm said appointments;

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

1. Mellany Alio is hereby appointed as a regular member of the Environmental Commission to fill the unexpired three-year term ending December 31, 2010.
2. Harold Mulleavey is hereby appointed as Alternate Member #1 of the Environmental Commission, to fill the unexpired two-year term ending December 31, 2010.

RESOLUTION 2009-184

AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL-204 TO HIGHTSTOWN WOMAN'S CLUB

WHEREAS, the Hightstown Woman's Club wishes to hold an off-premise merchandise raffle at 320 North Main Street on February 27, 2010; and

WHEREAS, the group has submitted application number RA-204 for this raffle, together with the required fees; 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-204 to the Hightstown Woman's Club for their raffle to be held on February 27, 2010.

RESOLUTION 2009-185

AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL-205 TO HIGHTSTOWN APOLLO LODGE #41 F&AM

WHEREAS, Hightstown Apollo Lodge #41 F&AM wishes to hold an off-premise "duck race" merchandise raffle at Peddie Lake Dam on October 10, 2009; and

WHEREAS, the group has submitted application number RA-205 for this raffle, together with the required fees; and

WHEREAS the group is currently registered with the Legalized Games of Chance Control Commission, holding registration identification number 209-6-37719, which registration expires on June 24, 2010; 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-205 to Hightstown Apollo Lodge #41 F&AM for their raffle to be held on October 10, 2009 as outlined herein.

**RESOLUTION 2009-186 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:

	THIS RESOLUTION	PREVIOUS TOTAL	CUMULATIVE TOTAL
Current	27,078.00	2,665,359.00	2,692,437.00
Capital Outlay – Current	0.00	0.00	0.00
Debt Service - Current	0.00	53,870.00	53,870.00
Water/Sewer	800.00	1,285,385.00	1,286,185.00
Capital Outlay – W/S	0.00	50,000.00	50,000.00
Debt Service - W/S	0.00	110,908.50	110,908.50
TOTAL	27,878.00	4,156,922.50	4,184,800.50

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.

PUBLIC COMMENT II

Mayor Patten opened the floor once again for public comment.

Phyllis Deal, 305 Stockton Street, asked if Peddie Lake extends beyond the Borough's borders. Members of Council replied that it does not. With respect to the taxi ordinance, Ms. Deal suggested that the Borough consider limiting things to a maximum of seven companies and four taxicabs each. Lastly, she questioned whether the lake lowering would impact the Triathlon.

Torry Watkins, 68 Meadow Drive, urged Council, in considering the taxi ordinance, to consider the market for taxis in Hightstown. He would like to be sure that people can still get cabs, and

expressed concern about the difficulty it could pose to our residents if we reduced the number of cabs operating in the Borough from 40 to 16. The number of taxis has probably increased, he said, because the demand for them has increased, and those who use them most are the working poor. He urged Council to consider the impact of reducing the number of cabs available.

Kathy Patten, 135 South Street, said that she is glad that the taxi committee will meet again regarding this ordinance. She attended the committee's last meeting, she said, and there was consensus regarding the changes proposed, but it was a very small group. She added that Councilmember McGinty attended that meeting and provided some input which was helpful. She asked Council to remember that "transportation is a basic need, and you represent all the people. There is a significant number of people here who need transport, and can't get it any other way." She said that she worries about the impact of reducing the number of taxis, and added that the seven licensed companies have been trying to comply with the Borough's ordinances. It is the gypsy cabs, she said, that are the problem. "How do you take business away from somebody?" she asked. "How can we do that to people? Remember the entire population that you represent."

Eugene Sarafin, 600-628 South Main Street, agreed with comments by Mr. Watkins and Ms. Patten. "One third of our community is Hispanic," he said, "and at least half don't have driver's licenses." He said that limiting the number of taxis would be a big mistake, as they are used continuously. He asked Council to reconsider that.

Darek Hahn, 102 Manlove Avenue, stated that he has an issue with taxi owners who use their home as a taxi stand. He thanked Council for their action placing the recreational use of Peddie Lake under the Parks Commission's jurisdiction. Lastly, Mr. Hahn spoke of problems with speeding on Manlove Avenue, asked Council to look at the possibility of installing speed bumps on streets that are used as bypasses, such as Manlove and Orchard Avenue, and find a way to do it without spending tax dollars. He offered to serve on a subcommittee to address this.

Dan Buriak, 194 Stockton Street, stated that there are several residences in the Borough that are "in the business of conducting yard sales," and recommended that the Borough Code be amended to restrict the number of yard sales at any household to four per year. They could be registered with, and even promoted by, the Borough, he said.

No one else came forward and the floor was closed.

COUNCIL COMMENTS AND COMMITTEE REPORTS

Councilmember Theokas reported that the Economic Development Committee met and voted to add two new members that were appointed by Council at this meeting. With respect to Mr. Hahn's concerns regarding traffic, Mr. Theokas stated that he, Chief Eufemia and Councilmember McGinty serve on a subcommittee recently formed for that purpose, and met recently with residents of South Main Street. He agreed with Mr. Buriak that yard sales should be regulated. Lastly, with respect to the taxi ordinance, Councilmember Theokas stated that the committee has not been "arbitrary" in its recommendations, and gathered a lot of opinions. "We're not closing anyone's business," he said. "Most have dual licenses in East Windsor and Hightstown." He stated that they have heard complaints from those who want fewer cabs in town, and, although we are a free market, there are numerous examples of restricting licenses in order to maintain control, such as with liquor licenses. "We do have a large Hispanic population," he said, "but they don't all need taxicabs. That's not true. We did look at and study these things."

Councilmember McGinty commented on several topics.

- She noted that National Night Out would be held on the following evening from 6 to 9 p.m., and she is hoping for a good turnout.
- She reported that she, Chief Eufemia and Councilmember Theokas met with a group of South Main Street residents to discuss traffic issues raised by them. There is a follow up meeting scheduled for the last Wednesday in August. Many citizens are willing to contribute to solutions for these issues, she said, including ing and/or providing funding for speed bumps, speed monitors, etc.
- With respect to Mr. Buriak's offer to purchase banners for the Stockton Street Historic District, Councilmember McGinty stated that "it is wonderful to see a resident seeing a need and coming up with the money for it." In beautification, she said, there is a carryover impact in other areas of the Borough. She thanked him for that offer and for his efforts in bringing additional funding into the Borough.
- She commended Ms. Gallagher for her work in revising and drafting the solid waste ordinance and for her "spectacular efforts" in other areas, including the quality and thoroughness of the minutes she provides and of the Borough website she maintains. In looking at the websites of other towns, she said, there is not much that is comparable to what the Borough has.
- She again stated that the Borough needs to have a subcommittee to address COAH issues.
- She said that she listened to the tape of the July 20 Council meeting, and, while she appreciates the First Amendment, she said that she is "not convinced that it protects those who would attack with anger and venom elected officials or those who serve in an administrative capacity." She said that it pained her to hear comments made at that meeting, and while the minutes may reflect the attack, they cannot replicate its tone. "Could we minimize rancor?" she asked. "It 's not constructive ... and sets us all back." She noted that, when the attack began, a parent took their child out of the room. "The damage is to all of us," she said. "We are tolerating discourse which drives people out of meetings." It was not just the child, she added. When a person in the audience disagreed with the speaker, that person came under attack as well. She asked that comments address political activities without being directed at individuals. In thinking about this, she said, "I shook my head, wondering, how does the First Amendment protect *that*?" The damage, she said, is that fewer people want to attend our meetings, or want to return. In addition, any ideas expressed in a tirade are lost on the audience. What people respond to is the anger, vitriol and cursing. "Could we change the tenor?" she asked.

Councilmember Bond stated that he was going to speak also about this. "The personal attacks have gotten out of hand," he said. "You can disagree, but to personally attack us and the Clerk/Administrator who has done nothing but a fine job is out of hand. If it happens again, I'll walk out again. I hope it stops. It is going beyond reasonableness."

Council President Sikorski expressed agreement with Councilmembers Bond and McGinty regarding personal attacks. He also noted the "lovely human interest story" in the *Windsor Hights Herald* about Marita Ropars (Hightstown High School class of '64), who is now a bestselling author using the pen name Mariah Stewart. Her parents still live in the Borough, he said. Mr. Sikorski went on to say that the Hightstown Council has taken the lead in pay-to-play

issues by not accepting contributions from professionals, and he would like to include on the next agenda a Resolution to support a bill currently “languishing in the legislature” regarding wheeling, pay-to-play and forfeiture of office. It would go a long way toward addressing corruption, he said. In addition, he reported that the Historic Preservation Commission would be meeting on the next evening to discuss a proposed ordinance that will be submitted to the Planning Board, and eventually to Council. Lastly, Council President Sikorski asked the Borough attorney to look into whether the Borough’s publicizing garage sales would create any legal issues around the collection of sales tax.

Councilmember Quattrone thanked Larry Blake and the Public Works crew for their work maintaining the flower baskets. The rain, he said, has made it difficult to maintain the proper levels of fertilizer and moisture, but they’ve done a fine job and the flowers have held up well. He went on to express his strong support for the solid waste ordinance introduced earlier in the meeting. He said that he has been out there “trying to enforce [recycling regulations] as best I can” and will be out there again. Mr. Quattrone went on to report that the First Aid Squad has run into problems with the new ambulance. It is under warranty, and has been back to the dealer several times, during which time it was necessary to use a backup rig. He thanked the Parks and Recreation Commission for their work, and commended Dan Buriak for his volunteer efforts.

Ms. Gallagher noted that the training mandated by the Borough when the liquor license for Tavern 103 was approved on July 6 has been accomplished, and she has received documentation in that regard. As such, the condition placed upon the renewal of that license for 2009-10 has been satisfied.

Chief Eufemia invited all to attend National Night Out on the following evening.

Mayor Patten stated that he spent a good portion of his life as an educator, and it was often his duty to break up fights and protect those who were being bullied. Even out of the classroom, he said, “we still have bullies,” and it is important to speak out against that, as it has consequences for all. He expressed his agreement with comments made earlier by Councilmembers Bond and McGinty regarding personal attacks, and said that there should be consequences for those who continue to attack. “We’re a model for other towns,” he said. “We’ve been praised by the State for being open. We have to model the good things and can’t be nasty to one another. There are better things that can come out of all this.”

EXECUTIVE SESSION

Ms. Gallagher read aloud Resolution 2009-176, authorizing a closed session for the purpose of discussing personnel, litigation and advice of counsel. The Resolution 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 2009-176

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 August 3, 2009 at approximately 9:45 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:

Personnel

Advice of Counsel

Litigation: Greystone Capital Partners, LLC; 480 Mercer Street, LLP and Bruckner Southern, LLC

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: November 3, 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 Theokas and unanimously approved. The meeting was adjourned at 10:28 p.m.

Respectfully submitted,

Candace B. Gallagher, RMC
Borough Clerk/Administrator