

## 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: Leona Baylor, Deputy Borough Clerk; Frederick Raffetto, Borough Attorney; Carmela Roberts, Borough Engineer; James Eufemia, Chief of Police and George Lang, Chief Financial Officer who arrived at 7:15pm

### APPROVAL OF AGENDA

The agenda was moved as amended by Council President Sikorski, amending the title of Resolution 2009-227; seconded by Councilmember Quattrone and approved

### APPROVAL OF MINUTES

Minutes of the August 17, 2009 special meeting open session was moved by Council President Sikorski; seconded by Councilmember Theokas and approved by all.

Minutes of the August 27, 2009 special meeting open and closed sessions were moved by Council President Sikorski, seconded by Councilmember Quattrone and approved. Councilmember Schneider abstained.

Minutes of the September 8, 2009 open and closed sessions were moved by Council President Sikorski, seconded by Councilmember Bond and approved. Councilmember McGinty abstained.

Mayor Patten pulled the minutes of September 21, 2009 for further amendment.

### RESOLUTION 2009-223, RECOGNIZING BREAST CANCER AWARENESS MONTH

Mayor Patten read resolution 2009-223 aloud, Council President Sikorski moved the resolution and seconded by Councilmember Bond.

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

Resolution adopted 6-0.

The Mayor presented the resolution to Shirley Olsen, President of the Hightstown Women's Club and to Dale Grubb, President of the Friday Club. He thanked both women for both of their organizations' efforts to education woman in the importance of early detection by obtaining mammograms and with breast examinations.

#### **RESOLUTION 2009-223**

#### **A RESOLUTION PROCLAIMING OCTOBER AS NATIONAL BREAST CANCER AWARENESS MONTH**

WHEREAS, breast cancer is the most common cause of cancer deaths among women; and

WHEREAS, the chances of developing invasive breast cancer at any age in a woman's life today is about one in seven; and

WHEREAS, in 2009, over 200,000 new cases of female invasive breast cancer will be diagnosed and over 40,000 of those women ultimately dying from the disease; and

WHEREAS, early detection and improved treatment are believed to have a direct correlation to the declining death rates from breast cancer; and

WHEREAS, the most effective method of detecting breast changes long before physical symptoms can be seen or felt is mammography, an "x-ray" of the breast; and

WHEREAS, the New Jersey State Federation of Women's Clubs of GFWC, the Women's Club of Hightstown and the Friday Club of Hightstown, as members of the Federation, join with women's clubs throughout the State of New Jersey in urging women to receive annual mammograms.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Hightstown, do hereby proclaim the month of October to be National Breast Cancer Awareness Month and October 19<sup>th</sup> to be National Mammography Day in our community; and

BE IT FURTHER RESOLVED that the Mayor and Council join the dedicated volunteers of the New Jersey State Federation of Women's Clubs of GFWC, the Women's Club of Hightstown and the Friday Club of Hightstown in emphasizing the need for women to receive annual mammograms.

## **PUBLIC COMMENT I**

Phyllis Deal, 305 Stockton Street, stated that there have been comments in the community regarding the feral cat population and the assumed destruction of private property by these cats. The Animal Welfare Committee in the last three years has worked hard to control the population through the Borough's TNR (trap-neuter-release) program. The committee has been able to trap and neuter over 220 cats and many others have been adopted.

Stacey Trent, 163 Rogers Avenue, stated that the Borough needs better enforcement on issues such as property maintenance and noise; the current ordinances have no "teeth."

## **ENGINEER'S ITEMS**

Ms. Roberts reported that the work on the Peddie Dam by B & B Construction was almost complete, the stonework has been completed and the leaks repaired. The project to date is running well and recommends the first payment be made.

Resolution 2009-224 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 2009-224                      AUTHORIZING PAYMENT NO. 1 – B & B CONSTRUCTION, CO., LLC  
(PEDDIE LAKE DAM IMPROVEMENTS)**

**WHEREAS**, on August 3, 2009, the Borough Council awarded a contract for Peddie Lake Dam improvements to B & B Construction Co., LLC of Howell, New Jersey in the amount of One Hundred Forty-Three Thousand Dollars (\$143,000.00); and

**WHEREAS**, the contractor has submitted Payment Request No. 1 for work done in the total amount of \$65,170.00; and

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

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that Payment Request No. 1 from B & B Construction Co., LLC of Howell, New Jersey in the amount of \$65,170.00, as detailed herein, is hereby approved, and the Treasurer is authorized to issue same, subject to receipt of all required certified payrolls

Ms. Roberts reported that during the work on the dam it became apparent that the previously acknowledged damage of the dam walkway has become increasing worse and has reached a point that public safety has become an issue. After consulting with Larry Blake, the Public Works Superintendent the walkway was closed off and she reached out to several contractors for quotes to remove the walkway. Lucas Construction provided the lowest quote at a price not to exceed \$12,950.00. There was discussion of what the area would look like after the walk was removed, where the funding could be found and future possibility of replacing the walk. Ms. Roberts assured the Council and the public that the area would be adequately secured to avoid trespassing, the funding to remove the walkway has been secured by the Borough's Finance Office through previously approved capital ordinances with funds remaining so no new money is needed and that the Borough could possibly apply for and receive a NJDEP grant for the replacement of the walk.

Resolution 2009-225 was moved by Councilmember Bond and seconded by Councilmember Quattrone.

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

Resolution adopted 6-0.

**RESOLUTION 2009-225                      AWARDING CONTRACT TO LUCAS ELECTRIC FOR EMERGENCY  
REMOVAL OF PEDDIE LAKE DAM SIDEWALK**

**WHEREAS**, N.J.S.A. 40A:11-6 provides that purchases may be authorized and contracts awarded without public advertising for bids when an emergency affecting the public health, safety or welfare requires immediate action; and

**WHEREAS**, the Borough Engineer has notified the Council that immediate removal of the elevated walkway over the Peddie Lake Dam is needed, and has provided a written statement of the nature of this emergency and the need for immediate action, in accordance with the requirements of N.J.S.A. 40A:11-6, which statement is attached hereto and made a part of this resolution; and

WHEREAS, she has solicited competitive quotations for this removal, and has recommended the removal be performed by the company submitting the lowest price, Lucas Electric of Hightstown, New Jersey, for a cost not to exceed \$12,950.00; and

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the walkway be repaired as outlined herein for a total price not to exceed \$12,950.00 is hereby approved.

## ORDINANCES

### PUBLIC HEARING AND FINAL READING: ORDINANCE 2009-22, AN ORDINANCE PROVIDING FOR HISTORIC PRESERVATION COMMISSION AND PROVIDING FOR THE DESIGNATION, PRESERVATION AND PROTECTION OF HISTORIC LANDMARKS AND HISTORIC DISTRICTS WITH THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER AND STATE OF NEW JERSEY

The Mayor opened the meeting for public hearing, no one came forward.

Ordinance 2009-22 was moved by Councilmember Bond and seconded by Councilmember McGinty.

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

Ordinance adopted 6-0.

### ORDINANCE 2009-22, AN ORDINANCE PROVIDING FOR A HISTORIC PRESERVATION COMMISSION AND PROVIDING FOR THE DESIGNATION, PRESERVATION AND PROTECTION OF HISTORIC LANDMARKS AND HISTORIC DISTRICTS WITHIN THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER AND STATE OF NEW JERSEY

WHEREAS, in the year 1721 John and Mary Hight purchased a three thousand acre tract of land in the province of New Jersey from the crown of England, and adjoining the land of William Penn; and

WHEREAS, John and Mary Hight as the founders of Hightstown Borough in the New World launched the development of a rich historical and cultural inheritance for the present-day community, with the Borough still containing many heritage resources that tell of its evolution; and

WHEREAS, the historical, cultural, architectural, archaeological, economic and social heritage of the Borough of Hightstown is entrusted from generation to generation, enriched and then passed on; and

WHEREAS, the Mayor and Council of Hightstown Borough believe that the small town historic character and the quality of life of the citizens of the Borough depend in great measure upon its rich heritage; and

WHEREAS, the Hightstown Borough Master Plan contains numerous references emphasizing the necessity to preserve and protect the existing historical resources and character of the Borough; and

WHEREAS, the Hightstown Borough Town Center Designation is incorporated into the NJ State Development and Redevelopment Plan, outlining the Borough's specific historic preservations goals which include the development of an historic district and preservation ordinance; and

WHEREAS, the Delaware Valley Regional Planning Commission's (DVRPC) Long Range Plan through 2035, titled "Connections" emphasizes the importance of historic preservation and specifically cites the Stockton Street Historic District as listed on the National Register of Historic Places; and

WHEREAS, in order to carry out this preservation, the Mayor and Council wish to protect and encourage restoration, preservation and to assure the sustainability of certain heritage resources located within the Borough; and

WHEREAS, the New Jersey Statewide Historic Preservation Plan provides a comprehensive blueprint for historic preservation as an "essential element of promoting livable communities in New Jersey"; and

WHEREAS, the New Jersey State Development and Redevelopment Plan, Office of Smart Growth, Goal #7 cites the necessity to identify, preserve, and provide limited protection of historic resources; and

WHEREAS, the Hightstown Borough Mayor and Council recognize that historic preservation planning will serve to maintain the historic character and quality of life for the citizens of the Borough; and

WHEREAS, the Hightstown Borough Mayor and Council believe that the creation of an "Historic Preservation Commission," and the establishment of governance for the designation, preservation and limited protection of Historic Landmarks and Historic Districts within Hightstown Borough will greatly assist in achieving these worthy goals; and

WHEREAS, the designation, preservation, and protection of the Borough's historical resources will serve to enhance the general welfare of the citizens of Hightstown Borough, and will promote Hightstown's rich historical heritage.

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

Section 1. Section 2-45, entitled "Historic Preservation Commission," of the *Revised General Ordinances of the Borough of Hightstown* is hereby deleted in its entirety, and replaced with new Section 2-45, as set forth on Schedule "A," attached.

Section 2. The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

Section 3. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

Section 4. This Ordinance shall take effect upon final passage and publication in accordance with the law.

"Schedule A" attached to end of minutes

## **INTRODUCTION AND FIRST READING: ORDINANCE 2009-19, AN ORDINANCE AMENDING CHAPTER 8, "TOWING," OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN**

The ordinance was originally tabled because of concerns on limiting the eligibility of the smaller tow companies the ordinance was modified to require only one heavy duty wrecker.

The ordinance was moved by Councilmember Bond and seconded by Councilmember Schneider.

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

Ordinance introduced 6-0, final reading and public hearing at the next regular meeting.

## **RESOLUTIONS**

### **RESOLUTION 2009-218, RESOLUTION CALLING UPON THE STATE LEGISLATURE TO ADDRESS THE INEQUITY IN THE COURT DECISION OF HOMES OF HOPE V. TOWNSHIP OF EASTAMPTON**

Resolution 2009-218 was presented at the last regular meeting and tabled to the current meeting to allow additional review by council members.

There was discussion on the relevance of the resolution to the Borough and on the interpretation of the decision made by the court. Some members felt that the resolution did not address any issues regarding the Borough and therefore the Borough should not pass the resolution. The Borough's participation in COAH was also discussed with some members giving their opinion that COAH is not needed in the Borough.

Resolution 2009-218 was moved by Councilmember Schneider and seconded by Councilmember Theokas.

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

Resolution defeated 4-1.

## **CONSENT AGENDA**

Resolutions 2009-226, 2009-227 and 2009-228 were moved by Council President Sikorski and seconded by Councilmember Quattrone.

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

Resolutions adopted 6-0.

**RESOLUTION 2009-226****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 \$1,479,349.54 from the following accounts:

|                 |                               |
|-----------------|-------------------------------|
| Current         | \$ 1,088,126.47               |
| W/S Operating   | 210,301.15                    |
| General Capital | 73,622.00                     |
| W/S Capital     | 100,522.86                    |
| Animal Control  | 10.80                         |
| Trust           | 3,450.46                      |
| Public Defender | 377.63                        |
| Grant           | 2,924.00                      |
| Housing Trust   | <u>14.17</u>                  |
| <b>Total</b>    | <b>\$ <u>1,479,349.54</u></b> |

**RESOLUTION 2009-227****A RESOLUTION AUTHORIZING THE SUSPENSION OF THE COLLECTION OF "GROWTH SHARE" FEES AND AUTHORIZING A REFUND OF CERTAIN GROWTH SHARE FEES PREVIOUSLY COLLECTED FROM MICHAEL SHEENAN AND RONALD WILLIAMS**

WHEREAS, pursuant to Ordinance 2005-28 (adopted on September 6, 2005) and Section 26-11 of the Revised General Ordinances of the Borough of Hightstown (also referenced as the "Borough Code"), entitled "Growth Share Affordable Housing Requirements," the Borough established certain requirements in an attempt to comply with the New Jersey Council on Affordable Housing's (COAH's) Third Round "Growth Share" methodology; and

WHEREAS, under the "Growth Share" methodology, municipalities attempted to provide their fair share of affordable housing based upon the rate of growth experienced within the municipality; and

WHEREAS, the "Growth Share" approach was premised upon the provision of at least one (1) affordable housing unit for every eight (8) market rate residential housing units built, as well as one (1) affordable housing unit for every twenty-five (25) jobs created within the municipality; and

WHEREAS, in order to assist with the funding and provision of low and moderate income housing, municipalities were permitted to enact "in lieu of" payments to be charged to residential developers in lieu of their construction of affordable housing units; and

WHEREAS, said "in lieu of" payments were to be set aside and used exclusively for the provision of low and moderate income housing by the municipalities; and

WHEREAS, pursuant to Ordinance 2005-28 and Section 26-11 of the Borough Code, the Borough of Hightstown determined that residential development projects that were less than nine (9) units in size, and which were not "inclusionary" developments (i.e., containing affordable units), would be assessed a Growth Share Payment in the amount of \$21,750.00 per unit, with half of that fee due at the time of issuance of a building permit and the other half of the fee due at the time of issuance of a Certificate of Occupancy; and

WHEREAS, the Mayor and Borough Council have been advised that, since the adoption of Ordinance 2005-28 and Section 26-11 of the Borough Code, a Growth Share Fee has been levied and assessed against two (2) Hightstown property owners as follows: (1) Michael Sheenan, for the development of a single-family home located at Block 3, Lot 7.01, and (2) Ronald Williams, for the development of a single-family home located at Block 3.01, Lot 34.02; and

WHEREAS, each of the aforesaid property owners has posted half of the Growth Share fee for their respective properties, amounting to \$10,875.00 each; and

WHEREAS, each of these property owners constructed a single-family home within the Borough for the purpose of occupying them at this time, and neither is in the business of developing real properties for re-sale; and

WHEREAS, since the adoption of Ordinance 2005-28 and Section 26-11 of the Borough Code, the COAH Third Round Rules and methodologies have been the subject of litigation and are currently in a state of flux; and

WHEREAS, the Mayor and Borough Council have determined that the existing provisions of Ordinance 2005-28 and Section 26-11 of the Borough Code (which embody the "Growth Share" approach) operate in an inequitable manner against property owners who are not in the business of constructing new homes for re-sale, but rather, who are constructing homes for their own occupancy; and

WHEREAS, as a result, the Mayor and Borough Council intend to repeal Ordinance 2005-28 and Section 26-11 of the Borough Code, in favor of requiring all developers of real property (i.e., both residential and non-residential) to pay a Development Fee in accordance with Section 26-10 of the Borough Code, entitled "Mandatory Development Fees," as amended from time to time; and

WHEREAS, the Mayor and Borough Council believe that the imposition of a Development Fee (which is based on a percentage of the equalized assessed value of the property) is more equitable than the flat fee imposed under the "Growth Share" approach enacted per Ordinance 2005-28 and Section 26-11 of the Borough Code; and

WHEREAS, pending this change in the Borough's Ordinances, the Mayor and Borough Council wish to immediately suspend the collection of Growth Share Fees; and

WHEREAS, pending this change in the Borough's Ordinances, the Mayor and Borough Council also wish to authorize a refund of certain Growth Share fees previously paid by Mr. Sheenan and Mr. Williams, which refund shall be taken out of the Borough's Affordable Housing Trust Fund, such that the amount of funds to be retained by the Borough will be equivalent to that which would be payable under Section 26-10 of the Borough Code, as amended from time to time.

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

1. That the Borough wishes to immediately suspend the collection of Growth Share Fees pursuant to Ordinance 2005-28 and Section 26-11 of the Borough Code.
2. That the Borough hereby authorizes and directs the appropriate Borough Officials to refund certain Growth Share fees previously paid by Mr. Sheenan and Mr. Williams, which refund shall be taken out of the Borough's Affordable Housing Trust Fund, such that the amount of funds to be retained by the Borough will be equivalent to that which would be payable under Section 26-10 of the Borough Code, as amended from time to time.
3. That a Certified copy of this Resolution shall be provided to each of the following:



- a. Mr. Sheenan and Mr. Williams
- b. Arlene O'Rourke, Treasurer
- c. George Lang, Chief Financial Officer
- d. Gail Pfister, Municipal Housing Liaison
- e. Frederick C. Raffetto, Esq., Borough Attorney
- f. Gary Rosensweig, Esq., Planning Board Attorney
- g. Tamara Lee, Borough Planner
- h. Leona Baylor, Planning Board Secretary and Deputy Municipal Clerk

**RESOLUTION 2009-228**

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

WHEREAS, the Borough of Hightstown has a need to retain a professional planner to serve as an expert witness on behalf of the Borough in certain litigation which is currently pending before the Superior Court of New Jersey, Law Division, Mercer County, known as, 480 Mercer Street, LLP and Bruckner Southern, LLC vs. Borough of Hightstown, bearing Docket No. MER-L-3034-08; and

WHEREAS, the firm of Tamara Lee Consulting, LLC (the "contractor") has offered to perform such services at the rate of \$105.00 per hour, as set forth in the attached letter dated September 15, 2009; and

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

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

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

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

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

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

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

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

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

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

## **UNFINISHED BUSINESS**

There was discussion of the proposed amendments of the taxi ordinance with a request to unify the language in the ordinance regarding references to the company owner. The Council also discussed the merits of including the Zoning Officer in the review of taxi applications, insurance limits and the ability to set the rates.

It was agreed to remove the Council requirement to set the rates from the ordinance, the Zoning Officer would be included in the review process of taxi applications and the proposed increase for insurance was continued, no decision was made.

## **PUBLIC COMMENT II**

Phyllis Deal, 305 Stockton Street, stated she was uncomfortable with just fencing the blocked off the area of the Peddie dam walkway that will be removed and was concerned with someone attempting the climb the fence. Also she recommended the taxi owners carry and excess liability policy to meet the proposed insurance requirements discussed by Council.

David Bell, First Avenue, did not understand the difficulty the Council was having on setting the regulations of the taxis. Years ago there was only one company and one car and if you called after a certain time of night he was not available.

## **COUNCIL COMMENTS AND COMMITTEE REPORTS**

Councilmember Theokas responded to Ms. Deal's comments saying the sidewalk has to be removed and the proposed fencing is more than adequate.

Councilmember McGinty asked Ms. Trent to meet with her after the meeting regarding her concerns. She then reported that the Triathlon was a great success, even with the rain. She

stated she understands the opinion of others that the Borough doesn't need COAH but the previous resolution regarding COAH was not the correct forum to request the legislature to address the COAH issues. She asked if the status of the Borough's COAH submission is available and once again recommended a COAH Committee be created by the Borough.

Council President Sikorski reported that the new Clerk will be starting on October 13, 2009, interviews for the administrator have begun and that The Mayor has stepped in to perform some of the administrator duties.

Councilmember Schneider commented that the article in the Windsor Hights Herald regarding the EMS response; to his knowledge was based on the opinion of one person not actual Borough records. The changes made by the Borough regarding EMS services have been a cost savings.

Councilmember Quattrone reported that the Fire Department won its eighth first place trophy at the recent state competition. The Parks and Recreation Committee did a great job for the triathlon, he than acknowledged Cranbury for their recent mutual aid assistance with an EMS call within the Borough.

Chief Eufemia, thanked the County for their placement of the message boards to help detour traffic during the triathlon over the weekend. Saturday there were 63 participants and 153 on Sunday and it was a well organized and run well event. Regarding the concerns over the fencing at the Peddie Dam walkway, he responded that the officers are well aware of the project and the community concerns and will be keeping an eye on the area.

Mayor Patten stated that the Peddie walkway is a temporary issue that will be replaced at the Borough's earliest ability. Regarding Ms. Trent's concerns he responded that he is aware of the issues and that she is not the only one but encourages her to call the police when there are any difficulties; names of the callers are not revealed to your neighbors. He thanked all the Borough volunteers for all their hard work and dedication to the Borough.

## **EXECUTIVE SESSION**

Resolution 2009-222 was moved by Council President Sikorski and seconded by Councilmember Schneider.

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

Resolution adopted 6-0.

### **RESOLUTION 2009-222**

### **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 October 5, 2009 at approximately 8:17 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:

**Contract Negotiations  
Americana Diner Lease Agreement**

**Attorney/Client Privilege  
Agreement with Patriot Consulting, Inc for Shared Police Service**

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: January 5, 2010 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.

After reconvening, Resolution 2009-229 was moved by Council President Sikorski and seconded by Councilmember Schneider.

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

Resolution adopted 5-0.

**RESOLUTION 2009-229**

**RESOLUTION AUTHORIZING A SECOND EXTENSION OF THE TEMPORARY USE AND OCCUPANCY AGREEMENT BETWEEN THE BOROUGH OF HIGHTSTOWN AND AMERICANA R.D., INC., REGARDING A PORTION OF THE PROPERTY KNOWN AND DESIGNATED AS BLOCK 7, LOT 41**

WHEREAS, on February 19, 2008, the Borough Council approved Resolution No. 2008-71, which authorized the Borough to enter into a Temporary Use and Occupancy Agreement (the "Agreement") with Americana R.D., Inc. (the "Diner"), which authorized the Diner to temporarily use and occupy a portion of the property known and designated as Block 7, Lot 41 on the Borough's Tax Map (hereinafter referenced as the "Property"); and

WHEREAS, the parties executed the Agreement on or about March 11, 2008; and

WHEREAS, the Agreement was intended to be effective for a term of no more than 120 days; and

WHEREAS, thereafter, by Resolution No. 2008-244, adopted on October 6, 2008, the Borough awarded a lease of the property to the Diner, following a public bidding process which was undertaken pursuant to N.J.S.A. 40A:12-14(a); and

WHEREAS, the Diner requested that the commencement of the lease term be delayed until such time as the Diner has secured necessary development approvals to expand its operation; and

WHEREAS, on December 1, 2008 the Borough Council approved Resolution 2008-284 further extending the Temporary Use and Occupancy Agreement; and

WHEREAS, the Agreement permits the parties to extend the term thereof, upon mutual consent, on a month to month basis thereafter but in no event for longer than six (6) months from the date of adoption of Resolution 2008-284; and

WHEREAS, the six (6) months has lapsed and the Diner has not secured the necessary approvals to expand its operation but has continued payment on a month to month basis; and

WHEREAS, it is the consensus of the Borough Council to provide consent to extend the Agreement further, on a month to month basis, but in no event for longer than six (6) months from the date of adoption of the within Resolution.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, 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 Borough hereby provides its consent to extend the term of the Agreement, on a month to month basis, until such time as the Diner has secured necessary development approvals to expand its operation, but in no event for longer than six (6) months from the date of adoption of the within Resolution.
2. That all of the terms and conditions contained within the original Agreement shall apply to the extension period, except that the term shall be on a month to month basis as set forth in Paragraph 1 above.
3. That no further approvals shall be necessary from the Mayor and Borough Council in order to allow the extension period to continue until such time as the Diner has secured necessary development approvals to expand its operation, but in no event shall such extension endure for longer than six (6) months from the date of adoption of the within Resolution.
4. That the Mayor is hereby authorized to execute and the Borough Clerk to attest any and all documents that are necessary to effectuate the extension period referenced above.

BE IT FURTHER RESOLVED, that a certified copy of the within Resolution shall be provided to each of the following:

1. Americana R.D., Inc.
2. Larry Blake, Director, Dept. of Public Works
3. Frederick C. Raffetto, Esquire, Borough Attorney

Mr. Sikorski moved to adjourn. The motion was seconded by Councilmember Schneider, and the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Leona Baylor  
Deputy Borough Clerk