

Meeting Minutes
Hightstown Borough Council
Regular Meeting
October 17, 2011
6:30 pm

The meeting was called to order by Mayor Kirson at 6:35 pm and he read the Open Public Meetings Act statement which stated, "Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the *Trenton Times* and the *Windsor-Hights Herald*, and is posted in the Borough Clerk's office."

The Mayor called for a Roll Call.

ROLL CALL

	PRESENT	ABSENT
<i>Councilmember Bibens</i>	✓	
<i>Councilmember Gilmartin</i>	✓	
<i>Councilmember McGinty</i>	✓	
<i>Councilmember Quattrone</i>	✓	
<i>Councilmember Woods</i>	✓	
<i>Councilmember Vanderbeck</i>	✓	
<i>Mayor Kirson</i>	✓	

Also in attendance: Debra Sopronyi, Borough Clerk; Michael Theokas, Borough Administrator and Frederick Raffetto, Borough Attorney.

Resolution 2011-249

Council President Quattrone moved resolution 2011-249, Councilmember Gilmartin seconded.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck, and Woods voted yes.

Resolution adopted, 5-0

Resolution 2011-249

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

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 17, 2011 at approximately 6:30 pm at the First Aid building on Bank Street that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7b of the Open Public Meetings Act.

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

Litigation – Baylor & Castoro

Contract Negotiations –Lucas Property and Americana Diner

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 17, 2012, 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.

Council re-convened into open session at 7:30 pm.

The public meeting was called to order by Mayor Kirson at 7:40 pm and he again read the Open Public Meetings Act statement.

The Flag Salute followed roll call which has remained the same.

Councilmember Gilmartin requested that the agenda be amended by moving the Borough Administrator's update on Hurricane Irene prior to resolution 2011-256 on the agenda.

Councilmember McGinty requested that the police discussion be moved to be held prior to public comment period I and public comment period II be moved to after the discussion items.

Councilmember Gilmartin moved the agenda as amended, Councilmember Bibens seconded. The Mayor called for a roll call vote for the amended agenda.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck, and Woods voted yes.

Agenda approved as amended, 6-0.

Presentation

Residents Dan Buriak and Dimitri Musing presented a project named "Lights on the Square" which would entail lighting the Civil War Memorial Monument on Stockton Street for the Holidays. They presented a slide show in which several other towns in the United States were noted as using monuments for the celebration of freedom; including towns in Virginia, Massachusetts, Maryland, Indiana and Georgia. Mr. Buriak reviewed the historical significance of the Stockton Street District and Mr. Musing presented pictures of the district before and after restoration from grant funding. They went on to explain the symbolism of how they would like to light the monument with five strands of garland coming down to a flag, each representing a branch of the military. They will also include a lighted tree to illuminate freedom. Mr. Buriak advised that this event would be privately funded and they would like to have the lighting ceremony take place directly after the Santa Parade on the Friday following Thanksgiving and requested that the Borough obtain a road closing permit for Stockton Street for the event.

The Mayor and Council were receptive to the idea of "Lights on the Square" and requested that Council President Quattrone work on getting the road closed for the event.

Police Discussion

Borough Administrator Theokas updated the Council by advising that the search committee for the Police Director has met several times and will be conducting preliminary interviews the end of the week. There were 55 resumes received and he explained that they will be narrowing the pool to three applicants to bring forth to Council for final interviews. He noted that there were many quality applicants.

Mr. Theokas then went on to review the police overtime to-date and stated that it is estimated that they will not exceed the budget amount of \$175,000.00 in Police overtime; at present the amount is \$152,975.00 and an additional amount of about \$20,000.00 is attributed to Hurricane Irene. The overtime is being closely monitored and once a Police Director is in place, the situation can be more thoroughly addressed. Mayor Kirson added that in 2010 there was an additional officer and one officer is out on disability at present; given these facts, the budget amount is pretty accurate. The new Director will evaluate scheduling and etc. and no matter how efficient the Police Department is run, there will always be overtime.

Councilmember McGinty stated that this is a most important issue and she has put a lot of time into evaluating the police overtime; she feels that the Director will need time to evaluate the department and waiting for their hiring is not a reason to postpone addressing the overtime matter. She stated that she advised Council over a year ago that the overtime was going to go over budget and she will not keep silent on this matter.

Councilmember Lynne Woods called a point of order stating that the discussion should be limited to the present situation.

Councilmember McGinty continued her statement:

"The Council is aware that Hightstown will not have a Police Director in place for at least a few weeks, and that the new Director will necessarily need additional weeks (and even months) thereafter to get acclimated to the job. This is not a valid or credible reason for keeping the police staffing and overtime issues on a back burner. Hightstown's Council and Mayor have all been aware for months of the urgency of issues relating to the finances and staffing of our Police Department. Any Hightstown official who would claim to be unaware of these circumstances or of their immediacy only makes clear that official's willful blindness and aggressive avoidance of facts readily available for all.

These matters have been notably absent from any public discussion, and I have not heard any serious discussion of these issues by Council Members or the Mayor in any other forum, either. I cannot keep silent about matters that have been known to the Council and Mayor all year. I also cannot condone the attitude or open expression of "aw, shucks, we are just novices getting used to the water" which most Council Members have resorted to, in an aggressive effort to avoid the topic, every

time I have raised the hard questions relating to our Police Department before this Council and this administration. I cannot and will not keep silent any longer about these issues, with the expectation that they will be addressed in a timely or competent manner by the governing body.

Over a week ago, I had provided to all of the governing body a memorandum on police issues that need to be addressed by the Council, and I again included two memoranda on police issues which I had made available to the Council and Mayor earlier in August. Those materials have not been included in the meeting packet, although I had requested that the information be made available to the public for this meeting. I repeat that request. If there is an issue of information that needs to be redacted from the memoranda, I am sure the Borough Attorney can excise the specific language that causes such concern and leave the rest. I object that the documents -- which have been available for the review of the governing body for months -- have not yet been made available to the public, when there has been ample time for the redaction process to take place, if needed. I request that

- (1) the memoranda on police issues which I have made available to all Council Members and the Mayor over the past many weeks, and
- (2) the Council Committee Report entitled "Report and Recommendations of the Hightstown Borough Council Police Committee on Issues of Police Staffing, and Police Overtime and Oversight," dated February 20, 2011,

be made available to the public (in redacted form, if so advised by the Borough Attorney). I am not aware of any deliberative or consultative function served by these documents as to the Council. It seems to me, instead, that they have been and are continuing to be utterly ignored by all members of the governing body. My oath of office compels me to speak publicly in these circumstances, where my efforts to date to urge the Council to pay attention to these matters have elicited no deliberation or analysis.

I believe that the following issues relating to the Hightstown Police Department appear to need and to merit the immediate attention of the governing body:

1. The Council and the public were informed during a police presentation at a Council meeting in October 2010 that "Hightstown Borough can be efficiently policed with our existing force." The Council has been on notice for all of 2011 that there is serious reason to doubt the reliability of that statement, and good reason to argue that that statement was without foundation a year ago, and is demonstrably wrong now. The financial cost for Hightstown has been huge in foreseeable overtime expenses during 2010 and so far in 2011, *before* we even factor in the impact of the hurricane on this year's total.
2. With one supervisory officer (the Acting Police Director) and one serving as detective, we have only 8 officers available for shift patrol duty. We know that this has to mean that there are not enough officers to cover *any* patrol shift with more than two officers, without resorting to overtime. It is a simple, obvious, unavoidable arithmetic fact. Again, that means that we have only two officers available for regular patrol duty on every shift. *Every* shift. Just *two* patrol officers.
3. We know that, with only those 8 officers available for shift patrol duty, this means that we do not have even a sergeant available for *many* of our shifts in every 14-day cycle, and that this has surely been standard operating procedure for Hightstown Police for many months. We do not have supervisors on duty for so many shifts that it would appear to be the norm to have no supervisor on duty during shifts.
4. We know that there appear to be not enough officers to cover *even an hour* of "off time" for any other officer for any reason, if Hightstown is to maintain the bare minimum of just 2 officers on patrol duty per shift. We would necessarily have to rely on overtime to provide that police coverage. That category loosely described as "off time" would generally include any sick time, personal time, bereavement time, and vacation time that the Borough is required to provide to each officer under the PBA contract.
5. We know that there appear to be not enough officers to cover *even an hour* of any shift for an unavailable officer in other everyday circumstances, if Hightstown is to maintain the bare minimum of 2 officers on patrol duty within the borders of the Borough. It appears that we would necessarily have to rely on overtime to provide that police coverage. Those other circumstances include if an officer is assigned outside the Borough for any of the many causes which arise every day in the operation of our Police Department. Those circumstances include where the officer must appear in court or before a Grand Jury, or where the officer is in mandatory training, or is at the FBI Academy, or is on modified duty for any reason.
6. If cause were to exist so as to warrant Council to commence disciplinary proceedings against any officer, we would have to confront the following unfortunate circumstance. The Council has not taken action to conform our Police Rules and Regulations to the updated template promulgated by the Attorney General's Office. Why not? I do not know a rational reason for this. The revised and updated Rules and Regulations for Hightstown Police have been in final form since last July, as put forward by the committee consisting of the Borough Attorney and the Borough Labor Counsel, as well as two Council Members. Again, the Rules and Regulations have been in final form since last July, and they have been ready for review and passage by the Council. I have been asking the Council President and the Mayor to place this on the agenda. As far as I am aware, the delay may be related to the view that the PBA may prefer

the old and problematic version, which I would think would not serve the overriding interest of the Borough. I consider this inaction of the Council in these circumstances to be against the best interests of the Borough -- including both our Borough residents and our Police Department.

7. It would appear to be against the Borough's financial interest to commence disciplinary proceedings (even if needed) against any officer in a manner which would entail any time off from work (for example, by suspension from duty pending review). The burden of necessary overtime costs would be very high. There is no officer available to cover **any** other officer's shift, without heavy reliance on the overtime expense that would be required to cover every hour that that officer facing discipline would be on leave. How can we not be addressing this?
8. With only eight officers available for patrol duty, it would appear that the Borough cannot afford to have **any** officer take medical or psychological leave. There is no officer available to cover the officer's shift, without heavy reliance on overtime to cover every hour that that officer would be on leave. We know that it has been the norm in every recent year for the Borough to anticipate that one or more officers will need to take such leave each year. But with only eight officers available for patrol duty, the Borough can't afford to have **any** officer take medical or psychological leave for the foreseeable future, and with no remedy foreseen at all. How can we not be addressing this?
9. Every time an officer appears in Municipal Court, we have to resort to overtime to cover that officer's regular duty shift in the Borough for the whole time that the officer is in court. It costs us more for that overtime coverage, now that our officers must travel to Robbinsville or West Windsor for the court sessions. Was the distance factor considered before we sent our Municipal Court over to a municipality farther away when we had a closer, more logical, and potentially less costly alternative (East Windsor, viewed simply from the overtime-cost perspective)?
10. We know that there is a substantial financial **cost** carried by the Borough for maintaining a "canine unit," just from the perspective of built-in overtime costs. Every time the police dog is dispatched to another location, the Hightstown officer must go with the dog. This includes assignments, trainings, and trips to the kennel or vet. Every time the officer and dog are so occupied, the Borough must pay overtime to cover the shift of the now-unavailable canine officer. It is arguably great, in theory, that our police dog and his officer handler help law enforcement agencies around the County. The Council is aware -- but Borough residents probably are not -- that we perform that public relations service at a high cost for Hightstown residents, who pay the overtime costs of having another officer necessarily cover the shift of the canine officer every time.
11. We also have to recognize that there may be a substantial financial **risk** carried by the Borough by maintaining a "canine unit" in our present circumstances. Every time the police dog is dispatched on a call within Hightstown, we have a police dog essentially in the role of the back-up officer, and in circumstances when we have to know that we most likely will not have supervisory officers available, and we may not have even a second officer on the call. How is it possible that we are maintaining a canine unit when we have only 8 officers available for regular patrol duty in the normal course? If we have ever done any litigation risk analysis of this issue, that would be news to me. It would seem high time that we pay attention to that important issue.
12. With this knowledge of the staffing shortages facing the Borough as to its Police Department, the absence of command structure and the magnitude of the overtime costs, how could the Council, with minimal discussion and no serious attention of any of these issues, have summarily approved, at the very end of the last Council meeting, a further reduction in staff and leadership for early 2012, with no Plan B on the table? Four members of this Council saw no problem in authorizing the Acting Police Director to attend out-of-state police training for a duration of time which I believe to be on the order of ten weeks in early 2012. The rationale of the Mayor and Council Members given to the public was that we should have a Police Director in place by then and that Director can be left to address any staffing or supervisory concerns presented at some later date, and that new Director will somehow deal with the fallout from this. The level of the discussion, and the complete dismissal of any consideration of the impact on Borough residents and on the costs that residents will bear spoke volumes about the current state of Borough government and its fecklessness.
13. Council Members have been on notice all year of issues relating to police record-keeping and to the financial issues relating to overtime. Rather than taking action to collect and to review the documentation, Hightstown's governing body -- as far as I have witnessed -- have aggressively withheld that information from my review, and I have repeatedly asked for these records to be available for Council review all year. I have been stonewalled on this issue by every member of this governing body, the Mayor included. No one on this dais has given a word of support to this effort. I cannot find a basis for expressing confidence that the Police Commissioner has made any meaningful effort to address these issues to date, or that he has the willingness or the ability objectively to analyze these records, or to assess the issues from the perspective of the best interests of the residents of Hightstown, rather than the interests of individual police officers.

Where do we go from here? I suggest the following paths:

- a. The Council needs to restore public confidence on police matters by addressing the issues of staffing and overtime immediately, competently, responsibly, and objectively. But I suggest it is **not** a solution to appoint a special committee populated by those who have helped dig the hole we are in. Council's objectivity and competence on these very matters are already too much at issue, and Council Members' integrity and credibility are on the line.

- b. These issues must be dealt with in tandem with the search for and the appointment of a capable, competent, credible and responsible Police Director. These issues will not wait, and the Police Director must also be aware from the very start of the full circumstances of the position that she or he may undertake.
- c. We need to take timely steps to address the fact that Hightstown Police are short staffed. In my view, the Borough cannot afford to take on the financial burden of hiring *even one* other officer. I stress that I have recommended that the Borough explore having another law enforcement agency or another municipality's police force cover a regular block of hours out of every day, while the Borough abides by the terms of the PBA contract for coverage in 14-day scheduling blocks. This would allow the Borough to maintain coverage on a regular basis every day by the members of the Hightstown PBA in accord with their contract, while the Borough avoids the financial burden it cannot take on of hiring additional officers. This would work as follows: The officers presently employed by the Hightstown Police Department could provide coverage every day from midnight to 6 p.m., for example. From 6 p.m. until midnight, Hightstown's police coverage could be provided by another entity (for instance, the Police Department of a neighboring municipality). Over coming years, as Hightstown's officers leave to take jobs elsewhere or as they retire, the coverage schedule for the other law enforcement agency could be structured to expand the hours of coverage (e.g., with the starting time for the outside coverage rolled back over time to 4 p.m. or 2 p.m., rather than 6 p.m.). If a Hightstown officer needed to take time off for any reason (such as vacation), there would be greater availability of other Hightstown officers to cover that shift on regular time, and *not* on overtime. Would this save the Borough money over time? I expect so. Really, when we consider that we are surely going to exceed last year's total of \$175,000 or \$180,000 in overtime costs this year, and the fact that we would have done that *even without* the hurricane, that surely gives us a starting figure if we consider what money -- otherwise earmarked for police overtime -- that we would have available to dedicate to the cost of such outside coverage.

Again, I repeat my request that the following be made available to the public, in redacted form if necessary:

first, the set of memoranda on police issues which I have distributed to all of the governing body since the summer; and

second, the Report of the Council Police Committee which Council Members have had available to them since February 2011.

I also ask that a copy of the Police Committee Report be given to Borough Administrator Theokas in its complete and unredacted form, since it is surely necessary information for the effective performance of his job. On his reading it, I expect that it will then be abundantly clear to the Administrator why the contents of that Report will need to be disclosed to any incoming Police Director, under oath of confidentiality, as soon as that person is entrusted with that position. Surely we all know that it would be irresponsible and indeed contrary to our oath of office to withhold that vital information from the incoming Police Director if we expect her or him to undertake and to fulfill the job responsibilities in a competent or informed manner.

In summary, I submit this in writing to make clear the degree of my concern that the Council and the Mayor have kept -- and from every indication, appear determined to keep -- these issues on a back burner, with no interest manifested in addressing these issues anytime in the foreseeable future or in any serious manner. I believe that being on the Council imposes on each of us a civic and a moral duty. In deference to the will of the majority on Council, I have been patient in keeping my concerns and my analysis in check. But after a very long period of waiting through all of 2011, I have watched our circumstances -- in my view -- grow worse, while Council Members have ceased paying any serious or responsible attention to these issues. I believe the civic and moral obligation at this point leaves me no alternative but to make the public aware of these issues."

Council President Quattrone noted that as police Commissioner, he addresses overtime every day and there is more to it; that is why the Police Director needs to evaluate and address the situation and make recommendations. The rules and regulations will be discussed with the Director and PBA.

Mayor Kirson noted that Council is going in a different direction with a Police Director and that no one on Council has the expertise needed to evaluate and address the matter. He stated that the presently budgeted overtime averages \$81.00 per household in taxes.

Resolution 2011-250 Authorization to Receive Bids for Various Improvements to the Advance Wastewater Treatment Plant, and Water Plant – Water Treatment Filter, Water Filtration Media, Bar Screen upgrade, Primary Clarifier, Secondary Digester, Trickling Filter Plastic Media, Sludge Rotary Press

Councilmember Gilmartin moved resolution 2011-250, Councilmember Bibens seconded.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck, and Woods voted yes.

Resolution adopted, 6-0.

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING RECEIPT OF BIDS FOR VARIOUS IMPROVEMENTS TO THE ADVANCED WASTE
WATER TREATMENT PLANT AND WATER PLANT – WATER TREATMENT FILTER, WATER
FILTRATION MEDIA, BAR SCREEN UPGRADE, PRIMARY CLARIFIER, SECONDARY DIGESTER,
TRICKLING FILTER PLASTIC MEDIA, SLUDGE ROTARY PRESS**

WHEREAS, Borough Council has approved the installation of various improvements for the Hightstown Advanced Waste Water and Water Plants through the adoption of bond ordinance 2011-03.

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Engineer is hereby authorized to prepare specifications and advertise bids for Water Treatment Filter and Water Filtration Media at the Hightstown Water Plant and that the Borough is authorized to receive same after proper advertisement.

BE IT FURTHER RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Engineer is hereby authorized to prepare specifications and advertise bids for Bar Screen Upgrade, Primary Clarifier, Secondary Digester, Trickling Filter Plastic Media and Sludge Rotary Press at the Hightstown Advanced Waste Water Treatment Plant, and that the Borough is authorized to receive same after proper advertisement.

Resolution 2011-251 Award a Contract for Summit Street Sidewalks – Richard T. Barrett Paving Company, Inc.

Council President Quattrone moved resolution 2011-251, Councilmember Vanderbeck seconded.

There was discussion regarding where these sidewalks will be installed.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck, and Woods voted yes.

Resolution adopted, 6-0.

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AWARDING A CONTRACT FOR SUMMIT STREET SIDEWALK PROJECT – RICHARD T.
BARRETT PAVING COMPANY, INC.**

FEDERAL PROJECT NO. STP-C005 (191) CONSTRUCTION

AGREEMENT NO. 11-DT-BLA-597

WHEREAS, eight (8) bids were received on October 7, 2011 for the Summit Street Sidewalk project in Hightstown Borough; and,

WHEREAS, the bids have been reviewed by the Borough Engineer and it is the Engineer's recommendation that the contract for the Summit Street Sidewalk project in Hightstown Borough be awarded to Richard T. Barrett Paving Company, Inc, of Trenton, New Jersey at the price of \$143,990.00; and,

WHEREAS, this project is federally funded by the Federal Highway Administration under The Safe Routes to School program, the award of this contract is conditional upon approval by the New Jersey Department of Transportation; and,

WHEREAS, the execution of this contract is subject to the review and approval of the Borough Attorney to assure that the bid submitted by Richard T. Barrett Paving Company, Inc. is in order with respect to legal compliance; and,

WHEREAS, the Treasurer has certified the availability of funds for this expenditure;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the contract for the Summit Street Sidewalk project in Hightstown Borough is hereby awarded to Richard T. Barrett Paving Company, Inc. of Trenton, New Jersey in the amount of \$143,990.00 upon approval by the New Jersey Department of Transportation.

Resolution 2011-252 Awarding a Contract for Various Roads Milling and Paving Program – Mechanic Street, Wilson Avenue, Chamberlin Street, Reed Street, Rev. Powell Drive and Purdy Street – Earle Asphalt Company

Council President Quattrone moved resolution 2011-252, Councilmember Gilmartin seconded.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck, and Woods voted yes.

Resolution adopted, 6-0.

Resolution 2011-252

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AWARDING A CONTRACT FOR VARIOUS ROAD IMPROVEMENTS – EARLE ASPHALT COMPANY

WHEREAS, three (3) bids were received on October 12, 2011 for Various Road Improvements to include Mechanic Street, Chamberlin Avenue, Reed Street, Purdy Street, Wilson Avenue and Reverend William L. Powell Drive in Hightstown Borough; and

WHEREAS, the specifications for this bid included four (4) alternates consisting of drainage improvements along Reverend William L. Powell Drive, underdrain installation along Purdy Street, construction of two (2) new sanitary sewer manholes at the dead ends of sanitary mains, underdrain improvements along Mechanic Street, relocation of a fire hydrant on Reed Street and curb and sidewalk improvements along Reed Street; and

WHEREAS, the bids have been reviewed by the Borough Engineer and it is the Engineer's recommendation that the contract for Various Road Improvements in Hightstown Borough be awarded to Earle Asphalt Company, of Farmingdale, New Jersey at the price of \$331,313.13 to include the base price plus the four (4) alternates to assure the most efficient and economic improvements to the various roads; and,

WHEREAS, this project received funding from the New Jersey Department of Transportation Trust Fund in the amount of \$290,000.00, the award of this contract is conditional upon approval by the New Jersey Department of Transportation; and,

WHEREAS, the execution of this contract is subject to the review and approval of the Borough Attorney to assure that the bid submitted by Earle Asphalt Company is in order with respect to legal compliance; and,

WHEREAS, the Treasurer has certified the availability of funds for this expenditure;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the contract for Various Road Improvements to include Mechanic Street, Chamberlin Avenue, Reed Street, Purdy Street, Wilson Avenue and Reverend William L. Powell Drive in Hightstown Borough, along with the four (4) alternates as noted herein, is hereby awarded to Earle Asphalt Company, of Farmingdale, New Jersey at the price of \$331,313.13 upon approval by the New Jersey Department of Transportation.

Resolution 2011-253 Authorizing Modification to Water Plant Improvements

Councilmember Gilmartin moved resolution 2011-253, Councilmember Bibens seconded.

There was discussion regarding steps being taken to prevent damage from storms in the future.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck, and Woods voted yes.

Resolution adopted, 6-0.

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING MODIFICATION TO WATER PLANT IMPROVEMENTS

WHEREAS, Bond Ordinance 2011-03 authorized certain improvements to the Hightstown Water Plant which included the installation of variable frequency drivers; and

WHEREAS, the damage caused to the Water Plant by Hurricane Irene necessitated the entire rebuild of the Water Plant including installation of variable frequency drivers on the high service pumps; and

WHEREAS, there is a need to install variable frequency drivers on wells #2 & #3; and

WHEREAS, it is the recommendation of the Borough Engineer and Lead Water Operator that the improvements to the Water Plant be modified to install variable frequency drivers on wells #2 and #3 rather than the high service pumps; and

WHEREAS, this project is being funded by financing through the New Jersey Environmental Infrastructure Trust (NJEIT) and the Borough Engineer has received authorization from the NJEIT to modify this project as recommended; and

WHEREAS, the Mayor and Council concur with the Borough Engineer, Lead Water Operator and NJEIT that this project be modified to install variable frequency drivers on wells #2 and #3 rather than the high service pumps.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown concurs with the Borough Engineer, Lead Water Operator and NJEIT that Water Plant improvement project be modified to install variable frequency drivers on wells #2 and #3 rather than the high service pumps.

BE IT FURTHER RESOLVED that the Borough Engineer is hereby authorized to move forward with a project to purchase.

Resolution 2011-254 Authorizing Partial Release of Performance Guarantee – Seymour Investments, LLC (Block 13, Lot 24.01 – Old Hights Overlook)

Council President Quattrone moved resolution 2011-254, Councilmember Vanderbeck seconded.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck, and Woods voted yes.

Resolution adopted, 6-0.

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING PARTIAL RELEASE OF PERFORMANCE GUARANTEE – SEYMOUR INVESTMENTS, LLC (BLOCK 13, LOT 24.01 – OLD HIGHTS OVERLOOK)

WHEREAS in April 2011, Seymour Investments, LLC posted a performance guarantee in the form of a letter of credit in the amount of \$92,550.60 and cash in the amount of \$10,283.40 relative to the Old Hights Overlook Development; and

WHEREAS Seymour Investments, LLC has requested a reduction in the amount of the posted guarantee;

WHEREAS the Borough Engineer has inspected the improvements and has determined that it would be appropriate for the Borough to reduce the amount of the guarantee to \$54,216.00 by reducing the letter of credit amount to \$48,794.40 and the cash portion amount to \$5,421.60 at this time.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized and directed to take all necessary steps to reduce the balance of the performance bond held on behalf of Seymour Investments, LLC to \$54,216.00 as stated herein.

Mayor Kirson opened the Public Comment Period and the following individuals spoke during the period:

Eugene Sarafin, 628 S. Main Street – commented regarding Police and First Aid.

J P Gibbons, 602 N. Main Street – commented regarding the public comment period, hurricane recovery efforts, Council speeches, Lucas property, outsourcing of Police services, Municipal Court, and elections.

John Archer, 131 Bennett Place – commented regarding Police overtime, the Santa Parade and extra activities.

There being no further comments, the Mayor closed the public comment period.

Resolution 2011-255 Payment of Bills

Councilmember Vanderbeck moved resolution 2011-255, Council President Quattrone seconded.

There was brief discussion.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck, and Woods voted yes.

Resolution adopted, 6-0.

Resolution 2011-255

BOROUGH OF HIGHTSTOWN

COUNTY OF MERCER

STATE OF NEW JERSEY

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 Mayor, the appropriate Councilmember and the Treasurer

in the amount of \$362,002.10 from the following
accounts

Current	\$	331,414.90
W/S Operating		10,547.83
General Capital		2,866.43
Water/Sewer Capital		6,230.78
Grant		-
Trust		2,641.66
Housing Trust		-
Animal Control		-

Law Enforcement Trust	-
Housing Rehab Loans	-
Unemployment Trust	-
Escrow	8,300.50
Total	<u>\$ 362,002.10</u>

Hurricane Recovery Update

Mr. Theokas gave an update regarding Hurricane Irene recovery and noted that there is about \$200,000.00 in recovery bills on tonight's bills list. At present the cost to complete various projects are being estimated and the additional funds being requested are necessary; he noted that authorizing the funds does not mean that they are going to be spent. He continued that decisions made for repairs and replacements were of an emergent nature and there is a specific process being used moving forward as required by FEMA. At the present time Borough Hall is not of an emergent nature since the Police have re-located, and it is estimated that the cost to clean Borough Hall will be at least \$275,000.00; which does not include furniture, electrical, structural and bringing it up to code. There are issues with the flood zone and that is being addressed with FEMA and insurance; it could mean a \$1M deductible for Borough Hall and the Firehouse, but the matter is still being evaluated. The matter of the Municipal Court will be decided along with the Borough Hall, the Firehouse still needs \$100,000.00+ in work and the Police Department is still in need of additional work as well. Mitigations work for the Water Plant will cost at least \$75,000.00. Meetings with FEMA on these matters are ongoing and the emergency appropriation is needed. He assured the public and council that he is closely monitoring the funds and spending.

There was brief discussion regarding the flood maps and mitigation.

Resolution 2011-256 Authorizing an Emergency Appropriation

Councilmember Vanderbeck moved resolution 2011-256, Councilmember Bibens seconded.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck and Woods voted yes.

Consent Agenda adopted, 6-0.

Resolution 2011-256
*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

RESOLUTION OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY AUTHORIZING AN EMERGENCY APPROPRIATION PURSUANT TO N.J.S.A. 40A:4-46 TO FUND THE RECONSTRUCTION OF THE DAMAGED MUNICIPAL BUILDING, IMPROVEMENTS TO THE FIRE HOUSE AND THE PUBLIC WORKS BUILDING, IMPROVEMENTS TO THE WATER WASTEWATER TREATMENT PLANT, THE ACQUISITION OF VARIOUS EQUIPMENT AND OPERATING AND PERSONNEL EXPENSES INCURRED IN ORDER TO DEAL WITH THE EMERGENCY AND FURTHER AUTHORIZING THE ISSUANCE OF EMERGENCY NOTES TO FUND SUCH EMERGENCY APPROPRIATION

WHEREAS, an emergency has arisen resulting from significant damage within the Borough caused by Tropical Storm Irene requiring the appropriation of funds of the Borough of Hightstown, in the County of Mercer, New Jersey (the "Borough"), in the amount of \$800,000 to provide for the reconstruction of the damaged Municipal Building, improvements to the Fire House and the Public Works Building, improvements to the Water Wastewater Treatment Plant, the acquisition of various equipment, including, but not limited to, computers, equipment for the Police Department, a 911 system and furnishings and operating and personnel expenses incurred in order to deal with the emergency, including all work and materials necessary therefore and incidental thereto, and further including all related costs and expenditures incidental thereto; and

WHEREAS, adequate provision was not made in the 2011 Budget of the Borough for the aforesaid purposes, and N.J.S.A. 40A:4-46 provides authorization for the undertaking of emergency appropriations for the purposes mentioned above; and

WHEREAS, on September 6, 2011, the Borough adopted an emergency appropriation resolution not to exceed \$800,000 and the Borough has made the appropriations authorized therein (the "Prior Resolution"); and

WHEREAS, the total amount of emergency appropriations, including the appropriation to be created under the Prior Resolution and by this resolution, is \$1,600,000, and 3% of the total operating appropriations in the budget for 2011 is \$228,892.89; and

WHEREAS, the foregoing emergency together with prior appropriations exceeds 3% of the total operating appropriations (including utility operation appropriations) in the budget for 2011; however by Local Finance Notice 2011-26, the Director has provided a blanket authorization for municipalities to act in response to the emergency.

NOW THEREFORE BE IT RESOLVED (by not less than two-thirds of the full membership of the governing body affirmatively concurring) as follows:

1. Pursuant to N.J.S.A. 40A:4-46, an emergency appropriation is hereby made in the amount of \$800,000 for the reconstruction of the damaged Municipal Building, improvements to the Fire House and the Public Works Building, improvements to the Water Wastewater Treatment Plant, the acquisition of equipment, including, but not limited to, computers, equipment for the Police Department, a 911 system and furnishings and operating and personnel expenses incurred in order to deal with the emergency, including all work and materials necessary therefore and incidental thereto, and further including all related costs and expenditures incidental thereto. The \$800,000 appropriated herein is sufficient to fund the emergency improvements.
2. The emergency appropriation set forth in Section 1 hereof shall be provided for in full through a bond ordinance pursuant to N.J.S.A. 40A:2-1 et seq., entitled, "BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$1,600,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,600,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF", which bond ordinance will be introduced by the Borough on or about November 7, 2011 and will be considered for final adoption by the Borough on or about November 21, 2011.
3. An emergency note not in excess of \$800,000 is hereby authorized to be issued pursuant to N.J.S.A. 40A:4-51.
4. The Borough Council hereby determines that the expenditures authorized in Section 1 hereof will meet a pressing need for public expenditure to protect and promote the public health, safety, morale or welfare of the residents of the Borough
5. The emergency note authorized herein, if issued, shall be executed by the Mayor and the Chief Financial Officer of the Borough and attested by the Borough Clerk.
6. The Chief Financial Officer of the Borough is hereby delegated the authority to sell and award the note, if any, and such notes, if issued, may be renewed from time to time by the Chief Financial Officer provided that any such renewals shall be payable on or before December 31, 2012. Further, the reference to December 31, 2011 in paragraph 6 of the Prior Resolution is hereby amended to read December 31, 2012.
7. Two certified copies of this resolution shall be filed with the Director of the Division of Local Government Services.
8. The statement required by the Local Finance Board has been filed with the Borough Council and a copy transmitted to the Director of the Divisions of Local Government Services.
9. This resolution shall take effect immediately.

Resolution 2011-257 Authorizing an Abatement of Interest Charges on a Third Quarter 2011 Tax Payment – Presbyterian Homes at Meadow Lakes (Block 63.01, Lot 45)

Councilmember Vanderbeck moved resolution 2011-257, Councilmember Gilmartin seconded.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck and Woods voted yes.

Consent Agenda adopted, 6-0.

Resolution 2011-257

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING AN ABATEMENT OF INTEREST CHARGES ON A THIRD QUARTER 2011 TAX
PAYMENT – PRESBYTERIAN HOMES AT MEADOW LAKES (BLOCK 63.01, LOT 45)**

WHEREAS, due to an error interest charges were accrued on the tax account for the third quarter 2011 tax payment for Presbyterian Homes at Meadow Lakes (Block 63.01, Lot 45); and

WHEREAS, pursuant to N.J.S.A. 54:4-99 the governing body of a municipality may abate, revise, alter, adjust and settle past due taxes, assessments and other municipal charges, both of principal and of any and all interest and penalties thereon, as it shall deem equitable and just and be for the best interest of the municipality; and

WHEREAS, the Mayor and Borough Council of Hightstown find that interest on this account for the third quarter 2011 tax payment should be abated.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Tax Collector is hereby authorized and directed to abate the interest charges for the third quarter 2011 tax payment on the account of Presbyterian Homes at Meadow Lakes (Block 63.01, Lot 45).

Resolution 2011-258 Authorizing the Issuance of an Auction License

Council President Quattrone moved resolution 2011-258, Councilmember Woods seconded.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck and Woods voted yes.

Consent Agenda adopted, 6-0.

Resolution 2011-258

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING ISSUANCE OF LICENSE FOR AUCTION -
EMPIRE ANTIQUES**

WHEREAS, an application for a license to hold an auction on Saturday, November 5, 2011 at 278 Monmouth Street in the Borough of Hightstown has been submitted by Empire Antiques, together with the required fee; and

WHEREAS, the application has been reviewed and approved by the Acting Police Director; and

WHEREAS, it is the desire of the Mayor and Council that a license be issued to Empire Antiques for this event;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized to issue a license to Empire Antiques for their auction to be held on Saturday, November 5, 2011 at 278 Monmouth Street.

Resolution 2011-259 Authorizing and Agreement in the Baylor Litigation

Council President Quattrone moved resolution 2011-259, Councilmember Woods seconded.

The Borough Attorney gave a review of this resolution.

Roll Call Vote: Council members Bibens, Gilmartin, McGinty, Quattrone, Vanderbeck and Woods voted yes.

Consent Agenda adopted, 6-0.

Resolution 2011-259

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**RESOLUTION OF THE BOROUGH OF HIGHTSTOWN AUTHORIZING SETTLEMENT OF A CASE
PENDING BEFORE THE STATE OF NEW JERSEY DIVISION ON CIVIL RIGHTS KNOWN AS
“LEONA BAYLOR VS. BOROUGH OF HIGHTSTOWN.”**

WHEREAS, a certain Complaint was filed with the New Jersey Department of Law and Public Safety, Division on Civil Rights, against the Borough of Hightstown by the Borough's former Deputy Municipal Clerk, Leona Baylor (the "Complainant"), alleging that the Borough had committed unlawful discrimination; and

WHEREAS, the matter was captioned "Leona Baylor vs. Borough of Hightstown," bearing Docket No. EL04RM-61367, and EEOC Charge No. 17E-2010-00250; and

WHEREAS, the Complaint was opposed by the Borough, which denied that an act of unlawful discrimination occurred; and

WHEREAS, the Borough has been represented in the matter by Marc D. Mory, Esq. of the firm of Dvorak & Associates, LLC, as appointed through the Borough's insurance carrier (the "MEL/JIF"); and

WHEREAS, the Borough and the Complainant desire to resolve the matter without the necessity of further litigation on the part of either party; and

WHEREAS, in connection with the settlement, the Complainant shall be paid the sum of Four Thousand Dollars (\$4,000.00), with the Borough contributing its proportionate share of that settlement amount pursuant to its existing agreement with the MEL/JIF; and

WHEREAS, the payment of the aforesaid sum shall serve as a full settlement of this matter, representing full satisfaction of all claims arising out of this matter, at both the State and federal levels, and shall involve a release of any and all claims that the Complainant may be able to assert against the Borough (including all elected Borough Officials, employees, professionals, etc.), for all events which have transpired to date; and

WHEREAS, the settlement does not constitute an admission of any liability whatsoever by the Borough, and is being considered solely to avoid future costs and uncertainty associated with this matter; and

WHEREAS, the Hightstown Borough Council believes that it is in the best interests of the Borough to resolve this case in accordance with the terms and conditions referenced above.

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

1. That the Borough hereby authorizes settlement of the matter pending before the State of New Jersey Department of Law and Public Safety, Division on Civil Rights, known as Leona Baylor vs. Borough of Hightstown, bearing Docket No. EL04RM-61367, and EEOC Charge No. 17E-2010-00250, in accordance with the terms and conditions set forth above.

2. That this Resolution is conditioned upon the language in the negotiated Settlement Agreement concerning the "release" of the Borough (and of all elected officials, employees, professionals, etc.), being in a form satisfactory to the Borough Attorney and Borough Labor Counsel.

3. That the appropriate Borough officials, including Marc D. Mory, Esq., are hereby authorized and directed to execute all necessary documents which are necessary in order to effectuate the intentions of this Resolution.

4. That a certified copy of this Resolution shall be provided to each of the following:

- a. Frederick C. Raffetto, Esquire, Borough Attorney
- b. Marc D. Mory, Esq., Appointed Counsel for the Borough
- c. Richard J. Shaklee, Esquire, Borough Labor Attorney
- d. Michael Theokas, Borough Administrator

RFP's for Professional Services 2012

There was discussion regarding the request for proposals for Professional Services for 2012. It was decided that proposals for the services of a Labor Attorney would be solicited and the Clerk/Purchasing Agent was instructed to move forward with same.

Code Enforcement Update

Mr. Theokas advised that the Police issue their report monthly and he will bring it to Council once it is received for this month. He continued that summonses have been issued for violations regarding key locks and overcrowding issues. Councilmember Vanderbeck stated that ordinances are needed for parking of buses in residential zones, sump pump discharge and satellite dishes. Mr. Theokas noted that Code Enforcement is active and doing their job.

Mayor Kirson opened Public Comment Period II and the following individuals spoke:

Gail Doran, 201 Hutchinson Street –commented regarding Borough Hall recovery.

Paul Byrne, 320 S. Main Street - commented regarding Borough Hall recovery.

Robert Thibault – 504 S. Main Street – commented on Councilmember McGinty’s police statement, Borough Hall recovery and the settlement in the Baylor case.

There being no further comments, the Mayor closed the public comment period.

Mayor/Council/Administrative Comments

Councilmember Vanderbeck – stated that holding cells are needed at the Police Department, they are presently using East Windsor and Robbinsville; it is an inconvenience for all of these departments.

Councilmember Gilmartin – noted that the meeting after the storm was good and it is important to hold a public meeting prior to making any decisions regarding Borough Hall so the public can get answers to their questions.

Council President Quattrone – commented that Councilmember Vanderbeck is doing a great job with the Police Department and the neighboring communities have been of great assistance. He went on to note that we have learned a lot from the storm, police overtime is being monitored, and the First Aid is in need of volunteers. Council President Quattrone stated that he is very disappointed in the response from the utilities with the recovery efforts of our emergency services and commented that equipment has been ordered.

Councilmember McGinty – commented that the presentation regarding the Lights on the Square was wonderful and a great example of volunteer coordination; she is looking forward to more events taking place at the monument. She then stated that communication is very important and that she will give Council a copy of her statement from this meeting, it is important that they review the documents. She went on to comment about the holding cells and police overtime, noting that she would like to see an analysis on these matters. Councilmember McGinty requested that Council read what she has given them, she is not referring to outsourcing the police, but utilizing present staff; and the Municipal Court also needs to be evaluated.

Councilmember Bibens– commented that she appreciates Mr. Theokas’ report tonight and noted that Borough Hall must be evaluated before any decisions are made; the public should be included in the decision making process. She attended a Fire Department meeting and they saluted a new flag that was donated by the Commander; quotes are out for repairs to the heat and etc. at the firehouse. She went on to comment that the presentation for Lights on the Square was very good.

Borough Administrator Theokas – advised that there was a meeting with the Turnpike, NJDOT, Borough Engineer, Public Works, Parks & Recreation, Environmental Commission, Darek Hahn and the Watershed regarding run-off from the turnpike construction. The matter is very complicated but is being addressed.

Councilmember Bibens motioned to adjourn at 10:55 pm, Councilmember Vanderbeck seconded; the motion was approved unanimously.

Respectfully Submitted,

Debra L. Sopronyi
Borough Clerk