

Meeting Minutes
Hightstown Borough Council
Regular Meeting
August 1, 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 advertised in 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; Frederick Raffetto, Borough Attorney; and Richard Shaklee, Labor Counsel.

Resolution 2011-190

Council President Quattrone moved resolution 2011-190. Councilmember Gilmartin seconded.

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

Resolution adopted, 6-0

Resolution 2011-190

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 August 1, 2011 at approximately 6:30 pm in Council Chambers 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 – Borough Administrator

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 1, 2011, 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 7:35 pm.

The meeting was called to order by Mayor Kirson at 7:45 pm and he again read the Open Public Meetings Act statement.

The Flag Salute followed the Roll call which has remained the same: George Lang, Chief Financial Officer had also joined the public meeting.

Councilmember Gilmartin motioned that the agenda be amended by adding discussion regarding ordinance 2011-10 prior to introduction of the ordinance, Councilmember Woods seconded.

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

Councilmember McGinty motioned that the approval of minutes be removed from the agenda, Councilmember Vanderbeck seconded.

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

Council President Quattrone moved the agenda as amended. Councilmember McGinty seconded.

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

Agenda approved as amended, 6-0.

Police Director Ordinance Discussion

Councilmember McGinty commented that the Council has not yet discussed whether this position would be full or part time and that there has been no clarification as to whether an Officer will be appointed to hold the position until a Director is hired. There was discussion and the mayor advised that the position will probably begin at full time to allow the new Director to evaluate and make recommendations for the department, then decrease to part time. Mr. Shaklee advised that the ordinance addresses the appointment of an acting Director by giving the Police Commissioner the responsibility in case of a vacancy, therefore that is what would occur during the period following the Chief's retirement date of September 1st and the hiring of the new Director.

Discussion ensued regarding the cost savings of a Police Director versus a Police Chief and the Mayor noted that the cost of a Police Chief is approximately \$175,000.00 including benefits and the Police Director title would be at a salary of \$40,000.00 to \$75,000.00; and as the title would be part time there would be no cost for benefits. He continued that one Sergeant would have to be promoted to be the lead Officer which would include an increase of approximately \$10,000.00 making the approximate cost for implementation of the new title to be \$85,000.00 versus the \$175,000.00n for the Chief.

There was further discussion and the question as to whether additional officers are needed arose. It was determined that this question would have to be answered by the new Director as he/she evaluates the department, therefore this question should not be taken into account when voting on this ordinance. Mr. Shaklee clarified that the Director duties are strictly administrative and that he/she could not participate in policing duties; he commented that the Governing Body has more intervention with the department if there is a Police Director.

Council members Woods and Gilmartin inquired as to whether the ordinance could contain the title Chief and/or Director. Mr. Shaklee advised that it could be done, however it encourages challenges. There was additional discussion regarding authority and the chain of command and the concern regarding the loss of an officer without a Chief because the Director has no policing ability and the effect it will have on staffing issues in the police department. It was commented that a Police Chief is not usually out on the road performing policing duties.

Councilmember McGinty stated that she considers it very important to have a Police Director and gave the following statement:

I consider the issues relating to the Hightstown Police Department, and the leadership of that Department, to be the most important matter that I have faced so far this year as a Council Member. I want to be very clear for Borough residents and for other Council Members as to why I consider it so important that the Council change the Borough Code so that a Police Director will head the Police Department, and why I view this as a step forward for the Borough at this time.

1. If we try out having a Police Director, in six or twelve months, we will have the experience and the data on which to make an **informed assessment** of whether Hightstown's residents and our police officers are well served by having a Police Director in place. We cannot make that comparison in an informed manner unless we put a Police Director in place and see how that administrator functions in the unique circumstances of our Borough. If we simply go ahead and appoint a new Chief, and squander this window of opportunity, we will not have the ability to change course for perhaps another generation.

2. A Police Director can be removed for any reason, or for no reason, on three months notice -- or even more quickly, if cause is presented. That is not the case with a Police Chief. A Police Chief is typically in place until retirement. If Hightstown had an ordinance that set in place a civilian Police Director, the Council could continue to evaluate our police services over time. If, at any point in the future, the Council determined that our police services functioned more

efficiently or more economically under the direction of a Police Chief, the **Council could change direction**. The Council could give notice to the Police Director that in three months time, that administrator's services would be no longer needed by the Borough, and in the meantime, the Council could amend the Police Ordinance so that a Police Chief would once again be in charge of the Police Department.

3. The Borough Council, during my time on Council (two years and seven months) has not received a single performance assessment of any officer. We have **no basis for assessing which of our officers excels as a leader**, and who among them may demonstrate the skills and qualities to be able to take command of the Police Department. If we had to make a selection today of the officer on the Hightstown Police Department who is the best trained, skilled, or qualified, or which officer is most capable of leading that Department, we would have no independent basis for making that selection, and we would – by default – be left to asking our present Chief, unilaterally, to designate his successor. If an officer challenged the selection process as based on favoritism, how could we say it was founded on an informed, scrutinizing review by Council Members? I could not. We would be far less likely to make a flawed decision if we took the time to ensure that our officers have full opportunity for an informed, objective assessment of their leadership capabilities and their job performance. We could do this by setting in place a civilian Police Director, with the Council scheduling a review, within a set number of months, to assess whether that leadership system is working effectively. We could also review at that time the recommendations from our Police Department's chain of command of which officers excel at their jobs, and what steps the Borough Council should then take to acknowledge the excellence and professionalism of those officers.

4. A Police Director should **enhance the professionalism** of the Police Department, because we would have an administrative head of the department in place, whom the Council would put in charge of making sure that the officers have the highest order of professionalism as their constant goal. One of the first and most important duties of the Police Director would be to put in place **clear structures for responsibility and accountability** within the Department, which the professional corps of officers would surely welcome.

5. The civilian Police Director would be required to come before the Council on a regular basis to address **budgetary constraints and the economic realities** of the Borough, and to explain to the Council and to Borough residents how our residents' money is being used by the Police Department. The Council should be getting a regular update on such issues as police **overtime** costs. That is not happening under our present structure of the Police Department. We would be able to remedy that by having a civilian Police Director in the lead of the Hightstown Police Department.

6. The civilian Police Director would be required to accommodate the flow of **adequate and timely information to the Council** about the Police Department. This is part of the job description and the job responsibilities. For example, the State Police released a Report on **Gangs** activity this past January 2011, and the Council and Mayor had questions, and the public had questions about that Report. No representative of the Hightstown Police Department to date has appeared to **speak** before the Council to address those questions. We had a phalanx from the State Police, but even after six months, we have not had any representative of the Hightstown Police Department come before Council to address out loud the issues and the questions. If we had a civilian Police Director, the Council could ask that administrator to appear at a scheduled Council meeting to address the specific questions presented on a particular topic in the public interest. And the Council would have speedy recourse if its request for such important information were left unanswered.

7. If you research the **history** of Hightstown, a series of articles in the *Windsor Hights Herald* from the early 1990s lays out why the Borough Council might be wise to consider a mechanism for having the Police Department headed by a civilian Police Director who can be speedily removed if the circumstances warrant such action. The September 12, 1990 *Windsor Hights Herald* reported that "[a] domestic dispute between the borough police chief and his live-in fiancée ha[d] drawn the attention of the" Mercer County Prosecutor. The live-in girlfriend filed two assault charges against the then-chief, and she appeared in court with her arm in a cast, according to the press accounts. The *Herald* article stated that the chief had "called in his own borough officers to oust [the woman] from the house they shared on Lincoln Avenue." Following that event in September 1990, that chief stayed in charge of the Hightstown Police Department until the following February 1, according to the *Herald* coverage, when the Borough Council finally reached an agreement for that Chief to step down. Surely, **if the Borough had been headed by a Police Director at that time**, in accord with the terms of the ordinance now before this Council, Hightstown would not have gone through that period of prolonged agony and public embarrassment back in 1990 and 1991.

8. The proposed changes to the Borough Code would not change what is already in place: That the Council (as the statutory Appropriate Authority) is required to be given **timely notification** by the administrator in charge of the Police Department when an allegation is made against a Hightstown officer of commission of a **criminal act, or a disciplinary infraction, or an act of domestic violence, or unfitness for duty**. That does not mean that the Council gets any privileged or confidential or unauthorized information, or that it would in the future. Not at all. It would mean that the Council would get the necessary and important notice that such an allegation or charge had been made against a Hightstown officer. This is already written into our Borough Code. But it has not been honored in practice. I will give two examples:

9. I was the Police Commissioner in **May 2009**, when a matter arose involving what appeared to be the very serious allegation that a Hightstown police officer may have violated the civil rights of a Borough resident. Neither I nor other members of Council received notice of that matter thereafter from Hightstown Police. Over 9 months later, I read about the incident in a local newspaper. Let me repeat that: I had been the Police Commissioner at the time of the event, and I read about it nine months later in a local newspaper. The disciplinary process went forward without prior notice to Council. The Borough Code, by my reading, required that notice be given to the Council before this matter went forward, but that did not happen. So I have to ask, what steps can I take as a Council Member to make sure the Council would have to be given timely notice, immediately after the event, if this same circumstance arose? And I see that the Council can put in place a Police Director as an effective way to remedy this. If the Police Director failed to give this type of information to the Council, the Council could ask for that administrator's resignation. In three months or less, the Police Director would have to vacate the position, and the Borough could move forward, with the professionalism of its other police officers reinforced, and its reputation enhanced.

10. I will give another example. The Appellate Division of the Superior Court of New Jersey issued a written opinion in **April 2004** that set forth the facts of a conspiracy in which a Hightstown police officer (who is named in the court opinion) conspired with another person to steal U.S. savings bonds totaling over \$10,000. I am quoting from the Appellate Division opinion which named the police officer and said "he cashed the bonds at a local bank, in part by using his influence and position as a police officer." I came upon that court opinion in February 2010 and directed the Council's attention that, six years later, we had an officer still serving on the Hightstown Police Department whose acts in violation of state criminal laws were spelled out in a New Jersey court opinion which named the officer. This is not confidential information. I am quoting from a written opinion of the Appellate Division of the New Jersey Superior Court, and anyone can walk into the Court Clerk's office and ask for a copy. The Council was not aware that the appellate court had issued the opinion, or even that a Hightstown officer had been named in a criminal conspiracy involving such a theft. So how can we make sure that the Council would not be left in the dark in similar circumstances? The proposed Police Ordinance would require the Police Director to inform the Council of such matters.

I would like to address the issues raised specifically by the New Jersey Association of Chiefs of Police, who visited our Council meeting on July 18, and told us it would be a terrible mistake for the Council even to try out a system headed by a civilian Police Director. I disagree, and here is why, which brings me to number 11.

11. The Chiefs of Police who attended the last Council meeting noted that their organization is opposed fundamentally to the concept of a Police Director, and wants every municipality to have a Chief of Police. This is not a surprise. They are not called the New Jersey Association for the Best Interests of Municipalities, or the New Jersey Association for Efficient and Affordable Police Management. They call themselves the New Jersey **Association of Chiefs of Police** and that is whom they protect: the Chiefs of Police. This organization of police chiefs wants to protect the job security and independent authority of all police chiefs throughout all of New Jersey. This is the first time that the Chiefs of Police have considered any police issue notable enough for them to **show up and address the Council**, at least during my years of attending Council meetings. This issue would appear shaded more by self interest of police chiefs statewide in continuing job security than in addressing the public interest issues that are so obviously presented here in Hightstown. Those public interest issues would seem to be very well preserved by having a Police Director appointed in Hightstown to oversee the Police Department at this time.

12. I am aware that more municipalities in New Jersey have Police Chiefs in office than have Police Directors, and common sense explains this. The trend towards a Police Director is partly driven by the **fiscal realities** of New Jersey municipalities, now that police salaries and benefits, particularly at the top levels, have become so prohibitively costly. Many municipalities would like to be where we are now, but they have in place a Police Chief who is not ready to retire. In Hightstown, we will have an opening in that position in one month. This is a **unique opportunity**.

13. The Chiefs of Police have expressed concern that since the Police Director is a civilian position, the Police Director may not fully understand or appreciate **differences between duties and responsibilities of the sworn officers**, and of the civilian head of the department. The proposed wording of the Police Ordinance would address and remedy this issue, with the emphasis on making sure that the person appointed as Police Director will have 10 or more years of experience in police matters, and will have supervisory experience in that capacity.

14. The Association of Chiefs of Police has suggested that it will hurt **morale** in our Hightstown Police Department if we adopt a structure that is not headed by a Police Chief. But the Chiefs might not say that if they knew **Hightstown's recent history**. In September 2010, the head of the Hightstown Police Department publicly reported to the Council at a Council meeting that few tickets were being issued and police productivity was at a low because morale was down. Indeed, the records of tickets issued in that period confirm a steady decrease in police productivity over a three-year period. In the past few months, the ticket issuance rate is again on the rise. The reason for that change appears to be the turn of events that resulted last fall in the signing of a new contract on terms agreeable to the PBA. A broad perspective on this reality might suggest that this would be an ideal time for a change in leadership structures for our Police Department, and that such changes might be welcomed by the professional officers and staff of the Police Department itself.

15. The Association of Chiefs of Police has also suggested that it will hurt *morale* in our Hightstown Police Department *if line officers could no longer aspire to be Chief*, and if they found out that that position is not open to them. As we are all aware here in Hightstown, our Police Department has consisted of a Chief and three sergeants, and seven additional officers. According to the report of the Police Chief to the Council on October 4, 2010, every one of our officers (except the Chief himself), regardless of rank or title, is presently serving as a patrol officer. The head of the Police Department has made no application to the Council to alter what would surely seem at present to be a stunted chain of command. If we take account of historical trends, we would see that when a Chief is appointed in Hightstown, that Chief stays in place for a long time. In reality, then, our officers under our present system have little hope of advancement any time soon. That would be more likely to change under the leadership of a Police Director. For many of our officers, it would be a great improvement if they had the opportunity to move up to be a sergeant in Hightstown, or a Lieutenant. The Association of Chiefs of Police might be alerted that that is the more significant issue affecting police morale, and our officers might have more meaningful opportunities to be rewarded on the basis of merit review, and for advancement and promotion under a system headed by a civilian Police Director.

In summary, all of these reasons have informed my view that it is in the best interests of Hightstown's residents *and* of our Police Department for me to vote in favor of the proposed Police Ordinance, so that a civilian Police Director would be placed in charge of our Police Department.

There was additional discussion regarding the cost savings, Council authority and a Police Chief versus a Police Director. The Mayor commented that the Borough is 1.2 square miles and that the police department is placing financial duress on the taxpayers. The Borough Attorney, Fred Raffetto, reviewed the process for removal of the Police Director in the future if Council finds that a Chief is needed. Discussion continued regarding the salary and whether the position is full time or part time. The Mayor reiterated that the position would be hourly and that it is predicted that the number of hours worked could be reduced following an evaluation of the department and acclimation period for the Director.

Ordinance 2011-10 First Reading and Introduction – Amending and Supplementing Section 2-19, Entitled “Police Department”, of the Revised General Ordinances of the Borough of Hightstown, New Jersey

Councilmember McGinty moved that ordinance 2011-10 be introduced as amended, Council President Quattrone seconded.

Councilmember McGinty clarified the changes made following the previous meeting's discussion and that provisions were removed that would be addressed during the updating of the rules and regulations. Council President/Police Commissioner Quattrone stated that every issue previously discussed has been addressed in the revisions; the Director will interact with the Borough Administrator as a Department Head, but will also deal directly with Council.

There was further discussion and it was noted that on page 12, in 2-19.7 (b), Borough Administrator should be removed from the review of applications and that final candidates should be interviewed by the Police Director and Borough Administrator. It was also noted that on page 11, in #7, First Aid should be added to the emergency responders listed.

There was additional discussion regarding the authority of the Borough Council. The Attorney then recommended that Council introduce the ordinance incorporating the amendments as noted during this discussion.

Councilmember McGinty moved that ordinance 2011-10 be amended with the revisions presented during discussion, Council President Quattrone seconded.

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

Council President Quattrone moved ordinance 2011-10 as amended, Councilmember McGinty seconded.

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

Ordinance introduced, 6-0; Public Hearing to be held on August 15, 2011.

Ordinance 2011-10

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

**AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 2-19, ENTITLED “POLICE
DEPARTMENT,” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF
HIGHTSTOWN, NEW JERSEY.”**

Section 2-19

POLICE DEPARTMENT

Subsections:

- 2-19.1 Establishment; Composition; Chain of Command.**

- 2-19.2 Department Under Control of Borough Council As the Appropriate Authority.**

- 2-19.3 Police Commissioner.**

- 2-19.4 Police Director.**

- 2-19.5 Duties of the Police Department.**

- 2-19.6 Rules and Regulations of Department.**

- 2-19.7 Application; Appointments; Probationary Period.**

- 2-19.8 Uniforms to be Furnished.**

- 2-19.9 Qualifications for Police Officers.**

- 2-19.10 Residency Requirements.**

- 2-19.11 Oath Required.**

- 2-19.12 (Reserved).**

- 2-19.13 Procedure for Implementation of Disciplinary Hearings.**

- 2-19.14 Reimbursement for Legal Costs.**

- 2-19.15 Term of Service.**

- 2-19.16 (Reserved).**

- 2-19.17. Engagement of Services of Off-Duty Police Officers.**

- 2-19.18. Drug Screening Procedure for Applicants and All Employees of the Police Department.**

Editor's Note: Prior ordinance history includes portions of prior 1991 Code §§ 37-1--31-4 [sic], 37-6--37-8, 37- 10--37-14, 37-16; Ordinance Nos. 94-7, 94-12, 19-1994; Ordinance Nos. 1998-7, 2000-04.

Subsection 2-19.1 Establishment; Composition; Chain of Command.

a. *Establishment.* The Borough Council, as the governing body of the Borough of Hightstown, hereby creates and establishes, pursuant to N.J.S.A. 40A:14-118, as an executive and enforcement function of municipal government, a police force which shall be known as the Police Department of the Borough of Hightstown (referred to herein as the “Police Department”). The Police Department shall be governed by the applicable laws of the State of New Jersey, this section of the Hightstown Borough Code, other applicable ordinances of the Borough, and rules and regulations adopted pursuant thereto.

b. *Composition.* Under the supervision of the civilian Police Director, the composition of the Police Department shall be as follows: a maximum of one lieutenant, a maximum of three sergeants, a maximum of ten patrol officers, and any civilian personnel as deemed appropriate by the Borough Council.

c. *Chain of Command.* All necessary orders and directives for the management and regulation of the Police Department shall be given through the chain of command. The chain of command shall be as follows:

1. The Borough Council as the Appropriate Authority, pursuant to N.J.S.A. 40A:14-118;
2. The civilian Police Director;
3. The lieutenant, if one is then serving;
4. The sergeant(s); and
5. The patrol officers.

(Ord. No. 2011-10)

Subsection 2-19.2 Department Under Control of Borough Council As the Appropriate Authority

The Police Department shall be under the control of the Borough Council, which shall serve as the Appropriate Authority pursuant to N.J.S.A. 40A:14-118. Notwithstanding any other provision of this section or any police rules and regulations, the Borough Council, by recommendation of the Police Director, or on its own motion, shall have the authority to institute disciplinary proceedings against members of the Police Department, and to conduct hearings in connection therewith, in accordance with subsection 2-19.13 and the requirements of New Jersey law. Consistent with the directives of the Mercer County Prosecutor or the Attorney General, and subject to the restrictions therein, the Police Director shall be responsible for ensuring that the Borough Council is given prompt and timely notice of all matters wherein disciplinary process is contemplated, considered, called for, or commenced as to any member of the Police Department. Nothing contained herein shall prevent the Police Director from taking emergent action, as the circumstances dictate or warrant. (Ord. Nos. 2011-10, 1998-7)

Subsection 2-19.3 Police Commissioner.

The Mayor shall, as soon as possible after the organization of the Council each year in January, name one (1) of the members of Council as Police Department Liaison, who shall also be known as the Police Commissioner. The Police Commissioner shall act as liaison between the Borough Council and the Police Department, with the assistance of the Borough Administrator, as needed. In the event of any vacancy in the office of Police Commissioner, which the Mayor has not filled within thirty (30) days, the Borough Council shall have the authority, by majority vote, to designate a Council Member to serve as Police Commissioner for the duration of that calendar year. (Ord. Nos. 2011-10, 1998-7)

Subsection 2-19.4 Police Director.

a. *Duties and Responsibilities.* The Police Director shall be the executive head of the Police Department, and shall have authority to manage and oversee the day-to-day operations of the Police Department. The Police Director shall consult and cooperate with the Police Commissioner as needed, and shall be responsible to the Borough Council as the Appropriate Authority. Whenever there is any reference in any law or ordinance or resolution or official document of the Borough to the Chief of Police or Police Chief, such reference shall be deemed to mean the Police Director. The operations for which the Police Director shall be responsible shall include but not be limited to the following:

1. The Police Director shall be responsible for the proper and efficient conduct of all police functions of the Borough of Hightstown.
2. The Police Director shall, consistent with the requirements of applicable statutes and particularly N.J.S.A. 40A:14-118:

- (a). Direct the daily operations of the Police Department, including allocating assignments and instruction to police officers and employees of the Police Department;
- (b). Establish policies for the operation and administration of the Police Department;
- (c). Determine internal organization of the Police Department;
- (d). Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the Police Department and its police officers and personnel;
- (e). Prescribe the duties and assignments of all police officers and other personnel;
- (f). Delegate his/her authority as he/she may deem necessary for the efficient operation of the Police Department to be exercised under his/her direction and supervision;
- (g). Report at least monthly to the Borough Council as the appropriate authority in such form as the Council shall prescribe on the operation of the Police Department during the preceding month, and make such other reports as may be requested by the Council;
- (h). Formulate, implement and issue rules and regulations for the Police Department, subject to the procedures set forth in Subsection 2-19.6(a);
- (i). Analyze crime trends and statistics to ensure that the Police Department makes the best use of available funds, personnel, equipment and supplies;
- (j). Provide police officers and employees of the Police Department with guidance and advice and supervise their work to see that proper procedures are followed, that reasonable standards of workmanship, conduct, and output are maintained, and that desired police objectives are achieved;
- (k). Direct the establishment and maintenance of police records and files, and make sure that procedures are followed at all times for the creation, updating, preservation, and oversight of all police records and files, including personnel files;
- (l). Issue directives and allocate resources to ensure police protection for public events, hazardous situations or weather conditions, times of emergency and in response to emergent conditions;
- (m). Review for administrative purposes reports prepared by police officers and employees;
- (n). Prepare the Police Department budget, and keep the Council updated monthly on costs and expenses incurred inside and outside that budget, including overtime;
- (o). Evaluate effectiveness of work programs and procedures of all sections of the Police Department and develop effective work methods for police officers and personnel;
- (p). Establish and maintain helpful and cooperative relations with the public, groups, organizations, businesses, schools, neighboring municipalities, local and regional law enforcement and emergency services entities, and so forth;
- (q). Designate the streets, avenues and areas of the Borough to be patrolled by the police officers;
- (r). Determine the days and hours of service of the police officers and other police employees;
- (s). Determine the periods of time when the police officers respectively may be off duty to make up for overtime service;
- (t). Provide for the proper and timely institution and commencement of disciplinary process, and for the proper and timely conduct of disciplinary hearings in accordance with Borough ordinance and State law;

(u). Perform all duties authorized by law, rule, regulation or prosecutor advisory or other types of opinions, directives or orders.

b. *Civilian Nature of Position of Police Director.* Since the Police Director shall be a civilian position, the Police Director shall not possess regular police powers. This subsection shall not limit or constrain the power or authority of the state Attorney General, or the Director of the Division of Criminal Justice within the Department of Law and Public Safety, or the Mercer County Prosecutor, to delegate or assign such additional responsibilities or powers to the Police Director as the Attorney General, or Director of the Division of Criminal Justice, or the Mercer County Prosecutor may determine, in the circumstances then presented, to be appropriate or warranted. Under ordinary circumstances, the civilian Police Director shall not be permitted to:

1. Operate a marked patrol vehicle, conduct a motor vehicle stop or answer calls for service;
2. Routinely stop, detain or arrest persons;
3. Wear a law enforcement officer uniform;
4. Be issued a firearm;
5. Approve permits to carry firearms; or
6. Direct the investigation of criminal matters.

c. *Acting Police Director.* In the temporary absence or disability of the Police Director, the Police Director shall appoint a supervisory officer to act on a temporary basis in place of the Police Director under the title of "Acting Police Director," this title to be used only for the duration of the temporary appointment. If the Police Director is unable or unavailable to make this appointment, or if there is a vacancy in the office of Police Director, the Police Commissioner shall appoint the supervisory officer to act on a temporary basis as Acting Police Director. The supervisory officer so appointed by the Police Director (or in his/her absence or unavailability, the Police Commissioner) should be the highest ranking member of the Police Department, unless the Police Director (or Police Commissioner) shall determine in good faith in the circumstances presented that such appointment cannot or should not be made, or that it would not be in the best interests of the Borough. The Police Director immediately shall notify the Council, the Mayor, and the Borough Administrator in writing of any such temporary appointment. The Police Director, as of January 1 of each year, shall publish in writing for the Police Department the order of ranking of the individual members of the department who would be in line to act in place of the Police Director, when needed in emergency, or when so designated by the Police Director.

d. *Department Equipment.* The Police Director shall recommend to the Borough Administrator from time to time the purchase of new equipment or the repair or rearrangement of such old equipment as will improve the Department. The Police Director shall have full oversight responsibility for the charge and control of all apparatus and equipment of the Department and its assignment and use, and shall be held responsible for overseeing its care, cleanliness and safe keeping. The Police Director shall be responsible for ensuring that a supervisory officer of the Police Department shall be designated with possessory authority, responsibility, and accountability for all firearms, weapons, and items of evidence. The supervisory officer so appointed by the Police Director should be the highest ranking member of the Police Department, unless the Police Director shall determine in good faith in the circumstances presented that such appointment cannot or should not be made, or that it would not be in the best interests of the Borough. If the Police Director is unable or unavailable to make this appointment, or if there is a vacancy in the office of Police Director, the Police Commissioner shall appoint the supervisory officer with oversight responsibility for department equipment.

e. *Qualifications of the Police Director.* The Borough Council shall oversee the selection and evaluation of the individual to be appointed Police Director, with a majority vote of sitting Council Members required to fill the position. The selection and evaluation shall be based upon the following criteria, and the requirements of New Jersey law:

1. Demonstrated possession of a thorough knowledge of the principles and practices of modern police and emergency management administration, modern police science and crime prevention, and the ability to command the respect of officers, support staff and the public, and to plan, assign, direct, supervise and evaluate the performance of officers and personnel.
2. Ten (10) years of experience as a member of a police department or law enforcement agency, or service in the military police in the armed forces of the United States, of which at least five (5) years should have

consisted of service in a responsible or supervisory capacity in public administration, public safety administration, or law enforcement administration.

3. College and post-graduate degrees in relevant fields of law enforcement are desirable and will be considered favorably in the selection process. Attendance at and successful completion of a certified and professionally recognized police training course is mandatory.

4. Successful passage of up-to-date physical and psychological tests is mandatory and must be documented as part of the application process by each candidate for the position of Police Director. If selected for the position, that candidate must submit, no more than 45 days before officially commencing the duties of office of Police Director, an updated written evaluation from [a] certified professional[s] documenting that there is no physical or psychological impediment to the adequate and competent performance of the position of Police Director by the candidate.

5. Residence within the State of New Jersey and within a radius of thirty (30) miles of the Borough Police Headquarters.

6. The Borough Council may waive any of the requirements set forth above when, in their judgment, the best interests of the Borough shall be served thereby.

f. *Compensation.* The Police Director's compensation shall be in the amount as shall be fixed annually by Ordinance.

g. *Removal.* The Police Director shall serve at the pleasure of the Borough Council. The Police Director may be removed by a two-thirds (2/3) vote of the Council. The resolution of removal shall become effective three (3) months after its adoption. The Council may provide that the resolution shall have immediate effect; provided, however, that the Council shall cause to be paid to the Police Director forthwith any unpaid balance of her or his salary for the next three (3) calendar months following adoption of the resolution.

(Ord. No. 2011-10)

Subsection 2-19.5 Duties of the Police Department.

a. The Police Director shall take all appropriate and necessary steps to make sure that the Police Department shall:

1. Preserve the public peace, protect life and property and prevent crime; detect and arrest offenders against the penal laws and ordinances effective within the Borough; suppress riots, mobs and insurrections; disperse unlawful or dangerous assemblages; and preserve order at all elections, public meetings and assemblages.

2. Administer and enforce laws and ordinances to regulate, direct, control and restrict movement of vehicular and pedestrian traffic and the use of the streets by vehicles and persons, protect the safety and facilitate the convenience of motorists and pedestrians and make and enforce rules and regulations not inconsistent with the ordinances and resolutions of the Borough for such purposes.

3. Remove or cause to be removed all nuisances in the public streets, parks and other public places of the Borough, inspect and observe all places of public amusement or assemblage and all places of business requiring any State or municipal license or permit and report thereon to the appropriate department.

4. Provide proper police attendance and protection at fires and emergencies.

5. Provide for the attendance of its members in court as necessary for the prosecution and trial of persons charged with crimes and offenses and cooperate fully with the law enforcement and prosecuting authorities of Federal, State and County governments.

6. Operate training programs to maintain and improve police efficiency of the members of the Department.

7. Have in place a chief communications officer who shall be responsible for the administration of police, first aid and fire communications in the Borough, and who shall report to and remain under the supervision and direction of the Police Director.

b. All police officers and employees shall, at all times, while holding office or appointment under the authority of this section, whether on or off duty, abide by the Constitutions of the United States and of the State of New Jersey.

c. All police officers and employees shall, at all times, while holding office or appointment under the authority of this section, whether on or off duty, show abiding respect for government by complying with all laws, statutes, codes, ordinances, rules and regulations, including those of the State of New Jersey and the Borough of Hightstown.

d. All police officers shall, at all times, while holding office or appointment under the authority of this section, whether on or off duty, conduct themselves as police officers in accord with the oath of office.

(Ord. No. 2011-10)

Subsection 2-19.6 Rules and Regulations of Department.

a. The Borough Council shall have the power, by resolution, to adopt such rules and regulations for the government and discipline of the Police Department as are not inconsistent with New Jersey law or this section. The Police Director shall have the power to adopt such additional rules, regulations, procedures and orders as shall be deemed necessary by her or him to promote the efficiency of the Department. Any such rule, regulation, procedure or order of the Police Director shall be sent immediately to the Borough Administrator and to the Borough Council, and they may be modified or annulled by resolution or motion of the Borough Council.

b. Such rules, regulations, procedures and orders shall be binding upon each member and civilian employee of the Police Department, and copies shall be made available by the Police Director for all such members and employees.

c. Within five (5) days after its adoption, the rule, regulation, procedure or order shall be posted by the Police Director or designee in the Police Department and a copy shall be made available to each member of the Department and to each civilian employee of the Department. The Police Director shall be responsible for ensuring compliance with this procedure.

d. In the event of any inconsistency between this Section 2-19 and the rules, regulations, procedures or orders, the provisions of this section shall control. In the case of inconsistency with any applicable collective bargaining agreement, the provisions of such agreement shall control.

(Ord. Nos. 2011-10, 1998-7)

Subsection 2-19.7 Application; Appointments; Probationary Period.

a. *Application.* Any applicant for the position of police officer of any rank shall make written application therefor on forms supplied by the Borough, to the Police Director, and at the same time shall submit such proofs as shall be required with respect to the qualifications as set forth in said application.

Candidates shall be drawn from an eligibility list established through recognized examination and testing procedures. When deemed appropriate by the Borough Council, vacancies or openings may be publicly advertised.

b. *Procedure for Evaluation and Appointment.* Applications shall be reviewed by the Borough Administrator and the Police Director, along with an ad hoc Police Committee established for the purpose of interviewing candidates and making recommendations to the Borough Council. The Mayor, along with the Borough Administrator, Police Director and Police Commissioner shall be the members of the ad hoc Committee and the Police Commissioner shall be the Chair. The Council may, in its discretion, appoint another member of Council to serve on the ad hoc Committee. Said Police Committee shall then recommend a name or names to the Council, which may determine to conduct interviews itself, prior to confirming employment. In either case, no member of the Police Department shall be appointed prior to consideration by the Council and formal appointment by resolution of the Council.

c. *Probationary Appointment.* No person shall be appointed as a member of the Borough Police Department prior to demonstrating an aptitude for police employment in the Borough of Hightstown for a period of one (1) year, during which time said person shall be known as a probationary police officer. During the probationary period, the appointment as a police officer shall be subject to revocation at any time on written notice by the Police Director for any cause and without any hearing. The probationary period may be extended by the Borough Council, on written recommendation of the Police Director, to a maximum of an additional six (6) months if necessary in order for an officer to successfully complete a police training course as prescribed by law.

For purposes of this subsection, the probationary period for any police officer shall be for a period of one (1) year following the candidate's graduation from a police academy, or if the candidate has prior police experience, said probationary period shall be for one (1) year from the date of employment or from the date of the successful completion of any police refresher courses required to be taken as a condition of employment, which ever shall occur last. No person shall be appointed or promoted to a command or supervisory position above patrolman or patrolwoman unless he or she shall have demonstrated an aptitude for such position, which shall be documented in writing by the Police Director. Candidates for and members of the Police Department shall have all other qualifications prescribed by law.

Upon the completion of the probationary period, the Police Director shall classify the officer as a permanent employee, subject to ratification of same by the Borough Council, after which time the officer shall be subject to the provisions of New Jersey law with respect to discipline and removal. Prior to achieving permanent status, probationary members shall not be considered as regular or permanent members of the Department.

(Ord. Nos. 2011-10, 1998-7)

Subsection 2-19.8 Uniforms to be Furnished.

Police uniforms shall be furnished to all members of the Borough Police Department and shall, at all times, be and remain the property of the Borough. Upon separation from service for any reason whatsoever, all uniforms and other equipment and accessories furnished by the Borough shall be promptly returned to the Police Director. (Ord. Nos. 2011-10, 1998-7)

Subsection 2-19.9 Qualifications for Police Officers.

No person shall be appointed as a member of the Police Department unless that person is qualified in accordance with the requirements of N.J.S.A. 40A:14-122 and the age requirements set forth in N.J.S.A. 40A:14-127 et seq. College training and/or degrees in relevant fields of law enforcement are desirable and will be considered favorably in the selection process. In particular, no person shall be eligible or qualified to be appointed as a police officer unless, at the time of his/her appointment:

- a. She/he shall be a citizen of the United States and resident of the State of New Jersey.
- b. She/he shall not be less than 21 years of age and shall be sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System of New Jersey as to her/his eligibility for membership in the retirement system. Age shall not be considered in the promotion of any officer to a higher rank.
- c. She/he shall demonstrate the ability to read and write the English language intelligently.
- d. She/he is of good moral character and shall not have been convicted of a crime or disorderly persons offense that, in the judgment of the Borough Council, would be prejudicial to the morale or the reputation of the Police Department.
- e. She/he must successfully pass the required physical fitness examination, drug and alcohol screening, psychological examination administered by a physician or laboratory of the Borough's choosing and be a successful graduate of a certified police academy as she/he may be assigned by the Borough. Any drug screening, psychological or medical examination or physical fitness examination shall be conducted after a conditional offer of employment or promotion has been made by the Borough.

(Ord. No. 2011-10)

Subsection 2-19.10 Residency Requirements.

a. Findings of Fact. The Borough Council specifically finds that requiring all police officers to be residents of the Borough would seriously impede its ability to establish and maintain competent personnel for its Police Department and would be in violation of N.J.S.A. 40A:14-122.1.

b. Preference in promotions shall be given to residents in accordance with N.J.S.A. 40A:14-122.6, but also shall be based on merit and fairness.

c. Residency in State. Every member of the Police Department shall be a resident of the State of New Jersey in accordance with N.J.S.A. 40A:14-122.8.

(Ord. Nos. 2011-10, 1998-7)

Subsection 2-19.11 Oath Required.

Each member of the Police Department shall, before entering upon the performance of official duties, take and subscribe an oath to bear true faith and allegiance to the government established in this Borough and this State, to support the constitutions of the United States of America and the State of New Jersey and to faithfully, impartially and justly discharge and perform all the duties of office, which oath or affirmation shall be filed with the Clerk. (Ord. No. 1998-7)

Subsection 2-19.12(Reserved.)

Subsection 2-19.13 Procedure for Implementation of Disciplinary Hearings.

a. Consistent with the directives of the Mercer County Prosecutor or the Attorney General, and subject to the restrictions therein, disciplinary action may proceed only on notice to the Police Commissioner and the Borough Council by the Police Director. Nothing contained herein, however, shall prevent the Police Director from taking emergent action, as the circumstances dictate or warrant. In the event the Police Director recommends to the Borough Council that disciplinary action be taken against a member of the Police Department, the Police Director shall serve or cause to be served upon the member of the Police Department a signed copy of the complaint and/or charges against the members, along with a written notice that a disciplinary hearing shall be scheduled no sooner than ten (10) days nor later than thirty (30) days after the notice is personally served upon him or her; the Borough Council and the member may agree to reasonable postponements. The matter shall be heard and determined before and by the Council at the time and place set forth in the notice. A written copy of the determination of the Council shall be served upon the member of the Police Department as soon as possible, but in no event later than twenty-one (21) days after the hearing. The Mayor shall participate in the hearing, and shall vote to break a tie, if necessary.

The Council, as Appropriate Authority, may determine in certain cases that a matter may be heard by a Hearing Committee acting on their behalf. In such cases and for the purposes of such hearings, the Hearing Committee shall act for the Appropriate Authority. The Hearing Committee shall be comprised of the Mayor, who shall be the presiding officer, the Police Commissioner, and the Borough Administrator. Hearings by the Hearing Committee shall be subject to the procedures set forth in this section. The written findings of the Hearing Committee, acting for the Appropriate Authority, shall be referred to the Mayor and Council for final determination, based upon the record established by the Hearing Committee.

In the alternative, the Appropriate Authority may appoint an independent hearing officer to conduct the disciplinary hearing and make recommendation to the Appropriate Authority for a final determination based on the record of the hearing.

All determinations of the Mayor and Council shall be final.

b. The Mayor and Council shall use Chapter 8 of the Police Rules and Regulations as a nonbinding guideline in the conduct of the hearings authorized herein.

c. All disciplinary actions shall be subject to the requirements and time frames set forth in N.J.S.A. 40A:14-147, et seq.

(Ord. Nos. 2011-10, 2000-04, 1998-7)

Subsection 2-19.14 Reimbursement for Legal Costs.

Where the Borough Council determines that the provisions of N.J.S.A. 40A:14-155 require that the Borough provide a means of defense or reimburse a police officer for legal costs, the hourly rate for which the Borough shall be responsible shall not exceed the hourly rate charged by the Borough Attorney for litigation matters. All statements for professional services submitted by attorneys representing police officers under this section shall be subject to review by the Borough Attorney and review and approval by the Borough Administrator. (Ord. No. 1998-7)

Subsection 2-19.15 Term of Service.

The term of service of any member of the Police Department shall be to the age of sixty-five (65) and shall be calculated as beginning on the date of formal appointment by the Borough Council. If the minutes or records of the Borough Council do not disclose such date, the payroll or other records of the Borough shall be used to determine it. At the age of sixty-five (65) the officer shall be retired by resolution of the Borough Council and his or her services as a police officer shall be at an end; provided, however, that the Borough Council may, in its discretion, continue any officer temporarily in case of emergency, or as the needs and interest of the Borough may require, provided said officer remains qualified for said employment. (Ord. No. 1998-7)

Subsection 2-19.16 (Reserved).

Subsection 2-19.17. Engagement of Services of Off-Duty Police Officers.

a. *Purpose.* To establish a policy regarding the hiring and use of off-duty Hightstown Borough police officers by any entity or person other than the Borough of Hightstown.

1. Members of the Police Department shall be permitted to accept police-related employment only during off-duty hours, only if authorized in writing in advance by the Police Director, and only at such time as will not interfere with the efficient performance of regularly-scheduled or emergency duty for the Borough. The Police Director shall not authorize the use of any Borough police dog for private duty or off-duty service or employment, and such use of a police dog is specifically prohibited.

2. Any person or entity wishing to employ off-duty police officers shall first obtain the approval, in advance and in writing, of the Police Director, which approval shall be granted if, in the opinion of the Police Director, such employment would not be inconsistent with the efficient functioning and good reputation of the Police Department, and would not reasonably endanger or threaten the safety of the officer or officers who are to perform the work, and would not impair the reputation of the Borough of Hightstown, the Hightstown Police Department or its officers.

b. *Insurance requirement.*

1. No party or employer shall employ any off-duty Borough police officer in order to perform the services of security guard, traffic control officer or plain clothes surveillance officer without having first filed with the Borough Clerk a certificate of comprehensive general liability insurance in the amount of not less than \$1,000,000.00 combined single limits for any one occurrence with respect to injuries and damages suffered or caused by Borough police officers while in the employ of the party or employer. The insurance certificate shall list the Borough, the Borough Police Department and municipal officials, representatives and employees as additional insureds.

2. No certificate of insurance required by this section shall be deemed filed with the Borough Clerk unless it has first been approved by the Borough's municipal attorney.

3. Any and all policies of insurance evidenced by any certificate filed hereunder shall be maintained by the party or employer in full force and effect at all times while any Borough police officer is employed by such party or employer. Upon the change or renewal of any such policy of insurance, the party or employer shall forthwith file with the Borough Clerk a new and current certificate of insurance in compliance with the foregoing provisions.

4. In the event of an emergency, which results in the person or entity being precluded from complying with the requirements of this subsection, the Police Director shall have the authority to waive said insurance prerequisite prior to approving the use of off-duty officers for certain police-related employment.

c. *Hold harmless.* In addition to the aforesaid requirements, the party or employer shall indemnify and hold harmless the Borough, the Borough Police Department and all Borough officials, representatives and employees, from and against any claim, liability, damage or expense that may arise out of or relate to the actions of:

1. Any Borough police officers employed by the party or employer, including any claims concerning the alleged negligence of the Borough's police officers; and

2. The party or employer, its employees, officers and representatives.

d. *Escrow accounts.*

1. Except as provided herein below, any party or employer requesting the services of an off-duty Borough police officer shall estimate the number of hours such law enforcement services will be required, which estimate shall be approved in writing by the Police Director, and shall establish an escrow account with the Chief Financial Officer of the Borough by depositing an amount sufficient to cover the rates of compensation and administrative fees set forth in subsection (f) herein below for the total estimated hours of service.

2. All deposits to the escrow account just described in subsection (1) shall be documented, and no cash will be accepted for this purpose. No officer or employee of the Police Department shall accept any payment in any form from any party or entity other than the Borough, and unless that payment will have been formally and permanently documented by the Chief Financial Officer of the Borough. No party or entity shall give or channel any form of payment or gratuity to any Borough officer, employee, or representative in connection with the services of off-duty officers, but shall use the escrow account described in subsection (1).

3. Prior to posting any request for services of off-duty police officers, the Police Director shall verify that the balance in the escrow account of the party or employer requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services.

4. The Police Director shall not post a request for services from any party or employer unless all fees and compensation required in the manner described above have been deposited with the Chief Financial Officer of the Borough. No officer shall provide any such services for more hours than are specified in the request for services. No officer shall arrange with any party or employer privately, or without the written authorization of the Police Director, to provide such services.

5. In the event the funds in such an escrow account should become depleted, services of off-duty police officers shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.

6. The party or person requesting such services shall be responsible for ensuring that the sufficient funds remain in the escrow account in order to avoid any interruption of services.

7. In the event of an emergency, which results in the person or entity being precluded from timely complying with the requirements of this subsection, the Police Director shall have the authority to waive the escrow account prerequisite and approve the use of off-duty officers for certain police-related employment. This waiver shall be limited to the escrow account/prepayment aspect of this subsection. The person or entity requesting the law enforcement services shall remain fully responsible for paying for same. In the event the person or entity requesting the off-duty police services fails to submit payment within 30 days of the approval of the use of the off-duty police officers, the Borough shall not be responsible for paying the subject officers for their off-duty services.

8. Every officer shall have the right to turn down without any penalty any request that she or he work as a private duty or off-duty officer. No officer shall be required to work as an off-duty officer for any party or entity.

9. The Police Director shall keep in view the needs of the Borough for shift coverage in determining whether to approve or to deny any request for off-duty officer services by any party or entity.

e. *Requests for services, and posting of authorizations.* All requests to the Borough for services of off-duty police officers for a period of one week or longer shall be forwarded to the Police Director for posting at least ten days before such services are required. The Police Director may relax this time restriction in the event of an emergency. Requests for services of off-duty officers for periods less than a week may be reviewed by the Police Director on a case-by-case basis, but with denial warranted where the needs of the Police Department, including need to have officers available for additional shifts or for overtime service, are obvious. All of the authorizations issued by the Police Director for services of off-duty officers shall be posted so that the information is available to all officers, and shall be provided in advance to the Police Commissioner. Any police officers, when so employed, shall be treated as an employee of the Borough provided, however, that wages earned for outside employment shall not be applied toward the pension benefits of police officers so employed, nor shall hours worked for outside employment be considered in any way as compensable overtime.

f. *Rates of compensation; administrative fees; payment for services.* Rates of compensation for contracting the services of off-duty Borough police officers shall be as follows:

1. For all non-traffic assignments, for the first eight hours, the rate shall be \$70.00 per hour for each officer, of which \$15.00 per each hour shall be an administrative fee retained by the Borough.

2. For all traffic assignments, including construction project assignments, for the first eight hours, the rate shall be \$80.00 per hour for each officer, of which \$15.00 per each hour shall be an administrative fee retained by the Borough.

3. After eight hours, the hourly rate for each officer shall increase by \$10, without an increase in the administrative fee.

4. No administrative fee shall be assessed to any Board of Education, schools, or government units or agencies.

5. Any variance from the above rate schedule shall be authorized only after it shall first have been submitted to, reviewed and approved by the Borough Council by resolution.

g. *Use of marked police vehicles.* In the event that a party or employer employs any off-duty Borough police officer pursuant to this section, in addition to any compensation to be paid to the Borough pursuant to the requirements herein, there shall also be a \$15.00 per hour per vehicle fee for the use of marked or unmarked police vehicles.

h. *Penalty.* Any person or entity who employs off-duty Borough police officers in order to perform the above services without first having complied with the requirements of this section shall be subject to the fines set forth section 1-5 of the Borough Code for each day that the party or entity employs any Borough police officer, unless a waiver of said requirements shall have been granted, in writing and in advance, by the Police Director. Any officer or employee of the Hightstown Police Department who provides off-duty services in a manner other than as specified in this section shall be subject to prosecution for violation of the Borough Code, and also for disciplinary process and penalties, including administrative penalties up to and including dismissal, in addition to the penalties set forth in section 1-5 of the Borough Code.

i. *Cancellation policy.* Any private employer who determines to cancel the services of police officers, after entering into a contract, shall be required to provide notice to the police officers not less than eight hours before the scheduled start time of the assignment. If a contractor fails to provide such notice, the officer shall be entitled to two hours' payment for said assignment, with the administrative fee to be paid as well to the Borough.

j. *Control vested in the Police Director.* The Police Director of the Borough of Hightstown shall be responsible for the overall conduct of the members of the Police Department in following the rules and regulations promulgated herein, and shall insure that the terms, conditions and provisions of this section shall be fully and faithfully carried out. Additionally, the Police Director shall have authority to control officers engaged in off-duty or outside employment pursuant to this section, and shall further have the authority and the duty to commence disciplinary process as to any and all officers so engaged in outside employment by private employers, should cause for such charges arise or exist. The Police Director shall be accountable for the failure to abide by or to enforce the terms of this section as to off-duty employment by police officers.

(Ord. No. 2011-10)

Subsection 2-19.18 Drug Screening Procedure for Applicants and All Employees of the Police Department.

The Police Director shall establish a drug screening procedure, including screening for steroids, for applicants and employees of the Police Department. The drug testing policy shall be reviewed and approved by the Office of the Mercer County Prosecutor. The policy shall be adopted as a part of the Police Department's rules and regulations and shall be amended from time to time so as to insure that applicants to the Police Department and the Department's sworn law enforcement personnel and employees are drug free. The Police Director shall make sure that random and unannounced drug tests are conducted as to every single police officer, with every reasonable precaution taken to ensure the integrity, reliability, and fairness of the screening process and of the individual samples collected, and to ensure the confidence of the public and the reputation of the Police Department. The Police Director shall be accountable for the failure to abide by or to enforce the terms of this section as to all police officers. (Ord. 2011-10).

Section 2. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

Section 3. 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 that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Section 4. This Ordinance shall take effect following final passage and publication in accordance with the law, but not before September 1, 2011.

Ordinance 2011-11 First Reading and Introduction – Bond Ordinance Providing for Various Improvements of the Borough of Hightstown, in the County of Mercer, New Jersey, Appropriating the Aggregate Amount of \$321,000.00 therefor and Authorizing the Issuance of \$305,700.00 Bonds or Notes of the Borough to Finance Part of the Cost Thereof.

Council President Quattrone moved that ordinance 2011-11 be introduced as amended, Councilmember Woods seconded.

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

Ordinance introduced, 6-0; Public Hearing to be held on August 15, 2011.

Ordinance 2011-11

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

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$321,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$305,700 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

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

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of Hightstown, in the County of Mercer, New Jersey (the "Borough") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$321,000, including the aggregate sum of \$15,300 as the several down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$305,700 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

		Estimated Maximum Amount of Bonds or	
	Appropriation	<u>Notes</u>	Period of <u>Usefulness</u>
<u>Purpose</u>	and Estimated		
	<u>Cost</u>		

		Estimated Maximum Amount of Bonds or	
	Appropriation	<u>Notes</u>	
	and Estimated		Period of <u>Usefulness</u>
<u>Purpose</u>	<u>Cost</u>		
a) <u>Public Works:</u>			
Acquisition of a dump truck with snow plow and tailgate sander, a 4 wheel drive utility truck with snow plow and a 4 wheel drive pick-up truck with snow plow, including all related costs and expenditures incidental thereto.	\$205,327	\$195,703	5 years
Acquisition of a self contained vacuum for valve cleaning and small water repairs, a retrofitting backhoe with a hydraulic hammer asphalt breaker and the replacement of an arm for the automated garbage truck, including all related costs and expenditures incidental thereto.	\$94,673	\$90,204	15 years
Total:	\$300,000	\$285,907	
b) <u>Police Equipment:</u>			
Acquisition of traffic ticket equipment and software, including all related costs and expenditures incidental thereto.	\$9,882	\$9,316	5 years
Acquisition of a police radio recording system, including all related costs and expenditures incidental thereto.	\$11,118	\$10,477	10 years
Total:	\$21,000	\$19,793	
GRAND TOTAL:	\$321,000	\$305,700	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefore, as above stated, is the amount of the down payment for each purpose.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements that

the Borough may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 8.29 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 \$305,700, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$5,900 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

Section 7. 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 8. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements 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 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

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

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

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

William Malley, President of the Police Chief's Association and Police Chief to Lacey Township – took offense to Councilmember McGinty's comments and stated that this change will not save money for Hightstown.

Ray Manukas, South Brunswick Police Chief - distributed materials to Council and spoke regarding statutes that permit the removal of a Police Chief

Gail Doran, 201 Hutchinson Street – supported the Police Director ordinance

Fran Palumbo, 101 Main Street – requested Hightstown Borough's cooperation and participation in a motorcycle run commemorating 9/11

Rob Thibault, 504 S. Main Street – supported the Police Director ordinance

Melanie Iolio, 158 Grand Avenue - supported the Police Director ordinance

Phyllis Deal, 305 Stockton Street – inquired about the Police Director getting benefits

Susan Bluth, 42 Dennis Court - supported the Police Director ordinance

Herbert Smith, 150 Main Street – supported the Police Department and wants to keep a Chief

George Serrano, 4 Westerlea Avenue – supported retaining the Police Chief position

Eugene Serafin, 628 S. Main Street - supported the Police Director ordinance

John Archer, 131 Bennett Place – apologized to the Police Chief’s Association for Councilmember McGinty’s comments and would like Council to be pro-active

Anton Danko, Retired Police Chief – noted he is presently a Police Director and commented on the two titles

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

Resolution 2011-191 Authorizing Payment of Bills

Councilmember McGinty requested that item C0010 on the list be removed and requested further clarification from the Borough Attorney on codification services. Councilmember Gilmartin requested that item M0093 be removed from the list due to a conflict of interest.

Councilmember McGinty moved resolution 2011-191 as amended, Councilmember Vanderbeck seconded.

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

Resolution adopted as amended, 6-0

Councilmember McGinty moved item M0093 from the bills list for payment, Councilmember Vanderbeck seconded.

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

Payment of Item C0010 was discussed and the Attorney noted that this invoice is for services previously rendered and that it should be paid. There was further discussion and the Borough Attorney was charged with clarifying the requirements of codification services.

Council President Quattrone moved item C0010 from the bills list for payment, Councilmember McGinty seconded.

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

Payment of Item C0010 passes 6-0.

Resolution 2011-191

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 \$ 134,809.40 from the following accounts

Current	\$ 79,521.85
W/S Operating	52,868.34
General Capital	-

Water/Sewer Capital	-
Grant	677.15
Trust	1,381.02
Housing Trust	-
Animal Control	262.60
Law Enforcement Trust	-
Housing Rehab Loans	-
Unemployment Trust	98.44
Escrow	-
Total	<u><u>\$ 134,809.40</u></u>

Resolution 2011-192 Authorizing Extension of Grace Period for Payment of Third Quarter 2011 Property Taxes

Council President Quattrone moved resolution 2011-192, Councilmember Vanderbeck seconded.

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

Resolution adopted, 6-0

Resolution 2011-192

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

**RESOLUTION AUTHORIZING EXTENSION OF GRACE PERIOD FOR PAYMENT OF THIRD
QUARTER 2011 PROPERTY TAXES**

WHEREAS, tax bills for the Borough of Hightstown have been delayed slightly, and,

WHEREAS, Title 54 provides for an interest penalty for the failure to pay third quarter taxes by August 1; and,

WHEREAS, it would be unfair to assess penalties against taxpayers whose failure to pay taxes is due solely to a delay for which they are not responsible.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Hightstown that the rate of interest to be charged for the late payment of third quarter 2011 taxes from the period August 1 through August 22, 2011 only shall be 0.0%; except that said rate shall not apply to those persons and entities who are delinquent on payment of the first or second quarter 2011 and prior years' property taxes; and,

BE IT FURTHER RESOLVED that after August 22, 2011, the rate of interest to be charged for the payment of third quarter taxes will be the current authorized rate (8% of the first \$1,500.00 of delinquency and 18% on the excess over \$1,500.00) from the due date of August 1, 2011 until the date the actual payment is received in the Tax office; and,

BE IT FURTHER RESOLVED that the taxpayers of the Borough of Hightstown be notified of this extension by placement of a notice in their tax bills; and,

Resolution 2011-193 Authorizing an Item of Revenue to be Added to the Budget

Council President Quattrone moved resolution 2011-193, Councilmember Gilmartin seconded.

The CFO gave an explanation of the resolution.

August 1, 2011

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

Resolution adopted, 6-0

Resolution 2011-193

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

**REQUESTING APPROVAL FOR INSERTION OF A SPECIAL ITEM OF REVENUE
IN THE 2011 BUDGET**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Hightstown hereby request the Director of the Division of Local Government Services to approve the insertion of a special item of revenue and equal appropriation in the budget of the Borough of Hightstown for the year 2011 as follows:

Source	Amount	Revenue Title	Appropriation Title
State of New Jersey	\$6,040.69	Municipal Court Alcohol Education and Rehabilitation Fund	Municipal Court Alcohol Education and Rehabilitation Fund

Resolution 2011-194 Authorizing 2011 Donation to RISE (formerly known as the Community Action Service Center)

Council President Quattrone moved resolution 2011-194, Councilmember Bibens seconded.

The Attorney expressed concern that the Borough is making a donation, rather than a payment of services. He requested that the documentation regarding this payment meet the criteria of a payment rather than a donation.

Council President Quattrone and Councilmember Bibens withdrew their motion.

Resolution 2011-195 Authorizing 2011 Donation to Better Beginnings Child Development Center

Council President Quattrone moved resolution 2011-195, Councilmember Bibens seconded.

The Attorney requested that the Auditor be contacted and give his approval that the documentation regarding this payment meet the criteria of a payment rather than a donation.

Council President Quattrone and Councilmember Bibens withdrew their motion.

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

Eugene Sarafin, 628 S. Main Street – announced that he has resigned from the First Aid due to lack of certified EMTs and LOSAP issues

Rob Thibault, 504 S, Main Street – apologized for an earlier loss of temper and reiterated his support for the Police Director position

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

Council/Mayor/Administrative Comments

August 1, 2011

Councilmember Gilmartin – commented that she is sorry to hear Mr. Sarafin resigned; she has more questions about the Police Director position; National Night Out is tomorrow; she supports 9/11 ride through Hightstown.

Councilmember Bibens – commented that Parks & Recreation will hold a clean-up day; she is co-chairing the Harvest Fair; she did a lot of leg work regarding the Police Director ordinance and thanked Council President Quattrone and Councilmember McGinty for their work on the ordinance; she supports the 9/11 ride; she reminded everyone about upcoming events.

Council President Quattrone – advised that there was a meeting Cranbury regarding the 9-1-1 shared services agreement; he has met with the Police as their Commissioner and set up a line of communication with the Officers; the robbery in Hightstown is being investigated and National Night Out is tomorrow; he missed the First Aid meeting; Sgt. Gendron has been accepted to FBI Training Academy; the work on Mercer Street is presently schedule to be done at night.

Councilmember McGinty – distributed a chart containing the enforcement fees collected by the Court and would like it discussed at the next meeting; commented that the Court is the next thing that should be addressed; great discussion from Council regarding police costs; the 9/11 ride should have been presented differently with advance notice; she is not pleased with the need for codifications services.

Mayor Kirson – stated that Council needs to focus on the Police Director ordinance and he thanked Mr. Sarafin for all his work with the First Aid,

Councilmember McGinty moved to adjourn the meeting at 10:50 PM and Councilmember Bibens seconded; the motion was approved unanimously.

Respectfully Submitted,

Debra L. Sopronyi
Borough Clerk