

**Meeting Minutes**  
**Hightstown Borough Council**  
**Regular Meeting**  
**August 15, 2011**  
**6:30 pm**

The meeting was called to order by Mayor Kirson at 6:30 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 2011-196**

Council President Quattrone moved resolution 2011-196. Councilmember Gilmartin seconded.

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

Resolution adopted, 5-0

**Resolution 2011-196**

*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 15, 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 15, 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 7:25 pm.

The meeting was called to order by Mayor Kirson at 7:35 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 also joined the public meeting.

Council President Quattrone moved the agenda as presented, Councilmember McGinty seconded. All ayes, agenda was approved.

#### **Resolution 2011-197 Capital Budget Amendment**

Councilmember Vanderbeck moved resolution 2011-197, Council President Quattrone seconded.

George Lang, CFO, explained that this resolution is to amend the capital budget to incorporate the bond ordinance that is on tonight's agenda.

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

Resolution adopted, 5-0.

#### **Ordinance 2011-10 Final Reading and Public Hearing – Amending and Supplementing Section 2-19, Entitled “Police Department”, of the Revised General Ordinances of the Borough of Hightstown, New Jersey**

Councilmember Gilmartin moved that additional discussion regarding ordinance 2011-10 be held prior to the public hearing on the ordinance, Councilmember Woods seconded. There was discussion.

Mayor Kirson called for a roll call vote on whether to hold additional Council discussion prior to the public hearing on ordinance 2011-10.

Roll Call Vote: Council members Gilmartin and Woods voted yes; Council members McGinty, Quattrone and Vanderbeck, voted no.

Motion defeated, 3-2.

The Borough Attorney advised that if there are any changes to be made to the ordinance, they are to be made prior to opening the public hearing on the ordinance so that he can determine as to whether they are substantive and whether it would prevent Council from adopting the ordinance this evening.

Councilmember McGinty moved to amend the ordinance by making a change on page three prior to the underlined section of 2-19.2, and on page fifteen at the beginning of 2-19.13(a), adding “Consistent with the directives of the Mercer County Prosecutor or the Attorney General, and subject to the restrictions therein”. Council President Quattrone seconded.

Borough Attorney, Fred Raffetto, noted that the changes made by this amendment would not substantively change the ordinance and would not prevent Council from moving forward with the adoption of this ordinance following the public hearing.

Councilmember McGinty requested that it be noted that this language is being added at the recommendation of Legal Counsel. Labor Counsel, Richard Shaklee, advised that these revisions are being made due to a conversation with the Prosecutor's office regarding another matter in which they had indicated that a letter was forthcoming regarding verbiage in those two sections of the ordinance being inconsistent with the guidelines issued by Internal Affairs. Placing certain information in the hands of Council violates Internal Affairs investigatory regulations; pending receipt of the letter, it is advised that this language be added to assure that any report given to Council falls within the guidelines and directives of the County Prosecutor and Attorney General.

Councilmember Gilmartin expressed concern regarding adding this language because we have not yet received the written comments from the Mercer County Prosecutor's office and suggested tabling the ordinance until a letter is received and full Council is available to vote on the adoption of the ordinance.

At the request of Councilmember Woods, the Borough Attorney clarified that the motion on the table at this time is to amend the ordinance as moved by Councilmember McGinty and seconded by Council President Quattrone.

Mayor Kirson called for a roll call vote on amending ordinance 2011-10 as moved.

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

Ordinance amended 5-0.

The Borough Attorney then requested that if any further amendments are to be made to the ordinance, they be made at this time; and if there are none, he suggested that the Borough Clerk read a statement as put forward by Councilmember Bibens, who requested that her statement be read into the record in her absence.

Councilmember Gilmartin motioned that verbiage on page three stating “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” be stricken from the ordinance; Councilmember Wood seconded. There was discussion regarding this amendment and Councilmember Woods stated that she has been in contact with the Prosecutor’s office and this verbiage is in conflict with their guidelines.

Mayor Kirson called for a roll call vote on the second amendment to strike the verbiage on page three as moved by Councilmember Gilmartin and seconded by Councilmember Woods.

Roll Call Vote: Council members Gilmartin and Woods voted yes; Council members McGinty, Quattrone and Vanderbeck, voted no.

Ordinance amendment defeated, 3-2.

The Borough Attorney assured that if a letter is received from the Mercer County Prosecutor, he in conjunction with Labor Counsel, will bring any and all concerns forward to Council and if any revisions are needed to the ordinance there will be an opportunity to amend it at that time.

The Borough Clerk read the following statement as requested by Councilmember Bibens:

“Good evening Mayor & Council,

I am requesting that the following be read into public record prior to the Public Comment session of tonight’s meeting.

I am sorry I cannot be with you this evening. I am writing today to put forth my standings on Ordinance 2011-10 for Police Director/Police Department. It was however, my understanding that this Ordinance would not move forward by vote until the meeting being held on September 6, 2011 or a Special meeting regarding just this Ordinance. **When there was full Council in attendance.**

Although I am for creating the position of Police Director, I cannot support Ordinance 2011-10 in its current form. If the voting does occur tonight in my absence I want it on record that I Councilmember Bibens would be voting “no”. Once again, I would not be voting against the creation of the position Police Director, I would be voting against Ordinance 2011-10 because I feel that there is more work to be done on it before it should be passed.

Thank you.”

Mayor Kirson opened the Public Hearing on Ordinance 2011-10

Bill Gilmore, 219 Greeley Street – spoke in favor of the ordinance

Gail Doran, 201 Hutchinson Street – commented on Councilmember Bibens statement and spoke in favor of the ordinance

Eugene Sarafin, 628 S. Main Street - commented on Councilmember Bibens statement and spoke in favor of the ordinance

Dave Christino, 131 Orchard Ave - spoke against the Police Director position and feels we should keep a Police Chief

Gary Snook, 357 Morrison Ave – had several questions and recommended Council evaluate the cost of this title

J P Gibbons, 602 N. Main Street – commented on the length of the ordinance and amendments being made

Frank Rivera, 110 Broad Street – commended Council and spoke in favor of the ordinance

Rob Thibault, 504 S. Main Street - spoke in favor of the ordinance

Kathleen Gravely, 40 Westerlea Ave – commented that the leader of the Police Department should be a qualified law enforcement person

John Archer, 131 Bennett Place – commented that there will be minimal savings with this title and that it should be required that the Director be a Hightstown resident

Eugene Sarafin, 628 S. Main Street – commented that Hightstown will need additional officers regardless of whether there is a Chief or Director

There being no further comments, Mayor Kirson closed the public hearing on Ordinance 2011-10.

Councilmember Woods opened discussion with her comment that she thought the ordinance could be amended after introduction and that she would like additional information before voting on the ordinance. She inquired of the CFO as to the cost savings of implementing this title and he confirmed that they were substantial. Councilmember Woods then expressed her concern regarding the ordinance covering more than just the Police Director position as initially purposed and inquired if they could pull particular sections out of the ordinance and then vote on it, to which the Borough Attorney advised that a motion and vote would be needed to amend the ordinance.

Councilmember McGinty stated that as for the movement of the original ordinance in its complete form, she would not consider the amendment as presently on the table, nor for reasons she could go in to later, would she participate in the amendment presently being considered.

Councilmember Woods motioned to amend the ordinance to only include sections 2-19.1, 2-19.2 and 2-19.4 in the ordinance, Councilmember Gilmartin seconded with the comment that the rest of the ordinance could be looked at later, after seeking the advice of the new Police Director.

The Mayor inquired of the Attorney as to whether this amendment would substantially change the ordinance, to which the Borough Attorney advised that it is not, because they are deleting sections which have already been in the original ordinance, not adding something that was not there. Mr. Raffetto continued that it may be questionable as to whether deleting the other sections of the ordinance is appropriate because it would create inconsistencies in the ordinance where the title of Police Chief exists but confirmed that this amendment would still permit Council to move forward with the hiring of a Police Director.

Councilmember Gilmartin the commented that she believes the entire Council is in favor of the Police Director title, however there are still a lot of questions regarding this ordinance and the position of the Police Director; she is still waiting for a written cost benefit analysis on the matter and she believes the public deserves this information; Council has not yet determined the hours or salary of the Police Director.

Councilmember McGinty stated that if we excise these three sections of the ordinance, we create chaos with our ordinance and this is why she will not support the amendment at all. The reason other sections of this ordinance have been revised is to make the whole thing a synthetic whole; they work in synthesis with each other. She continued that if we have sections of an ordinance that deal with a Police Chief, at the same as we are revising other sections to deal with a Police Director, it doesn't work; the ordinance can be revised later. What we have here is a document that was worked on for many hours by two Council members, along with the two attorneys, to produce a document we could move forward with. There is nothing haphazard about this. If you are looking for weaknesses, we worked very hard to make sure there were no weaknesses; however, there seems to be concerns other Council members may have and she would be interested in hearing the objections.

Councilmember Woods reiterated that her present motion is to vote only on the three sections cited with the intent to have a special meeting in the future to discuss the remainder of the ordinance.

Mr. Raffetto reiterated that approving this amendment as currently on the table would immediately create inconsistencies with the remainder of the ordinance as it now exists. The Mayor expressed concern that if the ordinance was chopped up it may create confusion in the end result. The Attorney confirmed that once the ordinance is adopted, there is nothing preventing further amendments being made to the ordinance. Councilmember Gilmartin commented that several Council members, as well as members of the public, already have concerns with inconsistencies in the present ordinance. There was further discussion regarding the requirements for publicly noticing a special meeting.

Council President Quattrone suggested that Council vote on the ordinance as presented, not taking out portions of the ordinance. Council can change the ordinance at any time. There was additional discussion.

The Mayor called for a vote on the motion to amend the ordinance to only include sections 2-19.1, 2-19.2 and 2-19.4 as moved by Councilmember Woods.

Roll Call Vote: Council members Gilmartin and Woods voted yes; Council members McGinty, Quattrone and Vanderbeck, voted no.

Motion defeated, 3-2.

Councilmember McGinty then inquired as to the concerns of Council members, to which Council members Woods and Gilmartin responded that their concern regarding the ordinance had already been made known to the remainder of Council during past discussion.

Councilmember McGinty then supplied public copies of her statement from the last meeting and commented regarding chain of command and rank of officers as cited in the ordinance. She had concern regarding issues being raised now by Council members and stated that the September 1<sup>st</sup> deadline is crucial due to the vacancy created when the Chief of Police retired. She noted that all Council members have agreed that the Police Director position should be implemented and that this ordinance, in its totality, establishes the position of Police Director; if we find that this ordinance contains limitations, or changes should be made, we can change it at any time. Councilmember McGinty reminded Council of the amount of time and money spent on this ordinance. As for money issues, she reminded Council that there was a Police Committee report that dealt with some of the financial issues in the Police Department and that she has been inquiring for some about police finance issues for well over a year and has made limited progress on this. She went on to say that she hopes with a Police Director in place it will be easier to get the information she has been requesting. Councilmember McGinty believes a key reason for going forward relates to those financial questions based on everything she has seen and analyzed, there should be savings with a Police Director versus a Police Chief; if we go forward with a Police Director and we find that it does not work out for the Borough, we can change at any point, we cannot do that during the term of a Police Chief once one is appointed.

Councilmember Woods inquired of the Borough Attorney as to whether this discussion should be confined to discussion regarding the ordinance, to which the Borough Attorney responded that Council is permitted to address comments made during the public hearing on the ordinance during their deliberations on the ordinance.

Councilmember McGinty stated that she is trying to address many of the questions that were raised. She then commented with regard to the minimum number of officers, that is a matter that would need to be addressed as soon as we have a Police Director in place; regarding resident questions regarding the money, be assured that she has been trying to evaluate that matter; with regard to the word count on this ordinance, the verbiage included in the ordinance was found to be very important by the committee and was based on a review of other municipalities ordinances, it fills gaps in the ordinance which had not been amended for many years, and is necessary; regarding receiving a letter from the Prosecutor's office, she would welcome their comments on our ordinances, but has never seen a letter from them, regarding drug testing and the issue that we may be sued regarding this requirement, she noted that the Attorney General's office has been on the band guard regarding this matter and encourages the instituting of this policy in municipalities throughout New Jersey; regarding whether we are subject to a lawsuit due to our ordinance, the Police Director would have to over step a legal boundary to put the Borough at risk of such a lawsuit; she would be interested in seeing the offensive language in the ordinance that members of Council, public and the police would like to be changed and why; with regard to the chain of command, it was spelled out at the last two meetings so she will not review it again at this time; with regard to the Police Director reporting monthly to Council, people are not aware that this has been in the Borough code for years and the Police Chief reported to the Council monthly, we are not changing anything, we are not giving additional responsibilities that did not already exist; in regard to what the Police Commissioner does versus the Police Director and the Council, she would be interested in seeing where in this ordinance there is such confusion; regarding the definition of a Supervisory Officer, the information is located on page 8 in section C; regarding how an Acting Police Director will be appointed, this ordinance puts in place a procedure on how that person is appointed and delineates the authority of the Police Commissioner as for determining who that person will be and how they will be put into that position; in regard to removal, there is a parallelism with the removal of the Borough Administrator in the ordinance; with regard to ADA compliance, on page 9 and page 10 there is a part that states that the Borough Council may waive any of the requirements as stated above and disabilities will be accommodated if possible; regarding the question about why we changed our Borough Code to put in something recommending a college education for our police officers, she was not going to address it; regarding questions addressing the discipline of police officers, the questions are referring to what has already been in the code, it is not new; regarding the five pages addressing the services of off-duty officers, it is because many municipalities have such regulations and it is outrageous that we only had two paragraphs on the matter and is very important; regarding the questions of why now, it is because our Chief of Police is retiring. Councilmember McGinty commented that she is looking forward to greater accountability and financial accounting in the department with the change in leadership. Regarding the public comments about requiring an accredited police officer with running the department, the criteria for the selection of the Police Director has it written into it; as for the requirement that the Police Director live in Hightstown, that is not something we can do and one resident stated that we should expand the pool to 50 miles to get the greatest quality. She went on to inquire as to why we would limit the ordinance to three sections when we can deal with it as a whole and if we are not happy with it, we can change it at any time.

Councilmember Gilmartin commented that in her 15 point memo to Council, Councilmember McGinty referred to the dyer financial situation in the police department. Council is aware of the short-staffing issue and overtime, but what the public and Council has requested is a written financial analysis; we had a very bad experience with the Police Study last year and everyone came out with numbers but there was never anything solid to work from, while She believes there will be savings, she would like to see it. Councilmember Gilmartin continued that her second issue is that there has been a lot of power given to the Police Commissioner in this ordinance; she believes Council President Quattrone is best suited for this position and to make these decisions, but this is an ordinance that will remain in place for a long time after this Council is no longer here and that is something that they need to think about. Councilmember Gilmartin's third issue is an issue she brought up in the very beginning, the ability of Council to initiate and conduct disciplinary hearings and proceedings. She addressed Councilmember McGinty stating that Councilmember McGinty said several times that this code really needed to be updated and that there was a lot of old language, so why is it all the changes Councilmember McGinty suggests are viable, but the change that Councilmember Gilmartin, had that existed in the former code, is not worth discussion especially when we have an attorney stating that this ordinance probably isn't up to par with the Attorney General and Prosecutor's offices? Councilmember Gilmartin commented that she thinks we owe our residents and taxpayers clear answers.

Councilmember Woods reminded Council, and the public, that it is the job of individual Council members to read, interpret and research issues to form an individual opinion; and there will be those who disagree, however we must remember that we have a right to our own opinion. She went on to say that she feels she has been attacked for having her own opinion and she hopes that everyone understands that each Councilmember has an equal voice and no one's opinion or vote holds more weight than another's.

Councilmember McGinty then addressed the three questions posed by Councilmember Gilmartin. In regards to the issue of amending the portion of the code that dealt with disciplinary proceedings, the Council has been out of the loop as far as disciplinary proceedings and any information about our police department; to now amend the ordinance and remove this section to take the Council permanently out of the loop, she cannot believe that Council would consider this. Regarding the expanded power to the Police Commissioner, the only expansion is that come September 1<sup>st</sup>, the Police Commissioner will be appointing the Acting Director. In the past, that authority rested with the Chief, and we are not going to have a Chief so someone has to assume that authority; it is appropriate for the Council to give that authority to the Police Commissioner. On the third matter, the dyer financial situation of our police department, to hear the public is requesting an accounting, she is glad to hear it and she has been encouraging that. She went on to state that Councilmember Gilmartin having sat upon the police committee earlier this year, and having sat through the many requests for documents that would have given the committee a greater overview of that financial picture, and since every Councilmember has a copy of that report and is aware of this issue, and because of some of the circumstances which she could not go into, she finds it appalling on the eve of September 1<sup>st</sup>, that Council members are citing that we need some accounting on paper. She greatly encourages that and thinks that immediately on September 1<sup>st</sup> Council should take measures to acquire that accounting.

Discussion ensued and Councilmember Woods inquired of the Borough Attorney as to whether there should be discussion regarding the police committee report, which has not been adopted by Council. The Borough Attorney advised that this discussion is limited to the ordinance being adopted and should be limited to just that.

Councilmember Woods then commented that those who have concern about the ordinance are not saying to take Council out of the loop by removing that language, it should simply say that the recommendation would come from the Police Director in order for us to take action; that Council would not have the authority to take action on our own.

Councilmember Vanderbeck then commented that in looking at Councilmember McGinty's points her notes that Council cannot continue doing everything the way it has always been done, because if it does, they end up with the same results; he thinks there is nothing wrong with a trial period and believes the various points address different accountability. He also noted that there are things that should have been done in the department to assist the police enforcement and safety of the town; years ago they tried to get a non-uniform parking person to address parking issues in town at \$12.00 - \$15.00 per hour, yet we are performing these duties with a uniformed sworn police officer. This is an efficiency that we can bring to the department; Councilmember Vanderbeck then referenced a state study regarding efficiency in Police departments. He commented that Council President Quattrone and Councilmember McGinty put a lot of time into this ordinance and he thinks there is a lot of sense to it; it speaks of stability of the force. To go with a Police Chief is a one way street with no u-turns of exits, at least with a Police Director, we can pull over to the side and change our direction; the taxpayers deserve to try something different, we should have done this ten years ago. It would be an opportunity sorely missed if we do not adopt this ordinance as enacted and he will be voting in favor of this ordinance.

The Mayor called for a motion to adopt ordinance 2011-10 as amended.

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

Roll Call Vote: Council members McGinty, Quattrone and Vanderbeck, voted yes; Council members Gilmartin and Woods voted no.

Ordinance adopted 3-2.

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)

August 15, 2011

#### **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, whichever 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 Final Reading and Public Hearing – 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.**

Mayor Kirson opened the public hearing on Ordinance 2011-11.

Eugene Sarafin – 628 S. Main Street – spoke in favor of the ordinance  
J. P. Gibbons – 602 N. Main Street – spoke in favor of the ordinance

There being no further comments, the Mayor closed the public hearing.

Council President Quattrone moved that ordinance 2011-11 be adopted, Councilmember Vanderbeck seconded.

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

Ordinance adopted, 5-0.

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>	
	and Estimated		Period of <u>Usefulness</u>
<u>Purpose</u>	<u>Cost</u>		
a) <b><u>Public Works:</u></b>			
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.	<u>\$94,673</u>	<u>\$90,204</u>	15 years
Total:	<u>\$300,000</u>	<u>\$285,907</u>	
b) <b><u>Police Equipment:</u></b>			
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.	<u>\$11,118</u>	<u>\$10,477</u>	10 years
Total:	<u>\$21,000</u>	<u>\$19,793</u>	
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.



Law Enforcement Trust	4,900.60
Housing Rehab Loans	-
Unemployment Trust	-
Escrow	14,876.75
Total	<u>\$ 173,189.81</u>

**Resolution 2011-199 Requesting Approval for Insertion of a Special Item of Revenue in the 2011 Budget**

Council President Quattrone moved resolution 2011-199, Councilmember McGinty seconded.

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

Resolution adopted, 5-0

Resolution 2011-199

*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 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 Division of Highway Traffic Safety	\$4,400.00	Over the Limit – Under Arrest	Over the Limit – Under Arrest

**Resolution 2011-200 Requesting Approval for Insertion of a Special Item of Revenue in the 2011 Budget**

Council President Quattrone moved resolution 2011-200, Councilmember McGinty seconded.

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

Resolution adopted, 5-0

Resolution 2011-200

*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 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 Solid Waste Administration	\$4,376.61	Recycling Tonnage Grant	Recycling Tonnage Grant

**Resolution 2011-201 Authorizing the Release of Escrow – DM Properties (Block 3.01, Lot 53.04 & Block 40, Lots 22, 23 & 24)**

Council President Quattrone moved resolution 2011-201, Councilmember Vanderbeck seconded.

The Borough Clerk explained this resolution.

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

Resolution adopted, 5-0

Resolution 2011-201

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

**AUTHORIZING RELEASE OF FUNDS REMAINING IN ESCROW – D M PROPERTIES  
(BLOCK 40, LOTS 22, 23 & 24 AND BLOCK 3.01, LOT 53.04)**

**WHEREAS** D M Properties has requested that the funds remaining in their escrow account with the Borough for Block 40, Lots 22, 23 and 24 be released; and

**WHEREAS** D M Properties has requested that the funds remaining in their escrow account with the Borough for Block 3.01, Lot 53.04 be released; and

**WHEREAS** the Borough Professionals have certified that there are no outstanding fees related to the projects; and

**WHEREAS** the Borough Engineer has recommended the release of the remaining escrow funds.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Treasurer is authorized and directed to release to D M Properties all amounts remaining in the escrow account for Block 40, Lots 22, 23 and 24, and Block 3.01, Lot 53.04.

A certified copy of this Resolution shall be provided to the following:

- a. D M Properties
- b. Janice Mohr-Kminek, Treasurer
- c. Susan Jackson, Planning Board Secretary
- d. Carmela Roberts, Borough Engineer
- f. Gary Rosensweig, Planning Board Attorney

**Resolution 2011-202 Authorizing the Release of Escrow – Aviv Investments (Block 26, Lot 20.01)**

Council President Quattrone moved resolution 2011-202, Councilmember Vanderbeck seconded.

The Borough Clerk explained this resolution.

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

Resolution adopted, 5-0

Resolution 2011-202

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

**AUTHORIZING RELEASE OF FUNDS REMAINING IN ESCROW – AVIV INVESTMENTS  
(BLOCK 26, LOTS 20.01)**

**WHEREAS** Aviv Investments has requested that the funds remaining in their escrow account with the Borough for Block 26, Lot 20.01 be released; and

**WHEREAS** the Borough Professionals have certified that there are no outstanding fees related to the project; and

**WHEREAS** the Borough Engineer has recommended the release of the remaining escrow funds.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Treasurer is authorized and directed to release to Aviv Investments all amounts remaining in the escrow account for Block 26, Lot 20.01.

A certified copy of this Resolution shall be provided to the following:

- a. Aviv Investments
- b. Janice Mohr-Kminek, Treasurer
- c. Susan Jackson, Planning Board Secretary
- d. Carmela Roberts, Borough Engineer
- f. Gary Rosensweig, Planning Board Attorney

**Resolution 2011-203 Authorizing Payment #4 and Final for Gres Paving – Memorial Park Improvements**

Council President Quattrone moved resolution 2011-203, Councilmember Woods seconded.

The Borough Clerk explained that this project is complete.

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

Resolution adopted, 5-0

Resolution 2011-203

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

**AUTHORIZING PAYMENT #4 AND FINAL – GRES PAVING COMPANY  
(MEMORIAL PARK IMPROVEMENTS)**

**WHEREAS**, on September 7, 2010, the Borough Council awarded a contract for the Memorial Park Improvements Project to Gres Paving Company of Hamilton, New Jersey in the amount of \$320,968.95; and,

**WHEREAS**, the contractor has submitted Payment Request #4 and Final for work done in the total amount of \$7,013.96; and

**WHEREAS**, the required closeout documents including the Consent of Surety to Final Payment and Maintenance Bond have been received; and,

**WHEREAS**, the Borough Attorney has reviewed the closeout documents and found them to be in order; and,

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**WHEREAS**, the Borough Engineer has recommended approval of this payment request after all required certified payrolls have been received; and

**WHEREAS**, the Treasurer has certified that said funds are available for this purpose.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that Payment Request No. 4 and Final from Gres Paving Company of Hamilton, New Jersey in the amount of \$7,013.96, as detailed herein, is hereby approved, and the Treasurer is authorized to issue same.

**Resolution 2011-204 Authorizing a Vendor Refund fir the Harvest Fair – Dena S. Bogen**

Council President Quattrone moved resolution 2011-204, Councilmember Gilmartin seconded.

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

Resolution adopted, 5-0

Resolution 2011-204

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

**AUTHORIZING A REFUND FOR THE HIGHTSTOWN BOROUGH FAIR – DENA S. BOGEN**

**WHEREAS**, Dena S. Bogen paid a vendor fee to participate in the Borough Fair with check #168 in the amount of \$45.00; and

**WHEREAS**, \$45.00 was deposited into account #T-12-56-286-000-836; and

**WHEREAS**, the vendor application duplicated the product being sold and has been denied by the Harvest Fair Committee; and

**WHEREAS**, the Treasurer has requested that a refund in the amount of \$45.00 be issued.

**BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Treasurer is hereby authorized and directed to issue a refund in the amount of \$45.00 to Dena S. Boden, 64 Covington Drive, East Windsor, New Jersey 08520, for a vendor fee paid to participate in the Hightstown Borough Fair.

**Resolution 2011-205 Authorizing an Agreement for the Acceptance and Processing of Septic Waste Water, Gray Water and/or fats and grease – Accurate Waste Removal Services, Inc.**

Council President Quattrone moved resolution 2011-205, Councilmember McGinty seconded.

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

Resolution adopted, 5-0

Resolution 2011-205

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

**AUTHORIZING AGREEMENT FOR ACCEPTANCE AND PROCESSING OF  
SEPTIC WASTE WATER, GRAY WATER AND/OR FATS AND GREASE – ACCURATE WASTE  
REMOVAL SERVICES INC.**

**WHEREAS**, Accurate Waste Removal Services, Inc. of Lake Hopatcong, New Jersey has requested the use of the Borough of Hightstown Advanced Wastewater Treatment Plant for delivery of septic waste water, gray water and/or fats and grease; and,

**WHEREAS**, their request has been reviewed and approved by the Superintendent of the Advanced Wastewater Treatment Plant, and they have submitted a signed agreement along with the required Certificate of Insurance.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the agreement with Accurate Waste Removal Services, Inc. for acceptance and processing of septic waste water, gray water and/or fats and grease is hereby approved, and the Mayor and Borough Clerk are authorized to execute same.

**Resolution 2011-206 Authorizing the Borough Engineer to Apply for a Grant under the NJDOT Municipal Aid Program**

Council President Quattrone moved resolution 2011-206, Councilmember Gilmartin seconded.

Councilmember McGinty asked whether there was a cost borne by the Borough to apply for this grant. The Borough Clerk advised that she did not think there was a cost, but would inquire of the Borough Engineer and advise Council.

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

Resolution adopted, 5-0

Resolution 2011-206

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

**AUTHORIZING APPLICATION  
FOR NEW JERSEY DEPARTMENT OF TRANSPORTATION MUNICIPAL AID GRANT**

**WHEREAS**, the New Jersey Department of Transportation is accepting applications for the Municipal Aid, Bikeway and Safe Streets to Transit grant Programs with said applications due by September 23, 2011; and

**WHEREAS**, the Borough Engineer has recommended that the Borough make application under the Municipal Aid Program for the reconstruction of Grape Run Road and improvements to Pershing Avenue; and

**WHEREAS**, the proposed improvements would include curbs and sidewalks, drainage upgrades and full roadway reconstruction of Grape Run Road and milling and overlay of Pershing Avenue.

**THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough Engineer is hereby authorized to prepare the application for New Jersey Department of Transportation Municipal Aid funding for the reconstruction of Grape Run Road and improvements to Pershing Avenue.

**Resolution 2011-207 Supporting and Endorsing a Benefit Concert for the Greenway Walking Bridge and Waiving Fees Associated with Required Borough Permits**

Councilmember Gilmartin moved resolution 2011-207, Councilmember Vanderbeck seconded.

Councilmember McGinty expressed concern regarding the cost of police coverage, liquor sales and wording in the resolution which states that the Borough is supporting the event.

Darek Hahn, Chair of the Bridge Committee explained that the Committee would bear the cost of security for the event and that a licensed organization will handle beer sales. There was additional discussion and the Borough Attorney recommended that the resolution be amended to read

WHEREAS, the Walking Bridge Committee is sponsoring a fundraising Benefit Concert on October 1, 2011 in Rocky Brook Park from 7:00pm to 10:00pm; and

WHEREAS, the Mayor and Council supports the proposal as set forth below

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

1. The Borough hereby supports the Walking Bridge Committee benefit concert
2. The Borough agrees to waive the "no alcohol in the parks" ordinance for this Borough event
3. The Committee shall secure all required permits for the event and the Borough shall waive any fees due the Borough for such permits
4. The Committee shall secure insurance coverage for the event, through the Borough Insurance (JIF)
5. The Committee shall work with all Borough safety personnel to ensure a safe enjoyable event for the community and surrounding area

Councilmember Gilmartin moved resolution 2011-207 as amended, Councilmember Woods seconded.

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

Resolution adopted as amended, 5-0

Resolution 2011-207

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

**SUPPORTING A BENEFIT CONCERT FOR THE GREENWAY WALKING BRIDGE AND  
WAIVING FEES ASSOCIATED WITH BOROUGH PERMITS**

**WHEREAS**, the Walking Bridge Committee is sponsoring a fundraising Benefit Concert on October 1, 2011 in Rocky Brook Park from 7:00pm to 10:00pm; and

**WHEREAS**, the Mayor and Council supports the proposal as set forth below

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

6. The Borough hereby supports the Walking Bridge Committee benefit concert
7. The Borough agrees to waive the "no alcohol in the parks" ordinance for this Borough event
8. The Committee shall secure all required permits for the event and the Borough shall waive any fees due the Borough for such permits
9. The Committee shall secure insurance coverage for the event, through the Borough Insurance (JIF)
10. The Committee shall work with all Borough safety personnel to ensure a safe enjoyable event for the community and surrounding area

**Resolution 2011-208 Confirming Hightstown Borough's Request for the NJDOT to Perform Work During Daytime Hours**

Councilmember Gilmartin moved resolution 2011-208, Councilmember Woods seconded.

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

Resolution adopted, 4-0, with one abstention.

Resolution 2011-208

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

**CONFIRMING HIGHSTOWN BOROUGH'S REQUEST THAT THE NEW JERSEY  
DEPARTMENT OF TRANSPORTATION CONDUCT THE MILLING AND PAVING OF  
ROUTE 33/MERCER STREET DURING DAYTIME HOURS AND FURTHER REQUESTING  
EXTENDED HOURS OF WORK TO COMPLETE THE PROJECT AS TIMELY AS POSSIBLE**

**WHEREAS**, The New Jersey Department of Transportation has included the milling and paving of Route 33/Mercer Street in Hightstown Borough in its upcoming milling and paving program; and

**WHEREAS**, Resolution 2011-115, which was adopted by the Borough Council at their meeting of April 26, 2011, requested that said paving be conducted during daytime hours to eliminate the burden that overnight construction would cause the residents of Mercer Street; and

**WHEREAS**, the New Jersey Department of Transportation and Contractor have indicated that extended hours of

construction would permit the project to be completed in as short a time as possible; and

**WHEREAS**, the Borough Council finds that completion in a timely manner would be beneficial to the residents and businesses of the Borough; and

**WHEREAS**, it is the desire of the Borough Council to accommodate an extended daytime work schedule, requesting that the NJDOT stipulated work hours of 9:00am to 3:30pm be extended to allow the milling and paving to be performed between the hours of 6:00am and 7:00pm.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that it is hereby confirmed that Hightstown Borough has requested that the Department of Transportation conduct the mill and pave project in Hightstown Borough during daytime hours to eliminate the burden that overnight construction would cause the residents of Mercer Street.

**BE IT FURTHER RESOLVED** that the Mayor and Council hereby request and agree to accommodate an extended work schedule to allow the milling and paving to be performed between the hours of 6:00am and 7:00pm so this project can be completed in as short a time as possible.

**Resolution 2011-209 Authorizing the Issuance of an Auction License – Alfred’s Auctions, Inc.**

Council President Quattrone moved resolution 2011-209, Councilmember Vanderbeck seconded

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

Resolution adopted, 5-0.

Resolution 2011-209

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

**AUTHORIZING ISSUANCE OF A LICENSE FOR AUCTION -  
ALFRED’S AUCTIONS, INC.**

**WHEREAS**, an application for a license to hold an auction on Saturday, August 27, 2011 at 231 Morrison Avenue in the Borough of Hightstown has been submitted by Alfred’s Auctions, Inc., together with the required fee; and

**WHEREAS**, the application has been reviewed and approved by the Chief of Police; and

**WHEREAS**, it is the desire of the Mayor and Council that a license be issued to Alfred’s Auctions, Inc. 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 Alfred’s Auctions, Inc. for their auction to be held on Saturday, August 27, 2011 at 231 Morrison Avenue.

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

Eugene Sarafin, 628 S. Main Street – suggested that Council members not be angry when they are outvoted.

J. P. Gibbons, 602 N. Main Street – stated that he supports the Bridge Committee (but the newly adopted ordinance does affect their fundraiser) and the Americana Diner lease; the Farmer’s Market signs are unprofessional.

Darek Hahn, 102 Manlove – advised that he is working with the watershed regarding the turnpike construction and silt run-off.

Scott Caster, 12 Clover Lane – expressed that businesses should be considered and requested better communication when NJDOT performs work on their roads.

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

### **Americana Diner Lease**

Council President Quattrone recused himself from discussion and decision in this matter.

Mr. Constantine Katsifis and his attorney, Mark Shane, advised that they have received approval from East Windsor for the expansion to the diner property and that they would like to convert the current use and occupancy agreement lease to a 99 year lease. Mr. Raffetto, Borough Attorney reviewed the history of the present agreement. There was discussion regarding the fair market value of the property and the possibility of the sale of the land versus a lease agreement. Borough Council charged Mr. Raffetto with obtaining an appraisal on the property as soon as possible.

Council President Quattrone returned to the dais.

### **Leadership of Police Department**

Councilmember McGinty advised that the Police Commissioner is to appoint the leadership in the Police Department, an Acting Director, effective September 1<sup>st</sup> when the Chief leaves; as stated in the newly adopted ordinance covering that position. The Commissioner needs to advise Council, and the Public, as to who will be assuming those duties.

There was discussion regarding FBI training for one of the Sergeants and whether the required absence of ten weeks for this training would create financial hardship for the Borough. There were also questions as to whether this training is necessary and Council President Quattrone stated that he would forward information on the training to Council.

There were no Council Comments.

Mayor Kirson stated that it was necessary for Council to return to executive session, however no action would be taken when they return into public session.

Councilmember Vanderbeck moved to adjourn back into executive session at 12:00 AM and Councilmember Gilmartin seconded; the motion was approved unanimously.

Council re-convened into public session at 12:15 AM.

Councilmember Vanderbeck moved to adjourn the meeting at 12:15 AM and Council President Quattrone seconded; the motion was approved unanimously.

Respectfully Submitted,

Debra L. Sopronyi  
Borough Clerk