

Meeting Minutes
Hightstown Borough Council
Regular Meeting
July 16, 2012
7:30 pm

The meeting was called to order by Mayor Kirson at 7:03 pm and he read the Open Public Meetings Act statement which stated, "Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the *Trenton Times* and the *Windsor-Hights Herald*, and is posted in the Borough Clerk's office."

The flag salute followed Roll Call.

	PRESENT	ABSENT
<i>Councilmember Bibens</i>	✓	
<i>Councilmember Bluth</i>	✓	
<i>Councilmember Doran</i>	✓	
<i>Councilmember Quattrone</i>	✓	
<i>Councilmember Thibault</i>	✓	
<i>Councilmember Woods</i>	✓	
<i>Mayor Kirson</i>	✓	

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

Resolution 2012-184 Authorizing a Meeting Which Excludes the Public

Councilmember Doran requested that the subject of possible contract negotiations for the Shangle & Hunt property be added to the resolution

Council President Quattrone moved resolution 2012-184 with the amendment that the subject of possible contract negotiations for the Shangle & Hunt property be added, Councilmember Doran seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Resolution adopted, 6-0

Resolution 2012-184

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 July 16, 2012 at approximately 7:00 pm in the First Aid Building located on Bank Street, Hightstown that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7b of the Open Public Meetings Act.

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

- Contract Negotiations – Possible Shared Services
- Possible Contract Negotiations – Shangle & Hunt

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: October 16, 2012 or when the need for confidentiality no longer exists.

The public is excluded from said meeting, and further notice is dispensed with, all in accordance with sections 8 and 4a of the Open Public Meetings Act.

The public meeting was called to order by Mayor Kirson at 7:38 pm and he again read the Open Public Meetings Act statement.

The Flag Salute followed Roll Call.

	PRESENT	ABSENT
<i>Councilmember Bibens</i>	✓	
<i>Councilmember Bluth</i>	✓	
<i>Councilmember Doran</i>	✓	
<i>Councilmember Quattrone</i>	✓	
<i>Councilmember Thibault</i>	✓	
<i>Councilmember Woods</i>	✓	
<i>Mayor Kirson</i>	✓	

James LeTellier, Police Director; George Lang, Chief Finance Officer; and Carmela Roberts, Borough Engineer joined the meeting at this time.

The Mayor asked that the agenda be amended to move resolution 2012-190 and ordinance 2012-12 to under Engineering Items and that ordinance 2012-11 be removed from the agenda.

Council President Quattrone moved the agenda as amended, Councilmember Doran seconded. All Ayes.

Agenda approved as amended.

Council President Quattrone moved the minutes of the June 4, 2012, Open Session for approval; Councilmember Thibault seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes

Minutes approved 6-0.

Councilmember Bibens moved the minutes of the June 4, 2012 Executive Session for approval; Councilmember Doran seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, and Woods voted yes; Councilmember Thibault abstained.

Minutes approved 5-0 with one abstention.

Resolution 2012-185 Authorizing Payment #2 – Brentwood Industries (Trickling Filter Media)

Councilmember Woods moved resolution 2012-185, Councilmember Bibens seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Resolution adopted, 6-0

Resolution 2012-185

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

AUTHORIZING PAYMENT # 2 – BRENTWOOD INDUSTRIES, INC. (TRICKLING FILTER PLASTIC MEDIA)

WHEREAS, on January 17, 2012, the Borough Council awarded a contract for Trickling Filter Plastic Media to Brentwood Industries, Inc. of Reading, Pennsylvania in the amount of \$116,870.00; and

WHEREAS, the contractor has submitted payment request #2 for work done in the total amount of \$57,266.30; and

WHEREAS, the Borough Engineer has recommended approval of payment #2 to Brentwood Industries, Inc. in the amount of \$57,266.30; and

WHEREAS, the Chief Finance Officer has certified that funds are available for this expenditure.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that Payment Request No. 2 from Brentwood Industries, Inc. of Reading, Pennsylvania in the amount of \$57,266.30 is hereby approved as detailed herein, and the Treasurer is authorized to issue same.

Resolution 2012-186 Authorizing Payment #2 – B & H Contracting, Inc. (Post Chlorination Tank)

Council President Quattrone moved resolution 2012-186, Councilmember Doran seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Resolution adopted, 6-0

Resolution 2012-186

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

AUTHORIZING PAYMENT # 2 – B & H CONTRACTING, INC. (POST CHLORINATION TANK)

WHEREAS, on December 19, 2011 the Borough Council awarded a contract for the Post Chlorination Tank to B & H Contracting, Inc. of Folsom, New Jersey in the amount of \$201,950.00; and

WHEREAS, the contractor has submitted payment request #2 for work done in the total amount of \$34,202.00; and

WHEREAS, the Borough Engineer has recommended approval of payment #2 to B & H Contracting, Inc. in the amount of \$34,202.00 pending receipt of certified payrolls; and

WHEREAS, the Chief Finance Officer has certified that funds are available for this expenditure.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that Payment Request No. 2 from B & H Contracting, Inc. of Folsom, New Jersey in the amount of \$34,202.00 is hereby approved as detailed herein, and the Acting Treasurer is authorized to issue same

Resolution 2012-190 Declaring a Default in the Construction of the Residential Development Known as “Enchantment at Hightstown,” and Authorizing the Borough to Take all Appropriate Actions to Seek Completion of the Outstanding Improvements Through the Developer’s Bonding Company and Performance Bond

Mayor Kirson recused himself from discussion and vote on this resolution, Council President Quattrone took over the meeting at this time.

Councilmember Thibault moved resolution 2012-190, Councilmember Bibens seconded.

The Borough Engineer advised that she has recommended that the Borough declare default due to the incomplete construction. The project started in 2004 and there has been no response to her correspondence from the developer for over a year until after she requested the default declaration, then the developer requested an extension with no firm completion date; she has prepared a cost estimate for the project’s completion.

The Borough Attorney confirmed that the Borough has taken the proper measures and process to declare the default.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Resolution adopted, 6-0

Resolution 2012-190

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

A RESOLUTION OF THE BOROUGH OF HIGHTSTOWN DECLARING A DEFAULT IN THE CONSTRUCTION OF THE RESIDENTIAL DEVELOPMENT KNOWN AS “ENCHANTMENT AT HIGHTSTOWN,” AND AUTHORIZING THE BOROUGH TO TAKE ALL APPROPRIATE ACTIONS TO SEEK COMPLETION OF THE OUTSTANDING IMPROVEMENTS THROUGH THE DEVELOPER’S BONDING COMPANY AND PERFORMANCE BOND.

WHEREAS, construction of the residential development known as “Enchantment at Hightstown” (the “Development”) was commenced in or about December of 2004; and

WHEREAS, in connection with the approvals granted by the Borough of Hightstown (the “Borough”) for the Development, the developer, Enchantment at Hightstown, LLC (the “Developer”), a subsidiary of Robertson Douglas Group, was required to post a performance guarantee and a cash guarantee in order to insure the faithful completion of all site improvements associated with the Development, in accordance with the requirements of the New Jersey Municipal Land Use Law, *N.J.S.A. 40:55D-1*, et seq.; and

WHEREAS, the performance guarantee was issued by Westchester Fire Insurance Company, and bears Bond Number KO6685882 (the “Westchester Bond”); and

WHEREAS, though all of the residential homes constructed in the Development are now completed and occupied, certain site improvements remain incomplete and/or require maintenance; and

WHEREAS, during the eight (8) years which have elapsed since the commencement of construction of the Development, the Developer has been notified of these deficiencies on numerous occasions by the Borough Engineer, but the Developer has failed or refused to take satisfactory corrective actions; and

WHEREAS, the Borough believes that the completion of the outstanding improvements has taken far too long, and that the said improvements must be completed as soon as possible in order to ensure the safety and convenience of the residents who now reside within the Development; and

WHEREAS, in view of the above, the Borough hereby wishes to declare the Developer to be in default of its obligations relating to the construction of site improvements at the Development; and

WHEREAS, a detailed cost estimate of the outstanding improvements, as prepared by the Borough Engineer dated July 6, 2012, is attached hereto as Exhibit “A” and is made a part hereof; and

WHEREAS, the total cost to complete the outstanding improvements, as estimated by the Borough Engineer, is \$365,726.50; and

WHEREAS, the current amount of the Westchester Bond is \$1,061,885.40; and

WHEREAS, the Borough is also holding ten percent (10%) of the amount of Westchester Bond in the form of a cash guarantee; and

WHEREAS, in view of the Developer’s continued and prolonged failure or refusal to complete the outstanding improvements, the Borough Engineer has recommended that the Borough should take all necessary steps to pursue completion of the said improvements by utilizing the Westchester Bond and/or the cash guarantee referenced above; and

WHEREAS, the Mayor and Council wish to endorse the findings and recommendations of the Borough Engineer, and wish to authorize the Borough, through the Borough Attorney, to take appropriate actions to enable the Borough to use the Westchester Bond and/or the cash guarantee referenced above in order to complete the outstanding improvements at the Development, or to require Westchester Fire Insurance Company to complete the said improvements on behalf of its insured (the Developer).

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

1. That the Borough hereby declares the Developer to be **in default** of its obligations related to the construction of required improvements at the Development.
2. That the Borough hereby authorizes and directs the Borough Attorney to take all appropriate actions to enable the Borough to use the Westchester Bond and/or the cash guarantee referenced above in order to complete the outstanding improvements at the Development, or to require Westchester Fire Insurance Company to complete the said improvements on behalf of its insured (the Developer).
- 3.
4. That all other relevant Borough officials and agents are hereby authorized and directed to take all necessary actions that are consistent with this Resolution.
- 5.
6. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Enchantment at Hightstown, LLC
 - b. Westchester Fire Insurance Company
 - c. Carmela Roberts, P.E., Borough Engineer
 - d. Frederick C. Raffetto, Esquire, Borough Attorney

Mayor Kirson returned to the meeting at this time.

Ordinance 2012-12 First Reading and Introduction An Ordinance Amending and Supplementing Chapter 25-1, et. seq. Entitled "Stormwater Control" and Section 26-9 Entitled "Subdivision, Site Plan, Variance and Sign Variance Checklists for Development Applications Filed Pursuant to Hightstown Development Regulations" of the Revised General Ordinances of the Borough of Hightstown, New Jersey"

Councilmember Doran moved ordinance 2012-12 for introduction, Council President Quattrone seconded.

The Mayor then explained that the Environmental Commission has been working with the Planning Board to develop this ordinance and the Borough Engineer gave an overview. Barbara Jones, the Environmental Commission Chair, stated that the purpose of this ordinance is to educate and assist the public; an Education Pilot will be located at the Housing Authority with grant funds. This ordinance does not impose any fees.

There was discussion.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Ordinance introduced 6-0; Public Hearing August 6, 2012.

Ordinance 2012-12

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 25-1, ET. SEQ. ENTITLED "STORMWATER CONTROL" AND SECTION 26-9 ENTITLED "SUBDIVISION, SITE PLAN, VARIANCE AND SIGN VARIANCE CHECKLISTS FOR DEVELOPMENT APPLICATIONS FILED PURSUANT TO HIGHTSTOWN DEVELOPMENT REGULATIONS" OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY."

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, that the following amendments are hereby adopted to provide improved Stormwater Control within Hightstown Borough:

SECTION 1: Purpose

Hightstown Borough seeks to improve its Municipal Stormwater Control Ordinance, which is required under the Municipal Land Use Law (N.J.S.A. 40:55D-93), and N.J.A.C. 7:8-1 et seq., to better achieve its Master Plan goals to protect the life, health, safety, and property of its residents and property owners. The Borough requires additional protections to achieve the objectives of its Stormwater Master Plan, which include: reducing flood damage, including damage to life and property; minimizing stormwater runoff from new land disturbance that will aggravate flood damage; reducing soil erosion from new development and redevelopment; assuring the safety and adequacy of culverts and bridges; inducing water recharge wherever possible; preventing nonpoint pollution wherever possible; maintaining the integrity of stream channels; and minimizing public safety hazards from stormwater detention facilities. These objectives continue to be of paramount importance to Hightstown residents and property owners because of the increased intensity and frequency of storm events, which continue to negatively affect the Borough and pose threats to life and property.

In addition, Hightstown's Municipal Master Plan and 2005 Reexamination Report continue to promote viable commercial facilities, a mixed use downtown, economic development, and its vibrant Historic District. These goals will not be met if the Borough's downtown area continues to flood, suffer from pollution, and have repeated damage to structures and interrupted business activity. Better management of stormwater will assist in the protection of all properties, and in the continued economic viability of the Borough.

SECTION 2: Amend Section 25-1, Scope and Purpose, as follows:

C. Applicability

1. The ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

a. Non-residential major developments; and

b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This ordinance shall also be applicable to all major developments undertaken by the Borough of Hightstown.

3. This ordinance shall also apply to any Borough issued Zoning Permits which are not covered under items 1 and 2 above. The Zoning Officer shall provide a copy of all applications for Zoning permit issued in accordance with this section to the Borough's Environmental Commission for review and recommendation.

SECTION 3: Amend Section 25-2, Definitions, as follows:

"Major Development" means:

A. Development without Planning Board Approval:

Any development that provides for the ultimate disturbance of 1,000 square feet or more of soil, or the construction or redevelopment of 250 square feet or more of impervious surface of any type for which only a Zoning Permit is required. Disturbance for the purpose of this rule is the placement or replacement/redevelopment of impervious surface; exposure and/or movement of soil or bedrock; or clearing, cutting, or removing of all vegetation. Existing residential single-family dwellings and other residential and non-residential development, which otherwise meet the definition of "major development" under this ordinance, because of the amount of disturbance, shall be subject to review by the Environmental Commission, a subcommittee or a designee thereof. The Environmental Commission, subcommittee or a designee thereof, shall make written recommendations as shall be appropriate regarding non-structural methods, such as rain gardens, pervious pavement, vegetative swales, etc., to improve stormwater management within the time periods required

by law. The Environmental Commission may refer development or redevelopment under this section to the Borough Engineer for stormwater review as needed, in its discretion. Failure of the Environmental Commission to provide recommendations shall not prevent the Zoning Official from issuing permit(s) under the time period(s) required by law.

B. Development with Planning Board Approval

Any New development and/or redevelopment, which meets the definition of “major development” under state law, in N.J.A.C. 7:8-1.2 (Definitions), i.e. one-quarter acre of new impervious cover and/or one acre of disturbance, shall be required to comply with the non-structural point system and/or the construction of structural stormwater management measures, as specified in Section 25-4 of the Revised General Ordinances of the Borough of Hightstown.

SECTION 4: Amend 25-4 (C), Stormwater Management Requirements for Major Development, as follows:

- C. The following linear development projects are exempt from stormwater runoff quantity and quality requirements of Sections 4.F and 4.G:
1. The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;
 2. The construction of an above ground utility line provided that the existing conditions are maintained to the maximum extent ~~practicable~~ **possible**; and/or
 3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of fourteen (14) feet, provided that the access is made of permeable material, **or provided that an access made of impervious material occurs solely as a replacement for existing material and no permeable material is practical for this use;**

SECTION 5: Amend Section 26-9-1, Checklist for Subdivisions, to add a new section 26-9-14 (h), as follows:

14. Stormwater Management Submission, including the following in accordance with Section 25-9 of the Revised General Ordinances of the Borough of Hightstown:
- h. A Stormwater Management Plan incorporating as many non-structural stormwater management measures as can feasibly be accommodated on the site, including but not limited to rain gardens, pervious pavement, rain barrels, native vegetative swales, and the required non-structural stormwater management strategies incorporated at N.J.A.C. 7:8-5.9(a)1., and an explanation as to why additional non-structural measures could not be used, subject to the review and approval of the Borough Engineer, if so requested by the Planning Board.**

SECTION 6: Amend Section 26-9-1(c), Requirements for Minor Subdivision, to add the following to 26-9-1(c) 18:

18. Provisions for collecting and discharging stormwater runoff. A composite grading and drainage plan of the entire development shall accompany each submission. This plan shall identify finished floor elevations, all high and low points, breaks in grade, and tentative elevation at the corners of the house locations on each lot. A Stormwater Management Plan incorporating as many non-structural stormwater management measures as can feasibly be accommodated on the site, including but not limited to rain gardens, pervious pavement, rain barrels, native vegetative swales, and the required non-structural stormwater management strategies incorporated at N.J.A.C. 7:8-5.9(a)1., and an explanation as to why additional non-structural measures could not be used, subject to the review and approval of the Borough Engineer, if so requested by the Planning Board.

SECTION 7: Add a new section 26-9-2(a) 29(h), Checklist for Site Plans, as follows:

29. Stormwater Management Submission, including the following in accordance with Section 25-9 of the Revised General Ordinances of the Borough of Hightstown:
- h. A Stormwater Management Plan incorporating as many non-structural stormwater management measures as can feasibly be accommodated on the site, including but not limited to rain gardens, pervious pavement, rain barrels, native vegetative swales, and the required non-structural**

stormwater management strategies incorporated at N.J.A.C. 7:8-5.9(a)1., and an explanation as to why additional non-structural measures could not be used, subject to the review and approval of the Borough Engineer, if so requested by the Planning Board.

SECTION 8: Add a new section 26-9-3(a) 11, **Checklist for Variances**, as follows:

11. A Stormwater Management Plan incorporating as many non-structural stormwater management measures as can feasibly be accommodated on the site, including but not limited to rain gardens, pervious pavement, rain barrels, native vegetative swales, and the required non-structural stormwater management strategies incorporated at N.J.A.C. 7:8-5.9(a)1., and an explanation as to why additional non-structural measures could not be used, subject to the review and approval of the Borough Engineer, if so requested by the Planning Board.

SECTION 9: Severability

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph or other wording in this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

SECTION 10: Effective Date

This Ordinance shall take effect upon compliance with procedures prescribed by law, including NJSA 40:55D-97 of the Municipal Land Use Law (Submission of plan and ordinances to County Planning Board for approval).

Borough Hall Presentation

Council members Woods and Thibault gave a presentation regarding the location of Borough Hall. Councilmember Woods began by stating that the purpose of the presentation is to give basic information and options for Borough Hall.

The information presented current property and building sizes and values, as well as estimates for remediation, restoration and code upgrades. The options available for the restoration of the current Borough Hall consists of restoring, remediating and upgrading the Administration section and demolishing the remainder of the building; restoring, remediating and upgrading the Administration and Police sections and demolishing the garage portion of the building; or demolish and re-build the entire building.

Information regarding the Lucas Property located on Mercer Street was presented. There was a review of the current Use and Occupancy Agreement which covers the rental of 3,200 square feet at \$3,800.00 per month; the Borough has spent approximately \$140,456.00 to renovate the portion of the facility in use to fit the needs of the Police Department. The listed purchase price, acreage, facility size and property taxes were also covered.

An additional option regarding modular construction in the Bank Street parking lot owned by Greystone was also reviewed. The proposal estimates included purchasing the property and the cost of modular construction of a facility to meet the needs of the Borough was presented.

The presentation ended with discussion regarding the Borough Hall elevations as performed by Roberts Engineering and recommended next steps which included a request for the special meeting to identify other possible options and select the most appropriate option so the Borough can move forward.

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

Ronald Kahn, Board of Trustees from Enchantment – thanked Council for the resolution declaring the developer in default on the Enchantment development.

Eugene Sarafin, 628 S. Main Street – thanked Council members Woods and Thibault for summarizing the process to date and recommended that the Council consider re-sale for whatever they do, because of possible consolidation.

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

Resolution 2012-187 Authorizing the Installation of a Stage at Association Park

Councilmember Doran recused herself from discussion and vote on this resolution.

Councilmember Thibault moved Resolution 2012-187, Councilmember Bibens seconded.

The Mayor opened the floor to comments on this project.

Pat Duncan, Chair of the Parks and Recreation Commission reviewed the project and noted that the Planning Board unanimously recommended that this project move forward. In 2009 the Parks and Recreation Commission held a ½ day planning session in which they planned to rehabilitate Association Park; said plans would include a permanent stage in the park as well as playground equipment and benches, a water fountain, trash cans and interactive talk tubes. The second phase will consist of older children playground equipment and is planned for next year. The design is a nature theme and they have already done landscaping and signs. During the process the priorities were pathways and a gazebo for the park.

He then continued by giving the history of this project: In September 2011 Ryan presented his plan to Council and was instructed to work with the Parks and Recreation Commission and Planning Board to make the project happen. Since September, this is the 14th public meeting at which this project has been discussed. They have also been working with the Police Director to assure public safety is taken into consideration and the Police Director's recommendation is that this stage be placed in Association Park, not Memorial Park where it would be a safety concern given the traffic and etc. downtown.

Beverly Asselstine of the Parks and Recreation Commission then reviewed the planned maintenance procedures and gave examples of how volunteers currently assist with the maintenance of parks and the running of various events in the Borough. It was also noted that the materials being used to construct the stage was chosen for the limited maintenance that will be necessary.

Mr. Duncan then addressed the size of the stage (390 sq. ft.) and noted that it is only ½ of 1% of the park and is not out of scope for the size of the park. Mr. George Chin, Construction Official for the Borough, addressed the Council with a comparison that the stage would be approximately the size of a parking space; he advised that the roof is only seven feet from overhang to eave and the design will cause minimal visual impact and provided a scale model to the public so they could see the actual size. Mr. Chin stated that he feels the stage will be unique and become the pride of Hightstown; it is a great opportunity for the Borough to get the project done. Mr. Duncan advised that to be in ADA compliance, you cannot reduce the size of the stage; nor can you put the stage in Memorial Park due to the location of sewer mains and drainage issues. Carmela Roberts, Borough Engineer, elaborated and noted that Memorial Park is in a flood zone and in order to build a stage there you would also need DEP approvals.

Mr. Duncan continued that Ryan Lanphear has taken the responsibility of this project very seriously and is extremely professional and great to work with. He then thanked Ryan for the project.

Janice Carson, 124 Park Avenue – stated that her property is near the park and she thinks of it as her back yard. She enjoys the activities at the park and commended the design; however she felt that the neighborhood should have been surveyed. She feels the scale is inappropriate, it should be in the center of town, and there is noise at night coming from the park on occasion.

Martin Patrick, 326 Franklin Street – commented that Association Park is a great community place and it is a shame it is presently going to waste for lack of use; he encouraged Council to approve this project.

Jackie Hart, 106 Orchard – noted that she has known Ryan since he was a young boy and she feels the community would be sending the wrong message to young adults who are community oriented if they do not approve this project.

Michael Moore, 105 Prospect – commented that he loves the small town feel of Hightstown and what better way to portray the image than with this project; he encouraged Council to approve the project.

David Payton, Committee Chair of Ryan's Boy Scout Troop – read the names of 26 Eagle Scouts from the troop and Hightstown and noted that the support of the community is important. He encouraged Council to approve the project so Ryan and the community can benefit.

Melanie Alio, 158 Grant Avenue – commented that she loves the concerts in the park; her property is near the park and she thinks of it as her yard, but it is not her yard; it is public property and belongs to the community. She understands the concerns, but gazebos are not a big draw for hang-outs. This is a great opportunity for Hightstown.

Lucia Cruse, B11 Garden View Terrace, East Windsor – commented that she supports this project 100% and thinks it would be great for the community.

Buck Stella, works at 156 Stockton Street –as a former Eagle Scout he congratulated Ryan; and commented that he feels the project will bring character to Hightstown and benefit all residents and civic organizations.

Rev. Heidi Bak, Pastor of United Methodist Church – noted that her congregation uses the park during the summer months and the gazebo will assist community organizations when using the park. She supported the project and offered the use of the church parking lot for overflow parking if needed.

Pam Harper, 400 Dutchneck Road, East Windsor – noted that she has used this park since she was young; she serves on the committee for the Scouts and the Scouts will assist with cleaning the gazebo as a pack.

Scott Caster, 12 Clover Lane – commented that he was not going to support Ryan and his project but residents called him; he recalled resistance from residents in the past and noted that this is a neighborhood park and Memorial Park is not. He supports Ryan’s project.

Sandy Bon Tempo, 114 Park Avenue – noted that this is not about the Scouts, it is about the process; it has always been thought that a gazebo would be in Memorial Park. The neighbors are concerned that a gazebo will bring more people into Association Park; surveys could have been given to the residents, this is not fair to the residents.

Stephanie Muller, 25 Sussex Lane, East Windsor – commented that Ryan would like to give back to the community but is being told not in Hightstown; Scouts do not want to come to Hightstown to do their projects.

Council then had discussion on the matter.

Councilmember Bibens noted that she is the Liaison to the Parks and Recreation Commission and the meetings are publicly noticed and on the calendar; the process was open to the public. If residents are concerned, they should attend the meetings. There is a process and we want the process to work. This project will bring the community together.

Councilmember Woods commented that she is a resident of the neighborhood; she raised two children and has fond memories of Association Park. This is a very nice plan that leaves open space and there are a lot of activities in Association Park. She supports this project.

Councilmember Bluth noted that she was originally opposed to the project due to the e-mails she had received; but she has been won over, especially by Mr. Chin’s explanation.

Councilmember Thibault stated that he received a lot of e-mails, but George Chin explained the scale issues and he can’t see this bringing more noise to the park, he foresees this park having quiet usage. If there is a noise problem, residents should call the police; but he does not see that happening. This will be a great asset to the Borough.

Council President Quattrone noted that after 13 years on Council he realizes, and the residents should realize, that the park belongs to the community. He thanked Ryan for hanging in there through the required process and wished him luck. This project has had his support from day one.

Mayor Kirson then thanked everyone for their comments on the project and called for a vote.

Roll Call Vote: Council members Bibens, Bluth, Quattrone, Thibault and Woods voted yes; Councilmember Doran was recused.

Resolution adopted 5-0, with one abstention.

Resolution 2012-187

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

AUTHORIZING THE INSTALLATION OF A STAGE IN ASSOCIATION PARK

WHEREAS, Ryan Lanphear has approached the Borough to build a stage in Association Park as an Eagle Scout project; and

WHEREAS, Mr. Lanphear has made a presentation to the Borough Council, Parks and Recreation Commission, and Planning Board for the stage in Association Park; and

WHEREAS, the Parks and Recreation Commission has thoroughly reviewed and approved said plan; and

WHEREAS, Mr. Lanphear has made application to the Planning Board, who has thoroughly reviewed said plan and recommended same to Council for approval; and

WHEREAS, the funds for this project will be provided through fundraising activities designated specifically for this project by the Boy Scout or for future Parks and Recreation programs and facilities by the Parks and Recreation Commission; and

WHEREAS, all permits and inspections as required by the Construction Official of the Borough shall be implemented as a requirement of this project; and

WHEREAS, the rules and regulations associated with the use of the stage will be established by the Parks and Recreation Commission with final approval by the Borough Council; and

WHEREAS, the Mayor and Council has thoroughly reviewed and approved said plan and are supportive of the Eagle Scout project, and finds that such a stage would benefit the Hightstown Borough community.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the building of a stage in Association Park as an Eagle Scout Project, as proposed by Ryan Lanphear, is hereby authorized and that all permits and inspections as required by the Construction Official of the Borough shall be implemented as a requirement of this project.

Mayor Kirson called a ten minute recess at 9:45pm. The meeting re-convened at 9:55pm.

Ordinance 2012-07 Final Reading and Public Hearing An Ordinance Amending and Supplementing Section 2-19, Entitled "Police Department," of the Revised General Ordinances of the Borough of Hightstown, New Jersey" in order to Create the Position of "Special Law Enforcement Officer" and to Prescribe Appropriate Terms, Conditions and Regulations Associated Therewith.

Councilmember Thibault recused himself from discussion and vote on this ordinance

Mayor Kirson reviewed the ordinance and the Police Director explained the duties of the Special Officers and noted that they are fully trained and more economical; they will be part-time positions which are paid hourly.

The Mayor opened the Public hearing on Ordinance 2012-07 and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – inquired whether retired police officers already collecting pension would be hired or are you hiring young people who need work.

The Police Director responded that it would depend upon the applications received and who is most qualified; law details the guidelines.

Mr. Sarafin noted that he objects to hiring retirees, we need to hire young unemployed Police Officers.

Scott Caster, 12 Clover Lane – noted he has faith in Council and trusts them.

George Zhelesnik, 7 Ely Court – noted that he is a retired police officer and suggested that the special officer position be monitored closely over the next couple years so if additional officers are needed, they get hired. He supports the ordinance.

The Police Director advised that the ordinance is modeled after state law and that special officers can only supplement, not replace, police officers; they must also be appointed every year.

Council President Quattrone moved ordinance 2012-07 for adoption. Councilmember Bluth seconded.

Roll Call Vote: Council members Bibens, Bluth, Quattrone, Thibault and Woods voted yes; Councilmember Thibault was recused.

Ordinance adopted 5-0, with one abstention.

ORDINANCE 2012-07

*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,” IN ORDER TO CREATE THE POSITION OF “SPECIAL LAW ENFORCEMENT OFFICER” AND TO PRESCRIBE APPROPRIATE TERMS, CONDITIONS AND REGULATIONS ASSOCIATED THEREWITH.

WHEREAS, the Borough Council (the “Borough Council”) of the Borough of Hightstown, New Jersey, wishes to create the position of “Special Law Enforcement Officer” within the Borough and to prescribe appropriate terms, conditions and regulations associated therewith, in accordance with the provisions of the “Special Law Enforcement Officers’ Act,” *N.J.S.A.* 40A:14-146.8, *et seq.*; and

WHEREAS, in connection therewith, the Borough Council wishes to amend certain provisions contained within Section 2-19 of the Borough Code relating to the Borough’s Police Department as set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, that Section 2-19 of the “Revised General Ordinances of the Borough of Hightstown, New Jersey” is hereby amended and supplemented in the following specific respects (additions are shown with underline; deletions are shown with ~~strikeout~~; and editorial notes are shown in [brackets]):

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)~~ **Special Law Enforcement Officers.**
- 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.**

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. In addition to the regular members of the Police Department, the Borough may employ up to Ten (10) Class One special law enforcement officers and Class Two special law enforcement officers in an amount not to exceed 25% of sworn officers, pursuant to N.J.S.A. 40A:14-146.8, et seq., and Subsection 2-19.16 below.

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; and
6. The special law enforcement officers, if any.

Subsection 2-19.2 **Department Under Control of Borough Council As the Appropriate Authority.** *[No changes to current text are proposed]*

Subsection 2-19.3 **Police Commissioner.** *[No changes to current text are proposed]*

Subsection 2-19.4 **Police Director.** *[No changes to current text are proposed]*

Subsection 2-19.5 **Duties of the Police Department.** *[No changes to current text are proposed]*

Subsection 2-19.6 **Rules and Regulations of Department.** *[No changes to current text are proposed]*

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

a. *Application.* Any applicant for the position of regular or permanent 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 regular or permanent member of the Borough Police Department prior to demonstrating an aptitude for police employment in the Borough of Hightstown for a period of one (1) year, during which time said person shall be known as a probationary police officer. During the probationary period, the appointment as a police officer shall be subject to revocation at any time on written notice by the Police Director for any cause and without any hearing. The probationary period may be extended by the Borough Council, on written recommendation of the Police Director, to a maximum of an additional six (6) months if necessary in order for an officer to successfully complete a police training course as prescribed by law.

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

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

Subsection 2-19.8 Uniforms to be Furnished.

Police uniforms shall be furnished to all regular or permanent 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.

Subsection 2-19.9 Qualifications for Police Officers.

No person shall be appointed as a regular or permanent 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 regular or permanent 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~~ eighteen (18) 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.

Subsection 2-19.10 Residency Requirements.

- a. Findings of Fact. The Borough Council specifically finds that requiring all regular or permanent 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 regular or permanent 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.

Subsection 2-19.11 Oath Required. [No changes to current text are proposed]

Subsection 2-19.12(Reserved).

Subsection 2-19.13 Procedure for Implementation of Disciplinary Hearings. *[No changes to current text are proposed]*

Subsection 2-19.14 Reimbursement for Legal Costs. *[No changes to current text are proposed]*

Subsection 2-19.15 Term of Service.

The term of service of any regular or permanent 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.

Subsection 2-19.16 ~~(Reserved)~~ Special Law Enforcement Officers.

a. Definitions. Whenever any words and phrases are used in this Section, the meanings respectively ascribed to them in N.J.S.A. 40A:14-146.9 shall be deemed to apply to such words and phrases used herein.

b. Position Established. There is hereby established the position of special law enforcement officer (also referenced as "special police officer") in and for the Borough of Hightstown.

c. Determination of Eligibility. Before any special law enforcement officer is appointed, the Police Director or, in the absence of the Director, the Acting Police Director (in accordance with Subsection 2-19.4c above) shall ascertain the eligibility and qualifications of the applicant and report these determinations, in writing, to the Mayor and Council.

d. Appointment. Special law enforcement officers may be appointed for terms not to exceed one (1) year, and the appointments may be revoked by the Mayor and Council for cause, after adequate hearing, unless the appointment is for four (4) months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the Borough, and their powers and duties shall cease at the expiration of the term for which appointed.

e. Qualifications.

1. No person may be appointed as a special law enforcement officer unless the person:

- (a) Is at least eighteen (18) years of age;
- (b) Is a resident of the State of New Jersey during the term of appointment;
- (c) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;
- (d) Is sound in body and of good health;
- (e) Is of good moral character;
- (f) Has not been convicted of any offense involving dishonesty or which would make him or her unfit to perform the duties of his or her office; and
- (g) Has successfully undergone the same psychological testing that is required of all full-time police officers in the Borough or, with regard to a special law enforcement officer hired for a seasonal period which required psychological

testing of its full-time police officers, has successfully undergone a program of psychological testing approved by the Police Training Commission (the "Police Training Commission" or the "Commission") established in the New Jersey Department of Law and Public Safety, pursuant to N.J.S.A. 52:17B-70.

2. Every applicant for the position of special law enforcement officer shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.
3. No person shall be appointed to serve as a special law enforcement officer if that person serves as a special law enforcement officer in another municipality; nor shall any permanent, regularly appointed full-time police officer of any other municipality in the State of New Jersey be appointed as a special law enforcement officer. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of any municipality in the State of New Jersey or supervision of the Police Department of a municipality in the State of New Jersey shall be appointed as a special law enforcement officer.
4. Any person who at any time prior to this appointment had served as a duly qualified, fully trained, full-time officer in any municipality in the State of New Jersey, and who is separated from that prior service in good standing, shall be eligible to serve as a special law enforcement officer consistent with the guidelines promulgated by the Police Training Commission. If the Police Training Commission waives the training requirements which are required by statute, the Mayor and Council, if it chooses, may appoint such person as a special law enforcement officer.

f. *Training Course and Certification Requirements.* No person may commence his or her duties as a special law enforcement officer unless he or she has successfully completed the training course and certification requirements of N.J.S.A. 40A:14-146.11, unless such training requirements have been waived by the Police Training Commission.

g. *Classification of Officers.* There are hereby established two (2) classifications of special law enforcement officers as follows:

1. Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties. Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited, and no Class One officer shall be assigned any duties which may require the carrying or use of a firearm.
2. Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the Police Training Commission.

h. *Uniforms.* Every special law enforcement officer prior to the commencement of his or her duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the Borough of Hightstown. The uniform shall also include an insignia issued by the Police Training Commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification issued by the Commission. All special law enforcement officers prior to the commencement of duties shall be in uniform properly displaying the appropriate insignia.

i. *Return of Equipment and Uniform Upon Termination.* Whenever a special law enforcement officer's appointment is revoked or a special law enforcement officer is not reappointed upon the expiration of the term, the special law enforcement officer shall return to the officer in charge of the station house all Borough of Hightstown issued uniforms, badges and equipment within fifteen (15) days of the revocation or expiration of the term.

j. *Firearms.* The special law enforcement officers shall carry and return firearms pursuant to the

guidelines established in N.J.S.A. 40A:146.14(b).

k. *Conduct of Officers.* Special law enforcement officers shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the Borough, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

l. *Performance of Duties.*

1. A special law enforcement officer shall be under the supervision and direction of the Police Director or, in the absence of the Director, the Acting Police Director (in accordance with Subsection 2-19.4c above), and shall perform his or her duties only in the Borough unless in fresh pursuit of any person pursuant to Chapter 156 of Title 2A of the New Jersey Statutes.
2. The Police Director or, in the absence of the Director, the Acting Police Director (in accordance with Subsection 2-19.4c above), may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the Borough, including, but not limited to, the carrying of firearms and the power to arrest subject to rules and regulations; any such authorization shall not be inconsistent with the certification requirements of Subsection 2-19.16f above.

m. *Hours of Employment.* The provisions of N.J.S.A. 40A:14-146.16(a) and (c) regarding the maximum hours of employment of special law enforcement officers are hereby incorporated as if stated in full herein.

n. *Limitation of use of officers.* Special law enforcement officers may be employed only to assist the Borough's law enforcement unit but may not be employed to replace or substitute for full-time regular police officers or in any way to diminish the number of full-time officers employed by the Borough.

o. *Number of Positions Designated.*

1. There are hereby created ten (10) positions as special law enforcement officers designated as Class One members.
2. There are hereby created positions as special law enforcement officers designated as Class Two members that do not exceed 25% of the total sworn officers on the force.

Subsection 2-19.17. **Engagement of Services of Off-Duty Police Officers.** *[No changes to current text are proposed]*

Subsection 2-19.18 **Drug Screening Procedure for Applicants and All Employees of the Police Department.** *[No changes to current text are proposed]*

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

BE IT FURTHER ORDAINED, that 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.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon final passage and publication in accordance with the law.

Councilmember Thibault returned to the dais at this time.

Ordinance 2012-08 Final Reading and Public Hearing An Ordinance Amending and Supplementing Chapter 14, Entitled "Property Maintenance", Section 14-10, Entitled "Enforcement and Penalties," of the Revised General Ordinances of the Borough of Hightstown, New Jersey".

The Mayor opened the Public hearing on Ordinance 2012-08 and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – inquired as to what this ordinance was actually doing.

Mr. Thoekas responded that this ordinance adds the title of Housing Inspector as one who has the ability to enforce Borough code.

Councilmember Woods moved ordinance 2012-08 for adoption, Councilmember Bibens seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes

Ordinance adopted 6-0.

ORDINANCE 2012-08

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 14 ENTITLED “PROPERTY MAINTENANCE”, SECTION 14-10, ENTITLED “ENFORCEMENT AND PENALTIES,” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”

WHEREAS, the Mayor and Council wish to amend certain provisions contained within Chapter 14, Section 14-10 of the Borough Code relating to enforcement and penalties as set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, that Chapter 14, Section 14-10 of the “Revised General Ordinances of the Borough of Hightstown, New Jersey” is hereby amended and supplemented as follows (additions are shown with underline; deletions are shown with ~~strikeout~~):

Section 14-10

ENFORCEMENT AND PENALTIES

- 14-10.1 Enforcement officers.** The Construction Official, Fire Inspector, Fire Official, Fire Chief, Electrical Inspector, Plumbing Inspector, Housing Inspector, Health Officer or his/her designee, Health Department and all police officers are authorized enforcement officers for the purposes of enforcing the provisions of this code.
- 14-10.2 Procedure.** Whenever any enforcement officer determines, after appropriate **investigation**, that there exists a violation of any provision of this chapter, he or she shall give written notice of such alleged violation to the person or persons responsible therefor. Such notice shall include a statement of the reasons for its issuance, and shall be served upon the owner or occupant of the premises, or the agent of either. Notice shall be deemed to be properly served if a copy thereof is served upon such person personally or sent by certified mail or registered mail to his last known address, or posted in a conspicuous place in or about the premises affected by the notice. Such notice shall state that unless, within five calendar days from service of the notice, the condition complained of is abated, a municipal court summons will be issued and/or the Borough will undertake to abate the violation and place a lien on the property as hereinafter provided. A copy of the Notice shall be provided to the Borough Clerk.
- 14-10.3 Special Procedure in Emergency Conditions.** Whenever the enforcement officer finds that an emergency exists which requires immediate attention to protect the health or safety of the public, he or she may, without notice, issue and order reciting the existence of such an emergency and requiring that such action be taken as he or she deems necessary to meet the emergency. Notwithstanding any other provisions in this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the enforcement officer, shall be

afforded a hearing as soon as possible. In the event that the order is disregarded by the property owner or person to whom the order is directed, the enforcement officer shall have the right to notify the Borough Clerk for the purpose of instituting immediate remedial action, the cost of which shall result in a lien on the premises. After such hearing, the enforcement officer shall continue such order in effect, or modify or withdraw it.

14-10.4 Violations and Penalties.

- a. **General Penalty.** Any person who shall violate any of the provisions of this chapter shall be subject to penalties as set forth in Section 1-5 of the *Revised General Ordinances of the Borough of Hightstown*. Each violation of any of the provisions of this chapter and each day that such violation shall continue shall be deemed to be a separate and distinct offense.
- b. **Lien to be Placed on Property.** In addition to the foregoing, and all other remedies available to the Borough, the Borough Treasurer, upon appropriate notification from the Mayor and Council and appropriate certification from the enforcement officer, shall place a lien on any property determined by the enforcement officer to be in violation of the provisions of this code, in the amount of any and all administrative expenses and any and all actual expenditures for work necessary in order to maintain the property and/or abate the violation, including the cost of removal of any offensive construction materials, refuse, hazards, overhanging objects or any other offending physical object. The lien placed upon such lands shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes. Costs shall be in addition to any penalties imposed for any violation of this Chapter.

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies; and

BE IT FURTHER ORDAINED, that 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 there from and shall not be affected; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon final passage and publication in accordance with the law.

Ordinance 2012-09 First Reading and Introduction An Ordinance Amending and Supplementing Section 4-21, Entitled "Taxicab Licensing," of the "Revised General Ordinances of the Borough of Hightstown, New Jersey."

Councilmember Woods moved Ordinance 2012-09 for introduction, Councilmember Bibens seconded.

Councilmember Bluth stated that she feels the insurance limits are too low.

Councilmember Thibault distributed a sheet entitled "Residents per Taxi" and stated that he cannot support the ordinance when we have 250 residents per taxi; he then referenced census data. Since data from the taxi companies is not available, he cannot support the ordinance as written.

Councilmember Woods noted that we are limiting the number of taxi companies, so we are limiting the number of taxis. If there is a need the cabs will work in town. Licensing the taxis allows enforcement.

Councilmember Doran commented that there does appear to be a difference between Hightstown and East Windsor when it comes to taxis. She feels that bidding extra licenses is unfair; the limit on companies should be removed but all cabs should be required to be licensed. She agreed that the insurance is too low, but we should not be limiting licensing.

Councilmember Woods reminded Council that state law requires that a limit be placed on the number of taxis that will be licensed in the municipality.

There was additional discussion regarding the limit on the number of cabs and revenue.

Police Director LeTellier advised that there are five companies actively operating in Hightstown and East Windsor and limiting the number of cab companies guarantees each licensee to make a living. He then explained the application requirements and noted that he has spoken with the cab companies regarding maintaining records and they have agreed to do this, it was never enforced before. The Police Director then reviewed the census data which he had acquired in comparison to the data Councilmember Thibault presented and noted that the market will regulate the business. He reinforced the fact that there needs to be an ordinance that the police can enforce.

Roll Call Vote: Council members Bibens, Quattrone, and Woods voted yes; Council Members Bluth, Doran and Thibault voted no. Mayor Kirson broke the tie with a yes vote.

Ordinance Introduced 4-3. Public Hearing to be held on August 6, 2012.

ORDINANCE 2012-09

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

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 4-21, ENTITLED "TAXICAB LICENSING," OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY."

WHEREAS, the Mayor and Council wish to amend certain provisions contained within Section 4-21 of the Borough Code relating to Taxicab Licensing as set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, that Section 4-21 of the "Revised General Ordinances of the Borough of Hightstown, New Jersey" is hereby amended and supplemented as follows (additions are shown with underline; deletions are shown with ~~strikeout~~):

Section 4-21

TAXICAB LICENSING

4-21.1 Definitions.

As used in this section, the following terms shall have the meanings indicated:

Borough shall mean the Borough of Hightstown.

Driver shall mean any person who operates a taxicab within the Borough, whether or not such person is also the owner thereof.

Operation of a taxicab shall mean transporting in a taxicab one (1) or more persons for hire. Accepting a passenger to be transported for hire from a point of departure within the Borough to a destination within or without the Borough shall be considered "operation of a taxicab" within the Borough. The "operation of a taxicab" by one other than the owner shall be deemed operation by the owner as well as by the person actually driving the taxi. The transportation of any person other than the owner or driver in any motor vehicle bearing a sign using the words "taxi," "taxicab," "cab" or "hack" shall be prima facie evidence of operation.

Owner shall mean any person, business entity, association or other legal entity in whose name title to any taxicab is registered with the New Jersey Division of Motor Vehicles or who appears in the Division's records to be a conditional vendee or lessee or has any other proprietary interest in a taxicab.

Police Commissioner shall mean the member of the Borough Council designated as such on an annual basis by the Mayor, pursuant to Subsection 2-19.3 of the Borough Code.

Police Director shall mean the person appointed by the Governing Body to serve as the executive head of the Police Department, in accordance with Subsection 2-19.4 of the Borough Code.

Taxicab or taxi or cab shall mean a motor vehicle used to transport passengers for hire or compensation which does not operate over a fixed route and is not hired by the day or hour.

4-21.2 Licenses Required.

No person shall operate a taxicab within the Borough unless both the owner and the driver of the taxicab are licensed under this section.

4-21.3 Types of Licenses.

- a. Taxicab Driver's License. The holder of a taxicab driver's license shall be entitled to operate within the Borough any taxicab whose owner has been licensed under this Section.
- b. Taxicab Owner's License. The holder of a taxicab owner's license shall be entitled to operate a taxicab owned ~~by him~~ or leased by the licensee within the Borough, provided that the person driving the cab holds a valid taxicab driver's license.

4-21.4 Licensing of Taxicab Owners.

- a. The Borough will make available on an annual basis a maximum of five (5) taxicab owner's licenses, subject to the provisions of sub-paragraph "b" below. Licenses shall be awarded on a first come, first served qualifying basis. Those licensees that have been previously licensed by the Borough during the prior year and who remain in good standing and who have submitted their statement for renewal (per the provisions of sub-paragraph "i" below) prior to January 1st, shall be afforded the first opportunity for re-licensing. All other applicants shall be afforded the opportunity to obtain a taxicab owner's license after January 1st.
- b. Should the Borough determine to authorize the issuance of one or more new or additional taxicab owner's licenses beyond the maximum number referenced in sub-paragraph "a" above, then such issuance shall be authorized by future Ordinance of the Governing Body, in accordance with the following requirements:
 1. The disposition of new or additional licenses shall be made to the highest qualified bidder(s) at a sale by public auction for that purpose which is conducted or supervised by the Municipal Clerk in accordance with N.J.S.A. 48:16-2.3. The public auction shall be undertaken in accordance with the notice requirements set forth in N.J.S.A. 48:16-2.1.
 2. The Ordinance adopted by the Governing Body for this purpose may prescribe certain requirements, including but not limited to qualifications for prospective bidders, a minimum bid amount, conditions of sale, and the reservation by the Borough of the right to reject all bids where the highest bid is not accepted. The Ordinance may also include a requirement for reimbursement of the Borough by the successful bidder(s) for any costs incurred by the Borough in complying with the public notice requirements set forth in N.J.S.A. 48:16-2.1. In such case, should more than one taxi license be issued at the same public auction, then the recipients thereof shall equally split the costs of reimbursing the Borough for any expenses incurred by the Borough in complying with the public notice requirements.
 3. Any license(s) sold through this process shall be subject to all of the requirements set forth in the authorizing Ordinance, as well as all other Borough requirements set forth herein, including the investigation specified in sub-paragraph "d" below.

a.c. Application Information.

1. Application for a taxicab owner's license above shall be made to the Borough Clerk on forms provided by her. ~~Any changes to the information included in the application which occur during the licensing period shall be reported to the Borough Clerk within three (3) calendar days of the change.~~
2. Applications shall be signed and verified by oath or affirmation by the applicant. Applications by a partnership shall give the information required for each partner and shall be signed and verified by all partners. Applications by a corporation shall give the information required for and be signed and verified by all officers and directors and all persons holding more than ten (10%) percent of the corporation's common stock, as well as by a person duly authorized to act for the corporation itself.
3. Insurance requirements. ~~Applications received after the effective date of this Ordinance for new licenses or for renewal of existing licenses~~ must be accompanied by proof of automobile liability insurance coverage which is in effect and issued by a company licensed and admitted to transact business in the State of New Jersey, and acceptable to the Borough, indicating limits of liability in amounts not less than the following: \$50,000 per person and \$100,000 per accident for bodily injury or death and \$50,000 per accident for property damage. Proof of insurance must also indicate that insurance coverage applies to all owned or leased vehicles of the applicant or must specify by description all of the vehicles to which the coverage applies. Said proof of insurance must also indicate that the Borough ~~will be notified with~~ shall receive advance written notice of at least thirty (30) days advance notice should the coverage be cancelled or non-renewed prior to any cancellation or non-renewal thereof, except that no less than ten (10) days advance written notice shall be provided for non-payment of premium. The insurance policy shall provide for the payment of any final judgment recovered by any person on account of the ownership, maintenance, or use of the vehicle(s) of the applicant, or any fault in respect thereto, and shall be for the benefit of every person suffering loss, damage or injury as aforesaid. The Borough of Hightstown shall be named as an additional insured on any insurance policy submitted in accordance with the requirements of this section. If the taxicab owner's application for license applies to more than one vehicle, the taxicab owner may satisfy the insurance requirements specified herein through the submission of a blanket bond or insurance policy which meets the criteria specified in N.J.S.A. 48:16-4.
4. Information about each taxicab vehicle to be operated under the taxicab owner's license shall be provided, including the following:
 - (a) Vehicle year, make, model and color of vehicle.
 - (b) Vehicle identification number.
 - (c) New Jersey State license plate number.
 - (d) Passenger capacity.
 - (e) Insurance company, policy number and expiration date.
 - (f) Name and address of vehicle owner if different than applicant.
5. Any person who shall make a false statement in any license application or in any record or certificate that is required to be filed or maintained shall be subject to rejection of the application submitted and/or to appropriate disciplinary sanctions, including license suspension or revocation, in addition to any penalty provided under the New Jersey Criminal Code.

- ~~b. d.~~ Investigation; Grant or Denial of License ~~Hearing before Council.~~ The ~~Chief of Police or a Police Officer designated by him~~ Police Director or his designee shall investigate ~~the~~ all applications. A copy of the application shall also be provided to the Zoning Officer for review and for a determination that the proposed location of the taxi operation does not violate applicable zoning regulations. A report containing the results of the Police investigation and evaluation, a recommendation by the ~~Chief of Police~~ Police Director or his designee that the license be granted or denied, and the reasons for ~~his~~ such recommendation shall be forwarded to the ~~Council~~ Police Director (i.e., in cases where the investigation is performed by the Police Director's designee) and the Police Commissioner. A report regarding the Zoning Officer's findings shall also be provided to the ~~Council~~ Police Director and the Police Commissioner. The Borough Clerk shall ensure that copies of these reports are also made available to the applicant. Based upon the findings set forth in the reports, the Police Director shall determine whether to grant or deny the license. Said determination shall be rendered in writing and shall be provided to the applicant. ~~In those cases where the Chief of Police or his designee, or the Zoning Officer, has recommended against issuing the license, the applicant shall be afforded the opportunity for a hearing before the Borough Council. Any request for a hearing must be made within ten (10) days of the applicant's receipt of the applicable report. At the hearing, the applicant shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. At the conclusion of the hearing, the Council will determine whether to grant or deny the license.~~
- ~~e. e.~~ Factors Considered. In determining whether to grant or deny the license, the ~~Council~~ Police Director shall take into consideration the following factors:
1. The character, business and financial responsibility and experience of the applicant and the probability that, if granted a license, the applicant will operate his taxicab(s) in accordance with the provisions of this section.
 2. Any other factors directly related to the granting or denial of the license which would substantially affect the public safety or convenience.
- ~~d. f.~~ Issuance of License. ~~The Council shall, by resolution, grant or deny the license.~~ If the application is approved by the Police Director, the Clerk Police Department shall issue the license.
- ~~e. g.~~ License Term; Fees.
1. A taxicab owner's license shall be valid for the remainder of the calendar year for which it is issued, expiring on December 31st of said year.
 2. The license fee shall be ~~fifty (\$50.00)~~ one hundred (\$100.00) dollars per year or portion thereof per vehicle and shall be nonrefundable in the event that the application is denied. For licenses issued in 2012, the license fee shall be pro-rated. For licenses issued in 2013 and thereafter, all applicants shall be charged the full nonrefundable license fee amount.
- ~~h.~~ In those cases where the license has been denied, the applicant shall be afforded the opportunity for a hearing before the Police Commissioner. Any request for a hearing must be made within ten (10) days of the applicant's receipt of written notice of denial from the Police Director. At the hearing, the applicant shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. Following the hearing, the Police Commissioner's determination shall be final.
- ~~f. i.~~ Renewals. A taxicab owner's license ~~may~~ shall be renewed by the ~~Council~~ Police Director ~~without a hearing~~ upon the licensee's filing with the ~~Chief of Police~~ Police Director or his designee a sworn notarized statement certifying that there have been no changes in the information contained in the initial application and upon the completion of the investigation set forth in paragraph (d) above indicating results that are satisfactory to the Police Director.

- j. Any change(s) in the information contained within the owner's license application shall be reported to the Borough Clerk within three (3) business days thereof. A charge in the amount of twenty-five (\$25.00) dollars shall be levied for each business day after three days that any such changes are not reported to the Borough.

4-21.5 Licensing of Taxicab Drivers.

a. Applications.

1. Application for a taxicab driver's license shall be made annually to the Borough Clerk upon forms provided by ~~her~~ that office, and shall be forwarded to the ~~Chief of Police~~ Police Director for ~~investigation and approval~~ processing, screening and determination. ~~Applications shall be completed by the applicant in the presence of the Borough Clerk or her designee, and shall be taken in the Clerk's office only, during days and hours established by the Clerk. Except as hereinafter provided, applicants shall have the following minimum qualifications:~~
- (a) Applicant must be over twenty-one (21) years of age.
 - (b) Applicant must be a United States citizen or a legal resident alien. A copy of the alien registration card or work permit must be submitted with the application.
 - (c) Applicant must possess a valid New Jersey driver's license.
 - (d) Applicant must supply a certification from a licensed physician, on a form to be provided by the Borough Clerk, indicating that the applicant has been examined within the past sixty (60) days and is in sound physical condition, has eyesight corrected to 20/20 vision and is not subject to any infirmity of body or mind which might render the applicant unfit for safe operation of a vehicle for hire.
 - (e) Applicant must certify that he/she is not addicted to the use of narcotics or intoxicating liquors.
 - (f) Applicant must be able to read, write ~~and understand the English language~~ and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records.
 - (g) Applicants must ~~not have been convicted of any crime involving moral turpitude~~ be fingerprinted by the Police Department and submit to the performance of a criminal history record background check (both State and Federal). All costs associated with administering and processing the background check(s) shall paid by the applicant. An applicant shall be disqualified from operating or driving a taxi within the Borough, and shall not be issued a taxicab driver's license, if a criminal history record background check reveals a record of conviction of any of the following crimes as having been committed by the applicant in New Jersey or elsewhere, or a record of conviction of a crime in another jurisdiction in the world which, in that jurisdiction, is comparable to any of the following crimes:
 - (1) Aggravated assault;
 - (2) Arson;
 - (3) Burglary;
 - (4) Escape;
 - (5) Extortion;

- (6) Homicide;
- (7) Kidnapping
- (8) Robbery;
- (9) Aggravated Sexual assault;
- (10) Sexual assault;
- (11) Endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4, whether or not armed with or having in his possession any weapon enumerated in subsection "r." of N.J.S.A. 2C:39-1; or
- (12) A crime pursuant to the provisions of N.J.S.A. 2C:39-3, N.J.S.A. 2C:39-4 or N.J.S.A. 2C:39-9, or other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.A. 2C:35-2.

The above automatic disqualification shall not apply, however, to those applicants who were convicted of any of the above crimes prior to the effective date of this Ordinance and who had previously received the consent of the Borough to operate a taxicab within the Borough and who had a valid taxicab driver's license issued and in effect by the Borough as of the effective date of P.L. 2011, c.135.

Additionally, if a person who has been convicted of one of the crimes listed above can produce a certificate of rehabilitation issued pursuant to N.J.S.A. 2A:168A-8 or, if the criminal offense occurred outside of New Jersey, an equivalent certificate from the jurisdiction where the criminal offense occurred, then the criminal offense shall not disqualify the applicant from operating or driving a taxicab within the Borough.

- ~~(h)~~ Applicant must have a thorough knowledge of the law, traffic regulations and geography of the Borough of Hightstown, the Motor Vehicle Act, the Traffic Act and other ordinances and regulations having to do with traffic. Each applicant may be examined as to his or her knowledge of these provisions, and if the result of the examination is unsatisfactory, the application shall be refused a license.
- ~~(i)~~ Be fingerprinted by the Police Department, with a report therein received from the State Police or Federal Bureau of Investigation.
- ~~(j)~~ (h) Applicant must not have been convicted, within the three (3) years prior to the date of the application, of reckless driving, driving while intoxicated, leaving the scene of an accident or driving more than thirty (30) miles an hour above the speed limit, and applicant must not have been convicted, within the five (5) years prior to the date of the application of driving while intoxicated.
- ~~(k)~~ (i) At the time of application, applicant must have no more than eight (8) six (6) New Jersey State Division of Motor Vehicle points on his or her driving record, or the equivalent if licensed in any other state.
- ~~(l)~~ (j) Requirements (d) and (i) (g) above, regarding physician's certification and fingerprinting, shall not apply to any taxicab driver who holds a valid taxicab driver's license in any other Mercer County municipality which is compliant with P.L. 2011, c.135 and whose firm is licensed in and operating out of said municipality. Such person(s) shall be qualified to obtain a taxicab driver's license in Hightstown upon completion of the application form, payment of the required fee and submission of the following documentation:

- (1) Certification by the applicant that he or she meets all of the requirements (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k) of Section 4-21.5(a)(1) set forth in sub-paragraph "a(1)" of Subsection 4-21.5 above.
 - (2) If not a United States citizen, a copy of alien registration card or work permit.
 - (3) Current valid taxicab driver's license from any other Mercer County municipality.
 - (4) Valid New Jersey's driver's license.
2. The application shall be accompanied by a fee of fifty (\$50.00) dollars for the ~~initial~~ license period, subject to pro-ration in 2012 in accordance with the provisions of sub-paragraph "d" below.
 3. The application shall be accompanied by two (2) un-mounted, un-retouched glossy photographs of the face of the applicant taken within thirty (30) days preceding filing of the application. Photographs shall be two and one-half inches (2 1/2") by two and one-half inches (2 1/2") in size and shall be passport picture quality. New photographs shall be submitted whenever the licensee's appearance changes significantly.
 4. Any person who shall make a false statement in any license application or in any record or certificate that ~~(s)he~~ is required to be filed or maintained shall be subject to rejection of the application submitted and/or to appropriate disciplinary sanctions, including license suspension or revocation, in addition to any penalty provided under the New Jersey Criminal Code.
- b. ~~Investigation; Grant or Denial of License Hearing before Council. The Chief of Police or a police officer designated by him~~ Investigation; Grant or Denial of License Hearing before Council. The Chief of Police or a police officer designated by him Police Director or his designee shall investigate the application and shall report the results to the Council Police Director (i.e., in cases where the investigation is performed by the Police Director's designee) and the Police Commissioner within a reasonable time. The report shall include a recommendation that the license be granted or denied and the reasons therefor. The Borough Clerk shall ensure that a copy of the report is made available to the applicant. Based upon the findings set forth in the report, the Police Director shall determine whether to grant or deny the license. In those cases where the Chief of Police or his designee has recommended against issuing the license, the applicant shall be afforded the opportunity for a hearing before the Borough Council. Any request for a hearing must be made within ten (10) days of the applicant's receipt of the Police Chief's report. At the hearing, the applicant shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. At the conclusion of the hearing, the Council will determine whether to grant or deny the license.
 - c. ~~Issuance of License; Contents. Upon approval of the application by the Council Police Director, the Clerk Police Department~~ Issuance of License; Contents. Upon approval of the application by the Council Police Director, the Clerk Police Department shall immediately issue the applicant a taxicab driver's license. The license shall contain the licensee's name and address, physical description, signature and photograph.
 - d. ~~Term of License; Fees; Renewal. An initial license to drive a taxicab shall be valid for the remainder of the calendar year in which it is issued, expiring on December 31st of said year. Licenses issued in 2012 shall be subject to a fee of fifty (\$50.00) dollars per license, which shall be pro-rated. Such fee shall be nonrefundable in the event that the application is denied. Licenses issued in 2013 and thereafter shall be subject to a nonrefundable non-prorated fee of fifty (\$50.00) dollars per license. A taxicab driver's license may be renewed annually thereafter, unless it has been revoked or suspended, upon the payment of a renewal fee of fifty (\$50.00) dollars per year, and processing, screening and determination of the application in accordance with all of the procedures set forth above.~~ Term of License; Fees; Renewal. An initial license to drive a taxicab shall be valid for the remainder of the calendar year in which it is issued, expiring on December 31st of said year. Licenses issued in 2012 shall be subject to a fee of fifty (\$50.00) dollars per license, which shall be pro-rated. Such fee shall be nonrefundable in the event that the application is denied. Licenses issued in 2013 and thereafter shall be subject to a nonrefundable non-prorated fee of fifty (\$50.00) dollars per license. A taxicab driver's license may be renewed annually thereafter, unless it has been revoked or suspended, upon the payment of a renewal fee of fifty (\$50.00) dollars per year, and processing, screening and determination of the application in accordance with all of the procedures set forth above.

- e. Use of License. Taxicab driver's licenses are valid for use with any licensed taxi within the Borough of Hightstown.
- f. In those cases where the Police Director has denied the license, the applicant shall be afforded the opportunity for a hearing before the Police Commissioner. Any request for a hearing must be made within ten (10) days of the applicant's receipt of written notice of denial from the Police Director. At the hearing, the applicant shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. Following the hearing, the Police Commissioner's determination shall be final.
- g. Any change(s) in the information contained within the driver's license application shall be reported to the Borough Clerk within three (3) business days thereof. A charge in the amount of twenty-five (\$25.00) dollars shall be levied for each business day after three days that any such changes are not reported to the Borough.

4-21.6 Display of Licenses ~~and Fares Required.~~

- a. The taxicab owner's license and driver's license (with photo) shall be displayed prominently in the interior of each cab. ~~Rates of fares shall be posted in each taxicab.~~
- b. The taxicab driver's license must also be conspicuously displayed on the driver's outer garment when the driver is on duty and presented for confirmation when requested by the passenger.

~~4-21.7 Inspection of Vehicles.~~

- a. ~~Initial Inspection. Before any vehicle is used as a taxicab within the Borough, it shall be inspected by the Chief of Police or a police officer designated by him.~~
 - 1. ~~All vehicles will be photographed at the time of inspection.~~
 - 2. ~~Inspections will be conducted by appointment only.~~
 - 3. ~~Vehicles must be maintained in a safe, clean and sanitary condition.~~
 - 4. ~~Vehicles must contain all safety devices required by law.~~
 - 5. ~~Each vehicle must have at least one Federally approved child restraint seat available at all times.~~
 - 6. ~~No vehicle may be more than ten (10) years old at the time of inspection.~~
- b. ~~Reinspections. All taxicabs shall be reinspected annually, or more often if the Council so requires by resolution. In addition, any police officer may inspect any taxicab at any reasonable time to determine if it is clean, sanitary and in a safe and proper operating condition.~~
- e. ~~Failure to Pass Inspection. Any taxicab which fails to pass inspection shall be immediately taken out of service and shall not be operated again within the Borough until the defects which led to its rejection are corrected. In the case of minor defects which do not constitute an immediate danger to the health or safety of the public, the taxicab may continue to be operated for a period of one (1) week, at the end of which time it shall be re-inspected. If the defect has not by then been corrected, the vehicle shall immediately be taken out of service and remain out of service until the defect is corrected.~~

~~4-21.8 Taxicab Identification Required.~~

- a. ~~Identification Required. Each taxicab operated in the Borough shall have a sign permitted on each rear door. The sign shall contain the owner's name, the words "taxicab" or "taxi," telephone number and vehicle number in letters not less than four (4) inches nor more than eight (8) inches in height.~~
- b. ~~Imitation of Color Scheme or Insignia. No taxicab operated in the Borough shall imitate the color scheme or any identifying design or insignia of another taxicab lawfully operating in the Borough, nor shall one taxicab have a color scheme or identifying design or insignia which is so similar to that of another taxicab as to be likely to have a tendency to mislead the public. The person first using a particular color scheme or identifying design or insignia for his taxicab shall have the prior right to it.~~

~~4-21.9 Fares.~~

- a. ~~Rates of Fare. Fares shall be conspicuously displayed in each taxicab.~~
- b. ~~Receipts. The driver of a taxicab, upon request, shall give the passenger a receipt for the amount charged. The receipt shall show the name of the owner, the license number of the taxicab, the amount of the fare and the date of the transaction.~~
- e. ~~Refusal to Pay Fare. No person, after hiring a taxicab, shall refuse to pay the legal fare, nor shall any person hire a taxicab with the intent not to pay the legal fare.~~

~~4-21.10 Promulgation of Rules and Regulations; Copies to Be Distributed.~~

~~The Council may establish, by resolution, rules and regulations relating to the operation of taxicabs and the conduct of licensees. A copy of the rules and regulations shall be furnished to each licensee.~~

~~4-21.11 Unlawful Activities.~~

~~All drivers shall be licensed personnel, and taxicabs shall be used exclusively for purposes of transportation of passengers and their baggage. No owner or driver shall be obliged to transport any person who is not orderly.~~

4-21.7 License Regulations.

- a. Licenses issued pursuant to this section are not transferable.
- b. A driver shall immediately surrender his or her taxicab driver's license to the Borough upon the suspension or revocation of his or her New Jersey driver's license.

~~4-21.12~~ 4-21.8 ~~Suspension or Revocation of Licenses.~~

- a. In the case of an emergency, licenses may be temporarily suspended for not more than seven (7) days by the Police Director.
- b. In all other cases, licenses may be suspended or revoked, for cause, by the Borough Council after reasonable notice and a hearing. At said hearing, the licensee shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. At the conclusion of the hearing, the Council will determine whether to suspend the license or to permanently revoke the license. Any license so suspended or revoked shall not be re-issued except for good reasons shown.
- a. In addition to the causes for revocation of a license set forth in sSubsection 4-1.10, any license issued under this section may be revoked or suspended; by the Borough Council, or any application for the issuance or renewal of a license denied, for any of the following reasons:

1. Failure to render reasonable, prompt, safe and adequate taxicab service.
2. The existence of a judgment unsatisfied of record against the licensee or applicant in any suit arising over the operation of a motor vehicle.
3. Permitting any taxicab owned or driven by the licensee to become unsafe, unsanitary or dirty.
4. Failure to comply with all applicable laws of the State of New Jersey, the ordinances of the Borough or the rules and regulations adopted in accordance with this section.
5. Where taxicab vehicles are found to be used for any improper, immoral or illegal business or purpose or for the violation of any federal or state statute or for the violation of any of the provisions of this section.
6. Failure to maintain the proper amount of insurance on licensed taxicab vehicles pursuant to valid and effective insurance policies, as required by this section.

~~b.~~ c. Drivers. If the licensee is a driver, his license may also be revoked or suspended by the Borough Council for the following reasons:

1. Revocation or suspension of his New Jersey motor vehicle operator's license.
2. Contraction by the licensee of a communicable or contagious disease.
3. Operating a taxicab in a reckless or grossly negligent manner or habitually operating a taxicab in a negligent manner.
4. Conviction of one of the crimes listed in Subsection 4-21.5a1(g) above, in New Jersey or elsewhere.

~~4-21.13~~ 4-21.9 Complaints; Enforcement.

- a. All complaints shall be submitted to the Hightstown Police Department.
- b. Enforcement of Section 4-21 shall be the responsibility of the Hightstown Police Department or authorized persons designated by the Police Director.

~~4-21.14~~ 4-21.10 Violations and Penalties.

- a. Licenses issued pursuant to this section may be suspended or revoked in accordance with Subsection 4-21.8 for the reasons set forth therein.
- b. For other violations of this section, any person convicted thereof shall be subject to the penalties set forth in Section 1-5 of the Borough Code.

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies; and

BE IT FURTHER ORDAINED, that 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 there from and shall not be affected; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon final passage and publication in accordance with the law.

Ordinance 2012-10 First Reading and Introduction – An Ordinance Amending and Supplementing Various Sections of Chapter 7, Entitled “Traffic,” of the “Revised General Ordinances of the Borough of Hightstown, New Jersey,” Relating to Taxicab Issues.

Councilmember Woods moved Ordinance 2012-10 for introduction, Councilmember Bibens seconded.

The Borough Attorney advised that the items that were not related to taxi licensing (operating) have been moved to the traffic ordinance where they belong. This ordinance also identifies taxi stands in the Borough. There was discussion regarding taxi stand locations.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, and Woods voted yes; Councilmember Thibault abstained.

Ordinance Introduced 5-0 with one abstention. Public Hearing to be held on August 6, 2012.

Ordinance 2012-10
BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AN ORDINANCE AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF CHAPTER 7, ENTITLED “TRAFFIC,” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY,” RELATING TO TAXICAB ISSUES.

WHEREAS, the Borough Council (the “Borough Council”) of the Borough of Hightstown, New Jersey, wishes to amend various sections of Chapter 7 of the Borough Code relating to taxicab issues, as set forth herein.

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

1. That Section 7.1, entitled “Definitions,” of Chapter 7, “Traffic,” of the “Revised General Ordinances of the Borough of Hightstown, New Jersey” is hereby amended and supplemented at Subsection 7-1.1 thereof, entitled “Words and Phrases,” in the following respects (additions are shown with underline):

7-1.1 Words and Phrases.

Whenever any words and phrases are used in this chapter, the meaning respectively ascribed to them in N.J.S. 39:1-1 shall be deemed to apply to such words and phrases used herein.

In addition, the following terms shall have the meanings indicated:

Cruising shall mean the driving of an empty taxicab along a public street at a slow rate of speed for the obvious purpose of soliciting passengers.

Taxicab or *taxi* or *cab* shall mean a motor vehicle used to transport passengers for hire or compensation which does not operate over a fixed route and is not hired by the day or hour.

Taxi Stand shall mean a section of a public street or of a public place, or a section of private property with the express written consent of the property owner or other authorized representative, set apart for the exclusive use of a taxicab or a limited number of taxicabs when such section is distinctly marked as such by an appropriate sign attached to a stanchion on the curb or other

conspicuous place, or by clearly visible marks upon the surface of the street or other public or private place, or by other clearly visible markings that are approved by the Hightstown Borough Police Department.

2. That Chapter 7, "Traffic," of the "Revised General Ordinances of the Borough of Hightstown, New Jersey" is hereby amended and supplemented in order to *establish* a new Section thereof, located at Section 7-16, to be entitled "Taxicab Regulations," as follows:

7-16 TAXICAB REGULATIONS.

7-16.1 Exterior Taxicab Identification Required.

- a. Identification Required. All taxicabs shall display on the body of the vehicle the taxi license number issued to that vehicle pursuant to Section 4-21 of the Borough Code, along with a listing of each municipality that has issued a taxi license to that taxicab. The taxi license number shall be three (3) inches in height and must be located in the center of the rear quarter panels on the driver and passenger sides as well as the rear center line of the trunk of the vehicle. The list of each municipality shall be displayed on each rear door in letters three (3) inches in height.
- b. Imitation of Color Scheme or Insignia. No taxicab operated in the Borough shall imitate the color scheme or any identifying design or insignia of another taxicab lawfully operating in the Borough, nor shall one taxicab have a color scheme or identifying design or insignia which is so similar to that of another taxicab as to be likely to have a tendency to mislead the public. The person first using a particular color scheme or identifying design or insignia for his taxicab shall have the prior right to it.

7-16.2 Rates of Fare.

- a. Fares shall be conspicuously displayed in each taxicab.
- b. The driver of a taxicab, upon request, shall give the passenger a receipt for the amount charged. The receipt shall show the name of the owner, the license number of the taxicab, the amount of the fare and the date of the transaction.
- c. No person, after hiring a taxicab, shall refuse to pay the legal fare, nor shall any person hire a taxicab with the intent not to pay the legal fare.

7-16.3 Operational Regulations.

- a. All taxicab owners and drivers shall be licensed pursuant to Section 4-21 of the Borough Code.
- b. No taxicab shall stop, stand or remain idle on a public roadway or other public property within the Borough for a period of time in excess of fifteen (15) consecutive minutes without the prior approval of the Borough, unless said location has been properly designated as a taxi stand pursuant to Section 7-26 of this Chapter. Taxicabs while out of service (with an appropriate sign posted), or while parked by the owner or driver at their place of residence, shall be exempt from this regulation.
- c. No taxicab shall be parked or shall remain standing idle on any commercial property for the purpose of utilizing said property as a taxi stand without the express written consent of the property owner or other authorized representative, and the proper designation of said property as a taxi stand by the Borough pursuant to Section 7-26 of this Chapter.
- d. No taxicab shall remain "idling" with the engine running for more than three (3) consecutive minutes on any public roadway or other public property within the Borough, or on any private property within the Borough.

- e. Cruising is prohibited within the Borough.
 - f. No person, while operating or attending a taxicab for hire, shall:
 - 1. Obstruct any sidewalk; or
 - 2. Knowingly misinform or mislead any person as to the location of a destination.
 - g. Any motor vehicle accident involving a taxicab and causing injury to a person or damage to property in excess of \$500.00 shall be reported immediately to the Hightstown Borough Police Department and a copy of the police report for such accident must be given to the Hightstown Police Department within fourteen (14) days of the accident. Such information shall be placed in the Borough's records regarding the taxicab owner and taxicab driver.
 - h. All taxicab owners shall keep trip records and receipt books for six (6) months, which shall be kept current and shall be displayed when so requested by authorized Borough officials appointed by the Police Director. Trip records shall show, at a minimum, the date, time, pick-up location, destination, number of passengers and fare charged.
 - i. All taxicab vehicles shall be kept clean and free of debris.
 - j. Each licensed taxicab driver shall be clean in person and fully dressed while on duty, including shirt, pants and shoes.
 - k. Taxicab drivers and passengers shall refrain from smoking within the taxicab vehicle while a hired trip is in progress. This prohibition shall be conspicuously posted in each Borough licensed taxicab vehicle.
 - l. No driver shall operate a taxicab after fourteen (14) consecutive working hours without an eight (8) hour rest period.
 - m. Taxicab drivers shall, immediately after the conclusion of their on-duty time, carefully search the taxicab for any property lost or left therein, and shall, within twenty-four (24) hours after finding any such property, advise the Hightstown Borough Police Department of the nature of the property and where it may be collected.
 - n. Taxicabs shall be used exclusively for purposes of transportation of passengers and their baggage.
 - o. No owner or driver of a taxicab shall be obliged to transport any person who is not orderly.
 - p. Taxicab drivers who are on-duty and available for hire shall not refuse to offer their services to potential patrons who are disabled, on the basis of said disability.
3. That Section 7.26, entitled "Taxi Stands," of Chapter 7, "Traffic," of the "Revised General Ordinances of the Borough of Hightstown, New Jersey" is hereby amended and supplemented at Subsection 7-26.1 thereof, entitled "Taxi Stands," in the following specific respects (additions are shown with underline; deletions are shown with ~~strikeout~~):

7-26.1 Taxi Stands.

- a. ~~The locations described are hereby designated as taxi stands. No vehicle other than a taxi shall currently licensed by Hightstown Borough pursuant to Section 4-21 of this Chapter shall be permitted to occupy these locations during the times indicated.~~

(Reserved)	<u>Street</u>	<u>Location</u>	<u>Hours</u>
<u>Intersection of</u>	<u>Municipal Parking Lot</u>	<u>All</u>	
<u>Railroad Avenue</u>	<u>(First two spaces closest and Rogers Avenue to Rogers Avenue)</u>		
<u>Intersection of</u>	<u>Northwest corner</u>	<u>All</u>	
<u>Broad Street and</u>	<u>(Two parking spaces)</u>		
<u>Franklin Street</u>			
<u>Stockton Street</u>	<u>Cut-out by Railroad Avenue</u>	<u>All</u>	
	<u>on south side (Two parking spaces)</u>		

- ~~b. No taxicab shall be parked or shall remain standing idle for an extended period of time on a public roadway within a residential zoning district within the Borough without prior approval of the Borough.~~
- ~~c. No taxicab shall stand or be parked on any commercial property without the express written consent of the property owner. Such consent must be provided to the Borough with the annual taxi company license application.~~
- b. In order for any portion of private property to be utilized as a taxi stand, the property owner or other authorized representative must file its express written consent for same with the Borough Clerk and the Hightstown Borough Police Department.
- c. No more than one (1) taxicab vehicle from the same taxicab owner's company shall be permitted to be parked, or to otherwise occupy, the same taxi stand at the same time (i.e., simultaneously).
- d. No taxicab shall remain "idling" with the engine running for more than three (3) consecutive minutes at any taxi stand.
- e. Every taxicab, while occupying space at a taxi stand, shall be immediately available for hire.
- f. Only a taxicab licensed by Hightstown Borough may occupy or deliver a passenger to a taxi stand in the Borough.
- g. Each taxi stand shall be marked with a statement that the stand is reserved for taxicabs licensed by Hightstown Borough only.
- h. No person operating a taxi shall perform maintenance of any kind while occupying space at a taxi stand.
- i. No taxicabs shall be permitted to be parked, or to otherwise occupy, any taxi stand during times of emergency or during a snow event, as directed by the Hightstown Borough Police Department.

4. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

5. That 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.

6. That this Ordinance shall take effect upon final passage and publication in accordance with the law.

Resolution 2012-188 Payment of Bills

Councilmember Woods requested that Item E0577 be pulled and voted separately.

Councilmember Bibens moved Resolution 2012-188 without Item E0577, Council President Quattrone seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Councilmember Thibault moved item E0557 on the bills list, Councilmember Bluth seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, and Woods voted yes, Councilmember Woods abstained.

Resolution adopted 5-0 with one abstention.

Resolution 2012-188

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

AUTHORIZING PAYMENT OF BILLS

WHEREAS, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the bills be paid on audit and approval of the Borough Administrator, appropriate Department Head and the Treasurer in the amount of \$229,516.77 from the following accounts

Current	\$	171,869.70
W/S Operating		40,987.86
General Capital		1,320.00
Water/Sewer Capital		12,232.50
Grant		
Trust		890.71
Housing Trust		
Animal Control		

Law Enforcement Trust	15.75
Housing Rehab Loans	
Unemployment Trust	
Escrow	2,200.25
Federal Forfeiture	

Resolution 2012-189 Requesting Change in Title, Text and Amount of Appropriation Pursuant to NJS 40A:4-85

Councilmember Woods moved Resolution 2012-189, Council President Quattrone seconded.

George Lang, CFO, explained that this resolution amends the water/sewer budget to cover an additional payment due on the NJEIT loan for the water main extension. This has already been approved by DCA.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Resolution adopted 6-0.

Resolution 2012-189

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

RESOLUTION REQUESTING CHANGE IN TITLE, TEXT OR AMOUNT OF APPROPRIATION PURSUANT TO NJS 40A:4-85

WHEREAS, NJS 40A:4-85 provides that the Director of the Division of Local Government Services may, at the request of, or with the consent of, the governing body of any county or municipality, make such correction of the title, text or amount of any appropriation appearing in the budget as may be necessary to make said item of appropriation available for the purpose or purposes required for the needs of any county or municipality,

WATER-SEWER UTILITY FUND:

	<u>Adopted Budget</u>	<u>Revised Budget</u>
Salaries and Wages	855,901.00	845,901.00
Other Expenses	1,330,201.00	1,314,286.00
WasteWater and Water Supply Loan	91,890.00	117,805.00

BE IT RESOLVED that the foregoing correction is in the opinion of the governing body, warranted and authorized by statute referred to above, and is necessary for the orderly operation of the Borough of Hightstown, County of Mercer for the reasons set forth:

Adopted budget provided for two principal payments on NJEIT loan as in the prior year. In 2012 there are three principal payments due.

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be provided forthwith to the Treasurer, Chief Financial Officer and Borough Auditor.

Resolution 2012-191 Governing Body Resolution Requesting Review and Approval of an Affordable Housing Municipal Housing Trust Fund Spending Plan

Councilmember Woods moved Resolution 2012-191, Council President Quattrone seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Resolution 2012-191

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

**GOVERNING BODY RESOLUTION REQUESTING REVIEW AND APPROVAL OF A MUNICIPAL
AFFORDABLE HOUSING TRUST FUND SPENDING PLAN**

WHEREAS, the Governing Body of the Borough of Hightstown petitioned the Council on Affordable Housing (“COAH”) for substantive certification in 2005; and

WHEREAS, the Borough of Hightstown received approval from COAH in 2005 of its development fee ordinance; and

WHEREAS, pursuant to the Executive Reorganization Act of 1969, P.L. 1969, c. 203 (C. 52:14C-1 *et seq.*), the Governor transferred all functions, powers, and duties to the Commissioner of the Department of Community Affairs (the “DCA”), effective August 29, 2011; and

WHEREAS, the New Jersey Appellate Division, on March 8, 2012, invalidated the Executive Order; and

WHEREAS, COAH has resumed granting approvals of Municipal Spending Plans; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units;

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds, provided that the trust fund balance as of July 17, 2008 is committed for expenditure within four years of that date and that all development fees and any payments in lieu of construction are committed for expenditure within four years from the date of collection;
6. If applicable, a schedule for the creation or rehabilitation of housing units;\
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and

8. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
9. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Borough of Hightstown has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the Borough of Hightstown hereby requests that COAH, and/or the DCA's Local Planning Services Unit, review and approve Hightstown's spending plan.

Resolution 2012-192 Authorizing a Shared Services Agreement for Contribution of Matching Local Share of Bus Services

Council President Quattrone moved Resolution 2012-192, Councilmember Woods seconded.

There was discussion.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Resolution adopted 6-0.

Resolution 2012-192

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

AUTHORIZING A SHARED SERVICES AGREEMENT BETWEEN HIGHTSTOWN BOROUGH AND EAST WINDSOR TOWNSHIP FOR CONTRIBUTION OF THE MATCHING LOCAL SHARE FOR BUS SERVICES

WHEREAS, the Borough of Hightstown is desirous of entering into a renewed shared services agreement with the Township of East Windsor for the purpose of providing public transportation services for its citizens; and

WHEREAS, the term of said agreement shall be from July 1, 2012 through June 30, 2013; and

WHEREAS, the Borough's share of the cost of this service, by the terms of the agreement, is \$2,180.00, representing no increase from prior years; and

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Mayor and Borough Clerk are hereby authorized and directed to execute a Shared Services Agreement for Contribution of the Matching Local Share for Bus Services with East Windsor Township in the amount of \$2,180.00.

Resolution 2012-193 Authorizing an Auction License – Empire Antiques

Council President Quattrone moved Resolution 2012-193, Councilmember Bibens seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Quattrone, Thibault and Woods voted yes.

Resolution adopted 6-0.

Resolution 2012-193

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER*

STATE OF NEW JERSEY

AUTHORIZING THE ISSUANCE OF AN AUCTION LICENSE – EMPIRE ANTIQUES

WHEREAS, an application for a license to hold an auction on Saturday, August 4, 2012 at 278 Monmouth Street in the Borough of Hightstown has been submitted by Empire Antiques, together with the required fee; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized to issue a license to Empire Antiques for their auction to be held on Saturday, August 4, 2012 at 278 Monmouth Street.

Discussion

Hurricane Irene Update

Mr. Theokas advised that was a flood map meeting and the process for the new maps is being done over again for all of Mercer County. Rick Perez is working on the needs assessment and once it is ready it will be forwarded to Council. No money has been received since the last report.

Code enforcement Update

Mr. Theokas distributed a report to Council which he reviewed. Councilmember Bibens, as Liaison to the Department, noted that things are going well with the new Inspector. Residents are not happy because he is issuing quite a few violation notices, but that is why he was hired.

There was discussion.

Hurricane Irene Update

Councilmember Woods inquired as to whether Council felt that the plan presented tonight was worthy and if a special meeting should be scheduled. There was discussion and it was decided that a special meeting should be scheduled to continue discussion regarding Borough Hall. The tentative dates of August 8th or August 16th were agreed upon. The Borough Clerk will check on availability of the First Aid facility for such a meeting and notice same.

The Mayor opened the public comment period II and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – commented on the gazebo in Association Park; taxi ordinance; and COAH.

Scott Caster, 12 Clover Lane – commented regarding the taxi ordinance; bicycles on the sidewalks; and the footprint sketch for Borough Hall.

Councilmember Bluth recused herself at this time.

Patty Acree, 16 Powell Court – distributed copies of a County report which finds that the Wyckoffs Mill violations have not been corrected.

Councilmember Bluth returned to the dais at this time.

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

Mayor/Council/Administrative Comments and Committee Reports

Councilmember Thibault – hopes that the Scout considers the process for the gazebo as a learning experience.

Councilmember Bluth – is looking forward to the gazebo and asked the Borough Attorney to check into the legal requirements for insurance for the taxis.

Councilmember Bibens – is pleased with the meeting and thanked Council members Thibault and Woods for the presentation; reminded the public that the Fair Committee meeting place has changed.

Councilmember Woods – advised that a water/sewer department head meeting was held and a procedure for shut-offs, in accordance with the Borough Code, was established. There is only one account still delinquent.

Council President Quattrone – thanked Council for listening to the public comments and asking questions, he is proud of Council.

Mayor Kirson – advised that he attended a forum at Rutgers and there was not one comment that the state is headed in the right direction.

Councilmember Thibault moved to adjourn at 11:34 pm, Councilmember Bibens seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC
Borough Clerk