

Meeting Minutes
Hightstown Borough Council
Regular Meeting
July 2, 2012
7:30 pm

The meeting was called to order by Mayor Kirson at 7:32 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; James LeTellier, Police Director; George Lang, Chief Finance Officer; and Frederick Raffetto, Borough Attorney.

Councilmember Thibault moved that the agenda be approved with an amendment which would include his comments prior to the ordinances and after the approval of the minutes, Councilmember Woods seconded.

Mayor Kirson called for a roll call vote on the amended agenda.

Roll Call Vote: Council members Bluth, Doran, Thibault and Woods voted yes; Councilmember Bibens and Council President Quattrone voted no.

Agenda approved as amended, 4-2.

Council President Quattrone moved the minutes of the May 30, 2012, Special Meeting for approval; Councilmember Woods seconded.

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

Minutes approved 5-0, with one abstention.

Councilmember Woods moved the minutes of the June 26, 2012 Open Session for approval; Council President Quattrone seconded.

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

Minutes approved 6-0.

Council President Quattrone moved the minutes of the June 26, 2012 Executive Session for approval; Councilmember Woods seconded.

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

Minutes approved 5-0 with one abstention.

Councilmember Thibault Comments

"Looking at those assembled here this evening, I'm sure Council is going to hear a great deal about the article in this morning's Trenton Times. And that is as it should be.

I am a passionate advocate for the proposition that the voice of the people must be heard. That is why I have consistently argued against time limits on public participation at Council meetings and why I, along with Council Member Bluth, hold open public meetings each month. It is also why I along with Council Member Woods, with the support of the rest of Council pushed for not one, but two special public meetings on the topic of Borough Hall.

The topic of Borough Hall is actually what I want to talk about and I want to thank Council for the opportunity for the time on the agenda that was denied me by...who or for what reason, I can't say. I can't say because I never received a response to my question as to why my request for time on the agenda was denied. Before I move on to the topic of Borough Hall, I want to take a minute to reference the Trenton Times article and the issue of the Open Public Meetings Act in general.

First, it is not up to Council President Quattrone or Mayor Kirson to decide what is or isn't a violation of the Open Public Meetings Act. Neither is it for the two attorneys interviewed for the Times article to pass such judgment. Attorney Robert Renaud at least recognized that by using words like "generally". Michael Hartsough, the other attorney felt no such need to hedge his statement, declaring it was – and I quote – "a no brainer." Perhaps Mr. Hartsough neglected to mention to the reporter – or the reporter didn't think worthy of including in the story – is the fact that Mr. Hartsough's firm of Hartsough, Kenny, Chase & Sullivan and his partner, Gregory Sullivan, represented the Borough, the police department and Officer Ben Miller in my Notice of Claim case. Mr. Hartsough's firm, by the way, recently lost their appeal in that case.

I will follow Saint Matthew's advice on this and judge not about the seeming no-brainer conflict of interest. I would, however, suggest that the Times might want to do a bit more vetting of sources – especially if an "expert source" might have been provided to them by someone how might have a political interest in the story.

I was a reporter in college and for several years afterwards. So when I read news articles, I sometimes tend to try to determine why a reporter took a particular angle on a story or why a particular quote was used. I blame this tendency on a professor who shared imaginary headlines from the end of the world. He said the NY Times headline would say: World Ends; Poor and Third-World Most Affected while the Wall Street Journal would say: World Ends; Markets Close Sharply Lower. Despite my background in journalism, I am left wondering why the Times would include something like "at one point Doran wrote to Woods to suggest tweaking language to secure Thibault's nod." But then fail to include anything about what needed to be "tweaked." It seems to me that readers would want to know what kind of wording demands Thibault might make. I mean, if you set things up like that, it makes sense to give readers the payoff. Apparently what Council Member Doran was referring to an email I had written that said "I won't support any language that appears to dismiss the Lucas site out of hand." So why would the paper leave that out? I am still left wondering.

This brings me to another issue with the article. The article states "The resolutions declared that borough hall should be located in the central part of town." This is patently not true. The resolution states "all options concerning the location of Borough Hall should be reviewed and analyzed; the consensus of the council at this time is that Hightstown Borough Hall is best located in the central part of town rather than the outskirts."

Which brings me back to Borough Hall. Council has consistently advocated the investigation of all possible options for the placement of Borough Hall. Council has also demanded cost analysis for any and all options. Just as consistently, the Mayor and Borough Administrator have apparently withheld information, provided partial information or put Council off, saying the information just isn't there. I will discuss specifics of this later in the meeting and provide a timeline of events surrounding borough hall.

Again, I thank the council for the opportunity to be heard this evening."

Ordinance 2012-07 First Reading and Introduction 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, making the following statement:

“On June 25, Mayor Kirson received a letter from the law firm of Mets, Schiron and McGovern, the counsel to the Hightstown PBA Local 283 demanding that I be barred from participation in any matter concerning the police department.” I received a copy of the letter by email from the Borough Attorney the next day. I have copies of the letter for anyone interested. Let anyone be concerned that this letter be perceived as a threat, the PBA attorney assures the Mayor that “We are bringing these matters to your attention with the hopes of preventing litigation by the PBA against the Borough and a possible claim under the Local Government Ethics Law.” The issue raised by the letter is the Notice of Claim that has been filed on my behalf against the Borough and the Police Department. Officer Benjamin Miller is also named in my Notice of Claim but his name is curiously absent from the letter.

I’ll take a minute to provide some background. In December of last year, West Windsor Municipal Court Judge Mary Brennan ruled that – and I quote – “Police Officer Ben Miller undertook an investigation of mayoral candidate Rob Thibault not only for the purpose of discrediting candidate Thibault and influencing the November 2010 Hightstown Borough election in favor of the police department but also in retaliation for the defendant’s exercise of his first amendment right of free speech.” Then just last month the Appellate Division of Superior Court ruled in my favor, saying “At the outset of the incident, the officer represented that the stop was random. This was not an accurate statement. Only after plaintiff pursued the matter and acquired the reports, which defendants sought to withhold, did the truth emerge. We cannot countenance or reward misstatements designed to mislead a litigant simply by assuming that the truth will be revealed through the discovery process. Had plaintiff not gained access to the various investigative reports, he might not have learned the truth about what transpired here. The government cannot participate in deception and use that conduct as a basis for denying a litigant procedural benefits that enable him or her to bring a lawsuit against that very defendant.”

Since taking a seat on Council, I have recused myself from any executive session in which anything to do with this case. I have also abstained from votes relating specifically to the officer or officers involved. But that has not been enough for the PBA. Now they are seeking to achieve what Officer Miller failed to do: intimidate me into obedience and silence and subvert the voters of Hightstown by stating that I “**should not be allowed to participate in any matters that involve the Police Department.**” This action by the PBA ill serves its members who serve professionally and adhere to and support the rule of law. I cannot imagine that those members support the actions of the union anymore than they supported the retaliatory actions of Officer Miller.

It pains me to give into such thuggish behavior, but given their blackmail-like threat of “litigation by the PBA against the Borough,” I feel it is in the best interests of the Borough to recuse myself – under strong protests – from issues concerning the police until I can seek an advisory opinion from the Local Finance Board, the state body responsible for conflict of interest.”

Council President Quattrone moved ordinance 2012-07 for introduction, Councilmember Bibens seconded.

The Mayor then explained that this ordinance is to add Special Officers to assist our Police Department when needed and are not replacement Officers. Police Director LeTellier explained that this would be less costly than paying overtime to regular Officers and summarized the duties that could be covered by the Special Officers.

There was discussion.

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

Ordinance introduced 5-0, with one abstention; Public Hearing July 16, 2012.

Ordinance 2012-08 First Reading and Introduction 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”.

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

Mr. Theokas explained that this ordinance is adding the title of Housing Inspector to the ordinance as one who is authorized to enforce and issue summonses for violations; there may be a possible change to this title in the future but it is necessary to add this title for enforcement at this time.

There was discussion.

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

Ordinance introduced 6-0; Public Hearing July 16, 2012.

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

George Zhelesnik, 7 Ely Court – commented regarding the five year PBA contract; police overtime and specials; the need for police in the community, the cost of a new police facility and the police department cost overall; we should consolidate.

Frank Rivera, 110 Broad Street – commented regarding Borough Hall and funding; Council fiscal responsibility; and stated that the resolution is so benign.

Eugene Sarafin, 628 S. Main Street – commented that he likes the Special Police ordinance; the headlines in the Trenton Times; resolution is trivial; OPRA and Sunshine Law; the Governor

J P Gibbons, 602 N. Main Street – commented regarding the five year PBA contract; taxpayer bills and cost controls; revenue; budget; Route 33 corridor; taxi ordinance; and Housing Inspector.

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

Resolution 2012-175 Authorizing the Payment of Bills

Council President Quattrone moved Resolution 2012-175, Councilmember Woods seconded.

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

Resolution adopted 6-0.

Resolution 2012-175

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 \$110,903.46 from the following accounts

Current	\$	42,929.44
W/S Operating		51,019.96
General Capital		750.00
Water/Sewer Capital		11,247.00
Grant		785.00
Trust		167.95

Housing Trust	
Animal Control	6.00
Law Enforcement Trust	1,275.11
Housing Rehab Loans	
Unemployment Trust	
Escrow	2,723.00
Federal Forfeiture	

Resolution 2012-176 Resolution of Support Authorizing the Sustainable Jersey Grant Funded by PSE&G

Councilmember Woods moved Resolution 2012-176, Councilmember Doran seconded.

Keith LePrevost, on behalf of the Environmental Commission, advised that the funds would be used to provide a rain garden, rain barrels and dry wells to be set up at the Housing Authority to be used to educate residents. The grant is for \$10,000.00 and the project is at no cost to the Borough.

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

Resolution adopted 6-0.

Resolution 2012-176
*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**RESOLUTION OF SUPPORT AUTHORIZING THE SUSTAINABLE JERSEY GRANT
FUNDED BY PSE&G**

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, the Borough of Hightstown strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, the Borough of Hightstown is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created a grant program called the Sustainable Jersey Small Grants funded by PSEG; and

WHEREAS, the Mayor and Borough Council of The Borough of Hightstown has determined that the Borough of Hightstown Environmental Commission should apply for the aforementioned Grant.

THEREFORE, BE IT RESOLVED, that the Mayor and Borough Council of the Borough of Hightstown, State of New Jersey, authorize the submission of the aforementioned Sustainable Jersey Grant funded by PSEG.

Resolution 2012-177 Appointing a Housing Inspector – Anthony Sturchio

Council President Quattrone moved Resolution 2012-177, Councilmember Bibens seconded.

Mr. Theokas advised that this position is part-time for 10 to 20 hours per week. There was discussion regarding scheduling.

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

Resolution adopted 6-0.

Resolution 2012-177

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

APPOINTING A HOUSING INSPECTOR – ANTHONY STURCHIO

WHEREAS, the Mayor and Borough Council recognize that there is a need to hire a Housing Inspector to assist with property maintenance issues; and,

WHEREAS, Mr. Michael Theokas, Borough Administrator, has recommended that Anthony Sturchio be appointed as a Housing Inspector for the Borough of Hightstown; and

WHEREAS, Anthony Sturchio is already employed by Hightstown Borough; and,

WHEREAS, the Borough Council finds it in the best interest of the health, safety and welfare of the residents to appoint Anthony Sturchio as a Housing Inspector at an hourly rate of \$20.00.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that Anthony Sturchio is hereby appointed as a Housing Inspector to assist with property maintenance issues at an hourly rate of \$20.00.

BE IT FURTHER RESOLVED, that a certified copy of this resolution shall be forwarded to the Construction Official, Anthony Sturchio, Personnel File and Payroll.

Resolution 2012-178 Authorizing an Employment Agreement with Jill Swanson (Health Officer)

Councilmember Thibault moved Resolution 2012-178, Council President Quattrone seconded.

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

Resolution adopted 6-0.

Resolution 2012-178

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

AUTHORIZING EMPLOYMENT AGREEMENT WITH JILL SWANSON (HEALTH OFFICER)

WHEREAS, Robert Hary, served as Health Officer for the Borough of Hightstown since January 1, 2000 and retired from his position effective June 30, 2012; and

WHEREAS, due to Mr. Hary's retirement, the Borough Administrator has recommended that Jill Swanson be appointed to the position of Health Officer for Hightstown Borough effective July 1, 2012; and

WHEREAS, Ms. Swanson is a duly licensed health officer possessing the necessary licenses to fulfill the requirements of the statutes and regulations concerning the provision of such services; and

WHEREAS, Ms. Swanson is currently employed by the Township of West Windsor as its Health Officer; and

WHEREAS, Hightstown Borough currently has a shared services agreement for health services with West Windsor Township; and

WHEREAS, it is the desire of the Mayor and Council to employ Jill Swanson as Health Officer; and

WHEREAS, by the terms of the agreement, Ms. Swanson's salary as Health Officer will be as follows:

July 1, 2012 – June 30, 2013 \$12,000.00

July 1, 2013 – June 30, 2014 \$12,240.00

July 1, 2014 – June 30, 2015 \$12,734.50

;and

WHEREAS, it is the intention of the Mayor and Council to provide adequate funding for this expenditure in the 2013 budget;

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

1. The employment agreement with Jill Swanson for the period July 1, 2012 through June 30, 2015, and the Mayor and Borough Clerk are authorized to execute same.
2. Performance under this agreement is subject to the appropriation of sufficient funds in the budgets of 2013 and succeeding years.

Resolution 2012-179 Authorizing the Hightstown Police Department to Assume Jurisdiction over the Wyckoff's Mill Community Private Roads so as to Enforce all Motor Vehicle Laws under Title 39

Councilmember Thibault recused himself from discussion and vote on this resolution.

Council President Quattrone moved Resolution 2012-179, Councilmember Woods seconded.

There was discussion.

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

Resolution adopted 5-0 with one abstention.

Resolution 2012-179

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

**AUTHORIZING THE HIGHTSTOWN POLICE DEPARTMENT TO ASSUME
JURISDICTION OVER THE WYCKOFF'S MILL COMMUNITY PRIVATE ROADS
SO AS TO ENFORCE ALL MOTOR VEHICLE LAWS UNDER TITLE 39**

WHEREAS, the Wyckoff's Mill Condominium Association has requested that the Hightstown Police Department enforce motor vehicle laws within the development; and,

WHEREAS, N.J.S.A. 39:5A-1 dictates that upon the filing of a written request by a person, or by the board of directors of any corporation, or by the board of trustees of any corporation or other institution of a public or semipublic character not for pecuniary profit, incorporated under Title 15 of the Revised Statutes, with the clerk of any municipality of this State within which the property of such person, corporation or institution is situate, that the provisions of subtitle 1, Title 39, of the Revised Statutes shall be made applicable to the semipublic or private roads, streets, driveways, trails, terraces, bridle paths, parkways, parking areas, or other roadways open to or used by the public, tenants, employees, and the members of such institutions for purposes of vehicular travel by permission of such persons, corporations, or institutions and not as matter of public right, the provisions of subtitle 1, Title 39, of the Revised Statutes, shall, in the discretion of the municipal authorities vested with the police powers in the locality within which the property of such persons, corporations, or institutions is situate, be made applicable thereto.; and,

WHEREAS, Wyckoff's Mill Condominium Association has submitted such a request to the Borough Clerk requesting that the Hightstown Police Department assume jurisdiction over the community's private roads so as to enforce all motor vehicle laws under Title 39; and,

WHEREAS, the Police Director has reviewed and confirmed that the request received meets the criteria required in N.J.S.A. 39:5A-1 to allow such assumption; and

WHEREAS, the Mayor and Borough Council finds that authorizing the Hightstown Police Department to assume jurisdiction over the community's private roads so as to enforce all motor vehicle laws under Title 39 will increase the safety of these roadways for all residents of the community.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown authorizes the Hightstown Police Department to assume jurisdiction over the Wyckoff's Mill Community's private roads so as to enforce all motor vehicle laws under Title 39 effective immediately.

Resolution 2012-180 Renewing a Contract for Solid Waste Dumpster Service – Sakoutis Brothers Disposal, Inc.

Council President Quattrone moved Resolution 2012-180, Councilmember Bibens seconded.

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

Resolution adopted 6-0.

Resolution 2012-180

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

**RENEWING A CONTRACT FOR SOLID WASTE DUMPSTER SERVICE –
SAKOUTIS BROTHERS DISPOSAL, INC.**

WHEREAS, four (4) bids were received on June 9, 2010 for Solid Waste Dumpster Service; and,

WHEREAS, the contract was awarded to Sakoutis Brothers Disposal, Inc., of Colts Neck, New Jersey at the price of \$29,250.00 annually for a one year period; and,

WHEREAS, pursuant to N.J.S. A. 40A:11 – 15 (3) the bid was for a period of five (5) years, said contract being awarded for a period of one (1) year with the Borough reserving the right to renew at the end of each one-year contract period for a total aggregate contract period of five (5) years; and,

WHEREAS, Resolution 2011-154 renewed the contract for an additional year ending on June 30, 2012; and

WHEREAS, the Purchasing Agent and Public Works Superintendent have reviewed the services provided and recommend that the contract be renewed for an additional one year period in the amount of \$29,250.00; and,

WHEREAS, the CFO has certified that funds for this expenditure are available in the 2012 budget; and

WHEREAS, funds for the remainder of this contract shall be made available in the 2013 budget; and

WHEREAS, funds for the continuation of this contract for the two subsequent years, should the Council decide to renew, shall be made available in the appropriate year's budget.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the contract for Solid Waste Dumpster Service in Hightstown Borough is hereby renewed with Sakoutis Brother Disposal, Inc. of Colts Neck, New Jersey for a one year period ending June 30, 2013 in the amount of \$29,250.00 annually with the Borough reserving the right to renew each year for a total aggregate contract period of five (5) years.

Resolution 2012-181 Authorizing Payment #1 to Liberty Construction & Development, Inc. (Water Treatment Filter)

Council President Quattrone moved Resolution 2012-181, Councilmember Bluth seconded.

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

Resolution adopted 6-0.

Resolution 2012-181

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

**AUTHORIZING PAYMENT #1 TO LIBERTY CONSTRUCTION & DEVELOPMENT,
INC. (WATER TREATMENT PLANT FILTER)**

WHEREAS, resolution 2012-114 adopted on April 16, 2012 awarded the contract for the Water Treatment Filter to Liberty Construction & Development, Inc. of Belle Mead, New Jersey in the amount of \$497,000.00; and

WHEREAS, the contractor has submitted payment request #1 for work related to bonding and insurance requirements in the total amount of \$10,780.00; and

WHEREAS, the Borough Engineer has recommended approval of payment #1 to Liberty Construction & Development, Inc in the amount of \$10,780.00; and

WHEREAS, the required certified payrolls have been submitted; and

WHEREAS, the Chief Financial 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. 1 from Liberty Construction & Development, Inc. of Belle Mead, New Jersey in the amount of \$10,780.00 is hereby approved as detailed herein, and the Treasurer is authorized to issue same.

Resolution 2012-182 Authorizing Payment #1 to Liberty Construction & Development, Inc. (Water Treatment Filter)

Council President Quattrone moved Resolution 2012-182, Councilmember Bibens seconded.

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

Resolution adopted 6-0.

Resolution 2012-182

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

**AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE AND RELEASE OF
AMOUNTS REMAINING IN ESCROW – PEDDIE SCHOOL (BLOCK 28/LOT 42.02)**

WHEREAS, in December 2009, Peddie School posted a performance guarantee with the Borough of Hightstown in the amount of \$48,777.86 in the form of a bond and cash in the amount of \$5,419.74, along with escrow monies relative to work known as a Minor Subdivision East Ward and Main Streets (aka 169 South Main Street), Block 28/Lot 42; and

WHEREAS, Peddie School has requested the release of said performance bond and escrow; and

WHEREAS, the Borough Engineer has inspected the project and has approved said project; and

WHEREAS, \$400.00 of the remaining escrow funds will be retained for re-inspection prior to the expiration of the maintenance guarantee, and release of the remaining escrow balance; and

WHEREAS, the release of the performance bond and escrow funds are subject to payment of all outstanding fees and accounts.

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

1. The Clerk is authorized and directed to release to Peddie School the performance bond held relative to the Planning Board application as detailed herein.
2. The Treasurer is authorized and directed to release to Peddie School the cash portion of the performance bond and all of the amounts remaining in the escrow account for this project less the \$400.00 for re-inspection prior to the expiration of the maintenance guarantee, subject to certifications from the Borough's professionals that all amounts due to them for this project have been fully paid.
3. A certified copy of this Resolution shall be provided to the following:
 - a. Peddie School
 - b. George Lang, Chief Financial Officer
 - c. Susan Jackson, Planning Board Secretary
 - d. Carmela Roberts, Borough Engineer
 - f. Gary Rosensweig, Planning Board Attorney

Resolution 2012-183 Establishing a Finance Department Review Committee

Councilmember Thibault moved Resolution 2012-183, Council President Quattrone seconded.

Mayor Kirson explained that this committee is being established to review and evaluate the Finance Department operations.

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

Resolution adopted 6-0.

Resolution 2012-183

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

ESTABLISHING A FINANCE/TAX DEPARTMENT REVIEW SUB-COMMITTEE

WHEREAS, the Borough Administrator has recommended a review and analysis of the Finance/Tax Department; and,

WHEREAS, the Mayor and Borough Council finds that such a review and analysis of the Finance/Tax Department is appropriate; and,

WHEREAS, the Borough Council wishes to appoint Borough Administrator Michael Theokas, Councilmember and Administration/Finance Department Liaison Robert Thibault, and Council President Larry Quattrone to serve as a sub-committee to review and evaluate the Finance/Tax Department.

WHEREAS, this sub-committee shall report its findings to the Mayor and Borough Council no later than October 31, 2012.

NOW THEREFORE BE IT RESOLVED that the Borough Council hereby appoints Borough Administrator Michael Theokas, Councilmember and Administration/Finance Department Liaison Robert Thibault, and Council President Larry Quattrone to serve as a sub-committee to perform a review and analysis of the Finance/Tax Department, said findings to be presented to Council no later than October 31, 2012.

Discussion

Resolution 2012-153 and 2012-154

Councilmember Doran noted that she had requested this matter be placed on the agenda for discussion in light of the controversy that took place following the adoption of these resolutions; she then referenced the Trenton Times article referencing the e-mail discussion that took place regarding the resolutions. The e-mail discussion that took place was to push for information that Council has been requesting for months, but has not been getting. We were making it possible for public discussion. The irony is that this discussion was labeled as back room politics, which was done in response to back room politics. Council is frustrated and the resolutions are a formal statement; there was no intent to circumvent the public process and we are sorry if the people feel shut out.

She then inquired of the Borough Attorney if Council could re-introduce the resolutions at this public meeting so the public would be a witness to the process. The Borough Attorney noted Council's options: take no action; confirm their vote; amend the resolution; rescind or repeal the resolution.

Councilmember Thibault commented that this discussion should continue and reviewed the timeline since Hurricane Irene. He noted that this timeline illustrates that Council has requested information but is not receiving it in a timely manner. It is very clear that these resolutions are needed.

Councilmember Woods stated that there is a need for the resolutions and the language is broad so it does not limit the options for Borough Hall.

Councilmember Bluth noted that she supports the resolutions.

Council President Quattrone commented that the problem with the resolutions is that Council did not follow procedure; if they had there would not be a problem now. The procedure is to contact him or the Mayor and request for items to be placed on the agenda. We need to put this behind us and move forward. The information Council keeps asking for is received in dribs and drabs, so that is how it is presented; nothing is being withheld from Council. He was the one who sent the Police Department to the Lucas property after the flood and it was his decision, the Mayor was out of the country at the time. All members of Council knew about it from the emergency meetings and their location is still temporary; Borough Hall is a Council decision. Nothing is being held from Council and we need to move forward.

Councilmember Bibens – noted that she voted in favor of the resolutions and is confident that the process is open. At the end of the day it all depends on finances and what is best for 5,000 residents. This is not an overnight decision and we need to move forward.

Mayor Kirson – explained that the estimates received in 2011 were just that, estimates, while an RFP would be actual costs. In regards to the flood elevations, the Administration office is slightly above flood levels while the remainder of the building is way under. The insurance looks at the building as below flood elevations.

Councilmember Thibault – noted that Hightstown owns the firehouse, which is closer to Rocky Brook and Peddie Lake than the Borough Hall; should that not also be re-located because it is in the flood zone and free up the area for commercial development? Also, Downtown Hightstown, and GHEWIP recommend the Lucas property on what basis?

Council President Quattrone – noted that the firehouse houses vehicle which can be removed, not people for eight hours a day. He stated that he did what he thought was right the night of the flood. He believes that the \$500,000.00 deductible must be spent prior to collecting any funds.

Borough Administrator Theokas explained the deductible process.

Fred Raffetto, Borough Attorney explained the Open Public Meetings Act and noted that Council can vote to confirm resolutions 2012-153 and 2012-154 if they wish.

Resolution 2012-183A Confirming Resolutions 2012-153 and 2012-154

Councilmember Doran moved Resolution 2012-183A, Councilmember Woods seconded.

Roll Call Vote: Council members Bibens, Bluth, Doran, Thibault and Woods voted yes; Council President Quattrone voted no.

Resolution adopted 5-1.

Resolution 2012-183A

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

RESOLUTION CONFIRMING RESOLUTIONS 2012-153 AND 2012-154

WHEREAS, on June 4, 2012 the Borough Council adopted resolution 2012-153 which stated that the Borough Council finds it in the best interest of the public to keep Borough Hall centrally located downtown; and

WHEREAS, on June 4, 2012 the Borough Council adopted resolution 2012-154 which requires that Borough Council be kept informed on all matters relating to Borough Hall; and

WHEREAS, the Borough Council wishes to confirm the resolutions as originally presented on at the June 4, 2012 meeting.

NOW THEREFORE BE IT RESOLVED that the Hightstown Borough Council hereby confirms resolution 2012-153 and 2012-154 as presented on June 4, 2012.

Hurricane Irene Update

Mr. Theokas noted that we received a small payment from FEMA, in the amount of \$3,426.83. We have just gotten notification, so we don't know exactly where it applies. When that is determined, I will update the spreadsheet. We are still waiting on the reports from Rick Perez on the needs assessment. As of this afternoon, it was not complete. As soon as it is ready, I will distribute it immediately.

He went on to advise Council that with the help of Assemblyman Wayne De Angelo's office, we have begun the process of applying for CDBG (Community Development Block Grant) funding through the Department of Community Affairs. There may also be an opportunity, if we need it, to finance any disaster related expenses through the CIA (County Improvement Authority). This would be a low interest loan that would enable us to borrow without a typical 5% bonding deposit and at a low interest rate.

With the help of Senator Lautenberg's office, we continue to keep communications open with FEMA on the state level. As of this afternoon, they were attempting to set up a meeting with representatives from FEMA, the state, and the Borough.

In response to some questions previously posed by Council: the proposal from Bertino and Associates from October was not as a result of an RFP, nor did it cost the Borough anything. This firm was referred to us from the initial remediation company, and they offered to do the proposal gratis. Also, the preparation of plans from Perez and Radosti was part of the initial, temporary move in plans when the PD was placed there after the Hurricane. There was work that was necessary at the time, and the plans were completed at the time for future considerations. It was under my direction that worked was ceased, because of the uncertainty of the financial picture and because of the temporary nature of our lease. I do not have a copy of the complete plan at this time, but I do have three estimates for the work, and they average \$100,000.

Mr. Theokas then stated that Council has insinuated that there has been a conspiracy among a wide range of people, which if it were true, would be very impressive. In my position with the Borough I fully expect and welcome criticism of my job; but what is being alleged, quite clearly, borders on criminal activity on my part. It is my job to recommend to Council that if any other employee had been alleged for such behavior and there was proof to back it up, and I felt strongly enough that the employee was guilty of these actions; I would recommend to Council that they look at all their options. What was said was very serious and it was less about grading my actions, but the allegations of willful and

planned actions on behalf of myself, and that I reached out to many members of the community, I have to tell you that if you feel that is true I recommend that Council review their options. I live in this Borough too and stand behind all of the actions I have taken in this position. I do believe, in the end, that the best for the Borough will come forth regardless of what it is or whose idea it was and how we get there; I would be very proud to be a part of that.

Taxi and Traffic Ordinances

Mayor Kirson noted that these ordinances are on the agenda to give Council the time to discuss the ordinances so they can hopefully be brought forward at the next meeting for introduction.

The Borough Attorney reviewed his previous memo and the changes made to the ordinance, noting that the appropriate items have been moved to the traffic ordinance.

There was discussion regarding a limit on the number of taxicabs and the Police Director gave census data and statistics from the taxi companies. He noted that the company owners are striving to meet all qualifications to operate legally in the Borough. There was further discussion regarding legalizing cabs so the Police Department can enforce the ordinance and eliminate gypsy cabs. The Police Director noted that legal cabs are safer and that the police are getting assistance from the legal cabs to get the gypsy cabs out of Hightstown; the market will determine the number of cabs needed.

After further discussion it was decided that the Borough Attorney would work with the Police Director to revise the ordinances and address the concern regarding enforcement issues. The Police Director was also charged with determining where the taxi stands would be placed in the Borough.

Councilmember Bluth noted that she finds the insurance limits a concern.

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

Fran Palumbo, 101 Main Street – recommended that the Borough look into windmills for revenue, the gate behind the Tavern has been broken since the hurricane.

J P Gibbons, 602 N. Main Street – commented regarding the explanation on the estimate vs. RFP; insurance deductibles and FEMA reimbursement; mold in Borough Hall; resolution 2012-183; taxi ordinance; revenue; Councilmember Thibault should not leave the meeting when he recuses himself.

Scott Caster, 12 Clover Lane – commented regarding police coverage at the High school; finance sub-committee; Open Public Meetings Act; parking and bicycle ordinance enforcement; degradation of downtown; taxi stands; fostering relationships with downtown businesses.

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

Mayor/Council/Administrative Comments and Committee Reports

Councilmember Thibault – thanked George Lang for a financial statement; outside experts are being considered for the finance committee; to foster relationships with the businesses maybe the Economic Development Committee should be resurrected.

Councilmember Bluth – advised that the Borough has lost two court employees and we are still sharing the Robbinsville Court office; we are in the process of hiring a Deputy Court Administrator

Councilmember Doran– inquired as to why the flatbed is still in Association Park. Council President Quattrone advised her that the truck is broken and they cannot move it. Councilmember Doran noted that they should at least put up caution tape around it.

Council President Quattrone concurred and noted that a tree limb was dead above it; Mr. Theokas advised that the Shade Tree Official is looking at the tree so the problem can be resolved.

Councilmember Doran noted that Councilmember Thibault should recuse himself but not leave the building.

Councilmember Woods – advised that the revised risk maps will be presented to the County on July 12th and she is attending the meeting.

Council President Quattrone – noted that the Borough Attorney should make the call regarding Councilmember Thibault leaving the building; noted Mr. Theokas is doing a great job; thanked the Police Director for a good job with the cabs; thanked the Clerk for a job well done; thanked the Borough Attorney for the taxi ordinance; noted the concert in the park was very nice; he looks forward to working on the finance committee and Mr. Theokas understands the process.

Police Director LeTellier – advised that the construction of the Route 33 Bridge over Rocky Brook begins Thursday; reviewed the detours and noted that they are on the Borough website; welcomed input on taxi stands; does not recommend enacting an ordinance that is out of compliance with state law.

Council President Quattrone reviewed the monthly police report.

The Borough Attorney advised that Council cannot vote on Councilmember Thibault's conflict of interest or ability to stay or recuse himself from any subject matter, it is strictly voluntary.

Councilmember Bibens moved to adjourn at 10:45 pm, Councilmember Woods seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC
Borough Clerk