

**Meeting Minutes  
Hightstown Borough Council  
Regular Meeting  
November 4, 2013  
6:00 pm**

The meeting was called to order by Council President Quattrone at 6:05pm 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; James LeTellier, Police Director; Frederick Raffetto, Borough Attorney; and Eric Bernstein, Labor Counsel.

**Resolution 2013-211 Authorizing a Meeting Which Excludes the Public**

Councilmember Woods moved resolution 2013-211, Councilmember Bibens seconded.

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

Resolution adopted, 5-0.

**Resolution 2013-211**

*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 November 4, 2013 at approximately 6:00pm 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 – Shared Services (Cranbury 9-1-1)  
Police Department Lease

Personnel – Fire Official  
Professional Services  
Complaint Investigation

Pending Litigation – PERC Unit Clarification PBA

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: February 4, 2014 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 Council President Quattrone at 7:45 pm and he read the Open Public Meetings Act statement.

The Flag Salute followed Roll Call. Councilmember Thibault had arrived during executive session and was now present; George Lang, CFO, and Carmela Roberts, Borough Engineer were now present; Eric Bernstein had departed during executive session and was no longer present.

Councilmember Bluth made a correction that one set of the minutes for July 15, 2013 has to be changed to executive session.

Fred Raffetto, Borough Attorney, requested that resolution 2013-218 ratifying the PERC clarification decision be added to the agenda.

Councilmember Bibens moved the agenda as amended, Councilmember Woods seconded.

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

Agenda approved as amended.

Councilmember Doran moved the July 1, 2013 executive session minutes for approval, Councilmember Bluth 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 Bibens moved the July 1, 2013 open session minutes, Councilmember Bluth seconded.

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

Minutes approved 6-0.

Councilmember Woods moved the July 15, 2013 executive session minutes for approval, Council President Quattrone seconded.

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

Minutes approved 6-0.

Councilmember Doran moved the July 15, 2013 open session minutes for approval, Councilmember Woods seconded.

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

Minutes approved 6-0.

Councilmember Doran moved the July 25, 2013 open session minutes for approval, Councilmember Bibens seconded.

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

Minutes approved 6-0.

Councilmember Doran moved the July 25, 2013 executive session minutes for approval, Councilmember Bluth seconded.

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

Minutes approved 5-0, with one abstention.

Council President Quattrone opened public comment period I and the following individuals spoke:

Phyllis Deal, 305 Stockton Street – requested that a “no engine braking” sign be placed on Stockton Street. Police Director LeTellier acknowledged the request.

Eugene Sarafin, 628 S. Main Street – commented that he submitted an OPRA request for the insurance policy and has read the document; commented on the FEMA flood maps and noted that the maximum coverage is \$2.5M and the building does not have to be located in the same location for coverage to be in effect.

Scott Caster, 12 Clover Lane – commented that he is happy about the Interim Administrator discussion on the agenda; the ad that was placed is boiler plate; Hightstown deserves a full-time Administrator; and Council should relinquish duties to the Administrator.

Walter Sikorski, 326 N. Main Street - commented regarding the cash reward offered by Mr. Gibbons for disproving certain facts as posted by him throughout the Borough, noting the October 12, 2012 and October 13, 2012 minutes disprove his information regarding police consolidation; he should get his facts straight.

Tory Watkins, 68 Meadow Drive – reminded Council that Hightstown already has an engine braking ordinance.

There being no further comments, Council President Quattrone closed the public comment period.

**Resolution 2013-212 Authorizing Change Order #1 and Payment #2 – Derstine Company, LLC (Media for Water Filtration)**

Councilmember Bibens moved Resolutions 2013-212, Council President Quattrone seconded.

The Borough Engineer clarified the status of the project and the need for the change order.

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

Resolution adopted, 6-0.

**Resolution 2013-212**

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

**AUTHORIZING CHANGE ORDER #1 AND PAYMENT # 2 TO DERSTINE COMPANY LLC  
(MEDIA FOR WATER FILTRATION)**

**WHEREAS**, resolution 2012-50 adopted on February 6, 2012 awarded the contract for Media for Water Filtration for the Water Treatment Plant to Derstine Company, LLC of Sounderton, Pennsylvania in the amount of \$95,000.00; and

**WHEREAS**, the contractor has submitted change order #1 in the amount of \$6,450.00 to cover the cost of painting the interior of filter #1 which will include cleaning and blasting of the interior of the tank, application of the interior coating, valve replacement, removal and installation of valve diffusers, and furnishing of a window which would allow access for replacement of the media; and

**WHEREAS**, the addition of this scope of work to the contract will protect the interior and assure a longer lifespan of filter #1; and

**WHEREAS**, this change order also requests a 90 day extension to the contract for the completion of the added scope of work; and

**WHEREAS**, the contractor has submitted payment request No. 2 for work related to replacement of gate valves and removal of filter media from horizon pressure filter #1 in the amount of \$43,200.00; and

**WHEREAS**, the Borough Engineer has recommended approval of change order #1 in the amount of \$6,450.00 and an extension of 90 days to complete the additional scope of work; and

**WHEREAS**, the Borough Engineer has recommended approval of payment No. 2 to Derstine Company, LLC in the amount of \$43,200.00; and

**WHEREAS**, the certified payroll has been received; and

**WHEREAS**, the Treasurer 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 change order #1 and payment request No. 2 from Derstine Company, LLC of Sounderton, Pennsylvania is hereby approved as detailed herein, and the Treasurer is authorized to issue same.

**Resolution 2013-213 Authorizing Payment #1 – Pioneer General Contracting Co., Inc. (Improvements to Grape Run and Pershing Avenue)**

Councilmember Woods moved Resolutions 2013-212, Councilmember Thibault seconded.

The Borough Engineer updated Council on the status of this project.

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

Resolution adopted, 6-0.

Resolution 2013-213

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

**AUTHORIZING PAYMENT # 1 – PIONEER GENERAL CONTRACTING CO., INC.  
(IMPROVEMENTS TO GRAPE RUN ROAD AND PERSHING AVENUE)**

**WHEREAS**, on September 3, 2013 the Borough Council awarded a contract for the Improvements to Grape Run Road and Pershing Avenue to Pioneer General Contracting Co., Inc. of South River, New Jersey in the amount of \$398,950.00; and

**WHEREAS**, the contractor has submitted payment request #1 related to mobilization, storm drain installation and sanitary sewer installation for the project in the total amount of \$65,170.00; and

**WHEREAS**, the amount of this payment for general construction is \$22,295.00 and for water and sewer related items is \$42,875.00; and

**WHEREAS**, the Borough Engineer has recommended approval of payment #1 to Pioneer General Contracting Co., Inc. in the amount of \$65,170.00 following receipt of the certified payrolls; and

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

November 4, 2013

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that Payment Request No. 1 to Pioneer General Contracting Co., Inc. of South River, New Jersey in the amount of \$65,170.00 is hereby approved as detailed herein, and the Treasurer is authorized to issue same.

**Ordinance 2013-23 First Reading and Introduction - Bond Ordinance Providing for Various Road Improvements in and by the Borough of Hightstown, in the County of Mercer, New Jersey, Appropriating \$682,000 Therefor and Authorizing the Issuance of \$429,164 Bonds or Notes of the Borough to Finance Part of the Cost Thereof**

Councilmember Thibault moved Ordinance 2013-23 for introduction, Councilmember Woods seconded.

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

Ordinance Introduced, 6-0; Public Hearing November 18, 2013.

Ordinance 2013-23

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

**BOND ORDINANCE PROVIDING FOR VARIOUS ROAD IMPROVEMENTS IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$682,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$429,164 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

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

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Hightstown, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$682,000, including the \$252,836 Municipal Aid Grant from the State of Jersey Department of Transportation expected to be received (the "State Grant"). Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the costs of the improvement since the project described in Section 3(a) hereof is being partially funded by the State Grant.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the State Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$429,164 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3.(a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is various road improvements, including Park Avenue, Greeley Street and Glen Brook Place, including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

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

November 4, 2013

bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

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

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

- (a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 10 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$429,164, and the obligations authorized herein will be within all debt limitations prescribed by that Law.
- (d) An aggregate amount not exceeding \$93,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or if other than as referred to in Section 1 hereof, to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

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

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

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

#### **Resolution 2013-214 Authorizing the Payment of Bills**

Councilmember Woods pulled item #E0576 for a separate vote.

Council President Quattrone moved Resolutions 2013-214 without item # E0576, Councilmember Bibens seconded.

There was clarification of various items on the bills list.

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

Councilmember Thibault moved item #E0576 for payment, Councilmember Doran seconded.

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

Resolution adopted, 5-0, with one abstention.

Resolution 2013-214

*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, the appropriate Department Head and the Treasurer in the amount of \$1,769,357.87 from the following accounts:

Current		\$1,269,915.66
W/S Operating		484,136.21
General Capital		10,200.00
Water/Sewer Capital		0.00
Grant		0.00
Trust		4,463.00
Housing Trust		0.00
Animal Control		12.00
Law Enforcement Trust		0.00
Housing Rehab Loans		0.00
Unemployment Trust		0.00
Escrow		<u>631.00</u>
Total		<u>\$1,769,357.87</u>

**Resolution 2013-215 Authorizing Transfers in the 2013 Budget**

Council President Quattrone moved Resolution 2013-215, Councilmember Thibault seconded.

George Lang explained that the error in addition in the resolution has been corrected, the back-up document has the correct figures.

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

Resolutions adopted 6-0.

Resolution 2013-215

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

**AUTHORIZING A TRANSFER OF FUNDS IN THE 2013 BUDGET**

**Whereas**, N.J.S.A. 40A:4-58 provides that the governing body may authorize a transfer of funds in the budget during the last two months of the fiscal year.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the following transfers in the 2013 budget are hereby authorized:

<b>Current:</b>	<b><u>From</u></b>	<b><u>To</u></b>
<b>General Administration</b>		
Other Expense	\$ 7,000.00	
<b>Assessment of Taxes</b>		
Other Expense	\$ 4,000.00	
<b>Employee Group Health Insurance</b>		
Other Expenses	\$ 6,030.00	
<b>Municipal Court</b>		
Other Expenses	\$ 10,200.00	
<b>Central Computer Services</b>		\$ 6,000.00
Other Expenses		
<b>Engineering Services and Costs</b>		
Other Expenses		\$ 8,000.00
<b>Buildings and Grounds</b>		
Other Expenses		\$ 10,200.00
<b>Planning Board</b>		
Other Expenses		\$ 3,000.00
<b>Senior Citizen Program Service Center</b>		\$ 30.00
<b>TOTALS</b>	<b>\$ 27,230.00</b>	<b>\$ 27,230.00</b>

**Resolution 2013-216 Authorizing a Refund for Police Services – Asociacion Nuestro Senor de Girdon**

Councilmember Bibens moved Resolution 2013-216, Councilmember Doran seconded.

November 4, 2013



Police Director LeTellier explained the need for this resolution.

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

Resolutions adopted 6-0.

Resolution 2013-216

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

**AUTHORIZING REFUND OF OVERPAYMENT FOR POLICE SERVICES (ASOCIACION  
NUESTRO SENOR DE GIRDON)**

**WHEREAS**, Asociacion Nuestro Senor de Girdon of 171 North Main Street, Hightstown, NJ 08520 applied for a Parade Permit for a religious celebration procession to be held on October 12, 2013; and

**WHEREAS**, a deposit for Police Services for this event was made in the amount of \$560.00; and

**WHEREAS**, the actual cost of Police Services for this event was due in the amount of \$280.00; and

**WHEREAS**, the Police Director has requested that a refund in the amount of \$280.00 be issued to Asociacion Nuestro Senor de Girdon in the amount of \$280.00.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Treasurer is hereby authorized to issue a refund in the amount of \$280.00 to Asociacion Nuestro Senor de Girdon of 171 North Main Street, Hightstown, NJ 08520, representing the overpayment for Police Services as set forth herein.

**Resolution 2013-217 Authorizing the Issuance of an Auction License – Empire Antiques**

Councilmember Bibens moved Resolution 2013-217, Councilmember Doran seconded.

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

Resolutions adopted 6-0.

Resolution 2013-217

*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, December 7, 2013 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, December 7, 2013 at 278 Monmouth Street.

November 4, 2013

**Resolution 2013-218 Ratifying the Filing of a Petition for Clarification of Unit with the State of New Jersey Public Employment Relations Commission (PBA Local 283)**

The Borough Attorney explained this resolution relates to the agreement the Borough has with the Police Department, and clarifies the employees at the Police Department with supervisory powers.

Councilmember Doran moved Resolution 2013-217, Council President Quattrone seconded.

Councilmember Bluth noted that she will be voting no because this was just thrown on the agenda this evening, with the only previous discussion being held this evening in executive session; she has not had time for a proper review and understanding of the matter; and it pertains to a petition that was filed on behalf of the Borough, unbeknownst to Council.

Councilmember Thibault noted that it was on the executive resolution for discussion; however there was no further information in the packets. He then explained that it refers to an informal hearing scheduled to see if the PBA agrees with the Police Director's determination that Superior Officers should have their own bargaining unit. This would improve discipline management within the Police Department and needs to be accomplished before negotiations with the PBA begin.

Councilmember Doran commented that this simply allows the process to proceed and time is of the essence.

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

Resolutions adopted 3-2, with one abstention.

Resolution 2013-218

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

**RATIFYING THE FILING OF A PETITION FOR CLARIFICATION OF UNIT WITH THE STATE OF NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION (PBA LOCAL 283)**

**WHEREAS**, the Acting Borough Administrator/Police Director previously determined that it would be in the best interests of the Borough to file a Petition for Clarification of Unit (the "Petition") with the State of New Jersey Public Employment Relations Commission ("PERC"), relating to the existing collective bargaining agreement between the Borough of Hightstown (the "Borough") and the PBA Local 283; and

**WHEREAS**, the reason for the proposed clarification of unit is to separate rank and file members of the Police Department (the "Department") from supervisory members of the Department, and thereby to avoid conflicts that may arise as a result of supervisory investigations and/or disciplinary actions that may need to be undertaken; and

**WHEREAS**, in furtherance of said separation, the Acting Borough Administrator/Police Director filed the aforesaid Petition with PERC on or about October 11, 2013, said petition filing being recorded by PERC on October 22, 2013; and

**WHEREAS**, the Borough Council now wishes to ratify the Acting Borough Administrator/Police Director's action in this regard and to authorize and direct all relevant Borough officials to take appropriate actions in furtherance of the Petition.

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

1. That the Borough hereby ratifies the Acting Borough Administrator/Police Director's filing of the aforesaid Petition with PERC.
2. That the Borough hereby authorizes and directs all relevant Borough officials to take appropriate actions in furtherance of the Petition on behalf of the Borough.

November 4, 2013

- 10 -

3. That a certified copy of this Resolution shall be provided to each of the following:
  - a. James LeTellier, Police Director;
  - b. Eric M. Bernstein, Esq., Borough Labor Counsel; and
  - c. Frederick C. Raffetto, Esq., Borough Attorney.

### **Borough Hall**

Councilmember Thibault stated that for two years he has seen what appeared to be a pattern of a serious of events that has disrupted the actions of Council; and he was, until recently, hesitant to attribute this to an asserted active plan to thwart Council. Then, at the League of Women Voters Forum in October, one candidate said that they saw the damage at Borough Hall as an opportunity and they were fully supporting the Mayor and former Administrator Theokas in their efforts to move Borough Hall to the Lucas property. While that candidate has every right to their opinion, he is deeply troubled by the second part of the statement, and given the events that have taken place it appears there may have been an intentional plan to withhold information and undermine Council regarding the rehabilitation of Borough Hall. He then gave examples of actions he believes may support this theory. He noted that as part of the Borough Administrator's duties, it is required by law that they follow and execute the laws of the state and the resolutions and ordinance of the Borough; to keep the Mayor and Council informed as to the conduct of Borough affairs; and to submit to the Mayor and Council, as requested, oral and written reports on Administrative activities of the Borough. If the Borough Administrator supported the moving of Borough Hall, it would appear that he violated, at the very least, Borough ordinance. He stated that elected officials are required by oath and statute to uphold state law and Borough ordinances. The members of Council were elected by, and represent the residents of Hightstown, any covert actions taken to undermine the decisions of Council also serve to betray public trust and weaken confidence in government; any official who acted on or participated in any such actions may also have violated law. He called on the Borough Attorney to inquire as to how an investigation can be undertaken so public trust and confidence can be restored.

The Borough Attorney advised that the Council does, among other powers, have the power to investigate any activity of the municipality; and the Governing Body may appoint a committee of its members to investigate any matter that is within its jurisdiction, and may issue subpoenas to any person in the state to appear before them and give any testimony or information required.

Councilmember Thibault then continued that the Borough is looking at the FEMA 1977 flood maps that were updated in 1988 but never approved by Congress. (Council corrected the updated map date to 2008.) He commented that it has been requested that the 2008 maps be utilized by FEMA, but that got pushed aside.

The Borough Engineer noted that shortly after Hurricane Irene, she found out about the 2008 maps, which were proposed and took Borough Hall out of the flood zone. She had brought that information up to the Administration to be looked into, because she did not know if the Borough could be held to the 1977 map by the insurance if a revision had been done. She is unaware of what occurred behind the scenes with that information.

Mr. LeTellier noted that he had previously contacted FEMA and the insurance regarding the maps and noted that while the 2008 maps were never formally adopted, FEMA's website, since October 1, 2008, has been using these maps to assess risk and refers to them when advising insurance companies and residents regarding the need for flood insurance. He has been advised by FEMA, that in October of 2013 our claims were closed because they did not receive the required Engineering and Architectural analysis from the Borough; he has gotten them to re-open the claim because we were never formally noticed on the closing of the claim, which would have offered the Borough the opportunity a 30 day appeal period. Due to their error, FEMA re-opened the claim and we were scheduled to hold a meeting with them, which was cancelled due to the Federal Government shut-down, and is in the process of being re-scheduled. He continued that the 2013 proposed maps still show the Borough Hall and Firehouse outside of the flood zone, but they are penalizing Hightstown for not having flood insurance in accordance with the 1977 maps; and the insurance is capped at \$2.5M because we did not have flood insurance.

There was further discussion regarding FEMA, insurance coverage, and the flood maps.

Councilmember Woods noted that an internal pre-meeting should be held before a meeting is held with insurance or FEMA. Police Director LeTellier noted that he has contacted the New Jersey Division of Banking and Insurance regarding having them attend the meeting with the insurance; he also believes Ms. Roberts and Mr. Goldstein should attend as well. There was discussion regarding who should attend the meeting.

#### **Interim Administrator**

Councilmember Thibault noted that he has received a call from the media regarding the Mayor serving as Acting Administrator once Mr. LeTellier's appointment ended. There was discussion regarding the process, past practice, and the boundaries of authority as Acting Administrator.

Council directed that all correspondence between the insurance company and Mayor, whether via phone or e-mail, be re-capped to Council via e-mail.

Councilmember Bibens advised that the ad for an Administrator has been placed and the deadline for resumes is November 22, 2013.

#### **Confidentiality of Executive Session Meetings**

Councilmember Thibault noted that it is a problem, that on numerous occasions, information from executive session discussion has been leaked to the public; therefore, he asked Mr. Raffetto to be prepared to tell Council what their duties and responsibilities are to maintain confidentiality until such time as the information becomes public.

Mr. Raffetto advised it is inherent, as part of the oath of office, to maintain the confidentiality of executive sessions until the time in which the need for confidentiality no longer exists. He gave the example that if you have a litigation case, the confidentiality exists until the case has been settled. He continued that it is Council's responsibility not to disclose the discussions that took place during executive session. There is no regulation or statute that defines the penalty for violating the fundamental responsibility you have as a Councilmember to maintain confidentiality, however it could be considered a violation of your ethical responsibility and the Local Government Ethics Law, and a complaint can be filed with the Local Finance Board. Discussion in, and documents that are part of, executive session are cloaked with confidentiality and should not be disclosed or discussed.

There was discussion regarding Council responsibilities and ethical conduct, specifically speaking with the media regarding executive session discussion. The Borough Attorney advised that such conduct could violate and act against the entity as a whole, and the confidentiality is inherent as part of your oath of office. This has a chilling effect on what takes place in executive session because members would be fearful to speak regarding the matters at hand, for fear that another member will disclose their opinion publicly. As previously indicated, this can act against the public entity as a whole.

There was additional discussion.

Council President Quattrone opened the public comment period II and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – commented regarding insurance policy coverage and false charges of conspiracy; and items that are permitted to be discussed in executive session.

Scott Caster, 12 Clover Lane – noted that there was discussion in the past regarding who would attend the insurance meeting; commented on the Interim and Borough Administrator positions.

Walter Sikorski, 326 N. Main Street – commented that he felt the ad for Administrator is a good one and the ordinance designates the requirements and duties of the Administrator.

Joseph Pool, 1 Van Rensselaer Ave – thanked Council for their service and noted that the insurance and FEMA meetings are very important; the pre-meeting should establish justification of expenses.

There being no further comments, Council President Quattrone closed the public comment period.

November 4, 2013

**Mayor/Council/Administrative Comments and Committee Reports**

**Councilmember Thibault** – reminded everyone that elections are tomorrow, do not forget to vote.

**Councilmember Bibens** – wished all candidates on the ballot good luck in the election.

**Council President Quattrone** – wished all candidates on the ballot good luck in the election; thanked everyone for attending the meeting.

**Municipal Clerk Sopronyi** – reminded everyone that all polling places are now located at the firehouse.

Councilmember Bibens moved to adjourn at 9:15 pm, Councilmember Woods seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC  
Borough Clerk