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| <b>OPEN SESSION</b> |
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Mayor Robert Patten called the meeting to order at 7:07 p.m. and read the Open Public Meetings Act statement which stated that adequate notice and posting of the meeting had taken place in accordance with the requirements of P.L. 1975, Chapter 231.

The flag salute was followed by the roll call.

### ROLL CALL

|                                   | PRESENT | ABSENT |
|-----------------------------------|---------|--------|
| <i>Mayor Patten</i>               | ✓       |        |
| <i>Councilmember Sackowitz</i>    |         | ✓      |
| <i>Councilmember Laudenberger</i> | ✓       |        |
| <i>Councilmember Quattrone</i>    |         | ✓      |
| <i>Councilmember Schneider</i>    | ✓       |        |
| <i>Councilmember Sikorski</i>     | ✓       |        |
| <i>Councilmember Thompson</i>     | ✓       |        |

Also in attendance: Candace Gallagher, Borough Clerk/Administrator; Carmela Roberts, Borough Engineer and Frederick Raffetto, Esq., Borough Attorney.

### APPROVAL OF AGENDA

Added to the agenda were the introduction and first reading of Ordinance 2005-37 (amending Bond Ordinance 2000-10 to increase the portion of the appropriation allocated to Section 20 expenses) and Resolution 2005-216 (authorizing issuance of a raffle license to the Ladies Auxiliary). The agenda was moved as amended by Councilman Sikorski, seconded by Council President Schneider and approved by all present.

### APPROVAL OF MINUTES

Minutes of the September 19, 2005 open and closed sessions were moved by Councilman Sikorski, seconded by Council President Schneider and approved as submitted by all except Councilman Thompson, who abstained because he was not present at that meeting.

### PRESENTATION: PROCLAMATION RECOGNIZING HISPANIC HERITAGE MONTH

Mayor Patten read aloud and presented to the Mercer County Latino Women's Council a Mayor's Proclamation recognizing September 15 to October 15 as Hispanic Heritage Month. Present from the Women's Council to accept the proclamation were Luz Horta, Elina Hernandez and Wilson Pesantez, as well as Councilwoman Nancy Walker-Laudenberger. Ms. Horta thanked the Mayor for the honor and thanked the Latinos and Hispanics that have made so many contributions to this country. "I'm proud to be living in a community," she said, "where citizens are advocating for justice."

On behalf of the Latino Women's Council, Ms. Horta then presented to Mayor Patten a colorful framed poster depicting Hispanic Heritage Month for display at Borough Hall.

## **HISPANIC HERITAGE MONTH SEPTEMBER 15 – OCTOBER 15, 2005**

**WHEREAS**, the presence of Hispanics on this continent predates the founding of our Nation, and, as among the first to settle in the New World, Hispanics and their descendants have had a profound and lasting influence on American history, values, and culture; and

**WHEREAS**, since the arrival of the earliest Spanish settlers more than 400 years ago, millions of Hispanic men and women have come to the United States from Mexico, Puerto Rico, Cuba and other Caribbean regions, Central America, South America, and Spain, in search of peace, freedom, and a more prosperous future, bringing with them a deep commitment to family and community, a strong work ethic, and an unwavering belief in the American Dream; and

**WHEREAS**, in a Nation that derives so much of its strength from many cultures and races, Hispanic Americans are a thriving force in our society and a vital part of our economy, including our local economy in Hightstown Borough; and

**WHEREAS**, September 15 is the anniversary of independence for five Latin American countries—Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. In addition, Mexico declared its independence on September 16, and Chile on September 18; and

**WHEREAS**, as we move forward into the 21st century and face the challenges of a global economy, we recognize that the success of our Nation is closely tied to the success of our citizens of Hispanic heritage, who are a large and increasing segment of our population; and

**WHEREAS**, the term Hispanic, as defined by the U.S. Census Bureau, refers to Spanish-speaking people in the United States of any race. On the 2000 Census form, people of Spanish/Hispanic/Latino origin could identify themselves as Mexican, Puerto Rican, Cuban, or "other Spanish/Hispanic/Latino." More than 35 million people identified themselves as Hispanic or Latino on the 2000 Census; and

**WHEREAS**, to honor Hispanic Americans for their many contributions to our Nation and our culture, the Congress, by Public Law 100-402, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15 as "National Hispanic Heritage Month";

**NOW, THEREFORE, I, ROBERT F. PATTEN, MAYOR OF THE BOROUGH OF HIGHTSTOWN** in the County of Mercer, State of New Jersey, do hereby recognize September 15 through October 15, 2005, as Hispanic Heritage Month within the Borough of Hightstown, and call upon all residents to honor this observance and take this time to reflect upon the contributions which Hispanic Americans make and have made to our local and national history, values, culture and way of life.

## **PUBLIC COMMENT I**

Mayor Patten opened the floor for public comment and requested that speakers conduct themselves with dignity and respect for others.

**Peter Klapsogorge**, 418 North Main Street, reported that the Housing Code Committee will be meeting soon. He added that he spoke to a candidate for Council recently who stated that housing codes are "a sensitive issue." "I realize that," he said, "but one has nothing to do with the other. If the law is broken, it's broken." Mr. Klapsogorge provided copies to the Mayor and Council of a newspaper article regarding overcrowding in Morris County.

**Torry Watkins**, 68 Meadow Drive, referred to a recent article in the *Windsor Hights Herald* which “perturbed” him. The article indicated that the school district’s resources are not keeping pace with the number of children who are eligible for the gifted and talented program, unless we were to redefine eligibility. There had been another teacher scheduled for that program, he said, but that budget item was withdrawn in the face of the defeat of the school budget. Mr. Watkins said that it was his understanding that both Councils agreed that, when \$1 million was cut from the school district’s budget, there would be no cuts in programming affecting children. “This would seem to be a clear cut violation of your understandings of last spring,” he said, and asked Council to look into that. Some, he said, feel that Hightstown did not fight hard enough to maintain the school budget or to enact less stringent cuts, and have “severely criticized” Council for “knuckling under to Janice Mironov.”

**Eugene Sarafin**, 600-628 South Main Street, objected to the Mayor’s “telling us we have to show respect.” Mr. Raffetto noted that this was a request from the Mayor. Mr. Sarafin then began using profanities, and dared the Mayor to have him arrested. Mayor Patten asked Mr. Sarafin to “relax and give good comments we can all appreciate.” Mr. Sarafin criticized the Council for their failure to realize that “the community is not functioning” and that “we can’t afford the police.” He said that the Borough’s operations are inefficient and that water-sewer rates have doubled.

Upon the close of Mr. Sarafin’s allotted three minutes, he refused to leave the podium, claiming that he could stay and speak for the remainder of the 20 minutes allowed for public comment. After a heated exchange with Mr. Sarafin, Mayor Patten closed the public comment session and declared a recess. Mr. Sarafin left the meeting at this time. The Mayor urged Council members to speak up when someone is out of order rather than leave it only to him to do so.

Upon reconvening, another resident requested and received permission to speak.

**Lawrence Jones**, 148 Stockton Street, expressed his disgust with the manner in which Mr. Sarafin had conducted himself. “It’s a disgrace how he speaks up here,” he said. “Sickening. He should be thrown out.”

No one else came forward and the floor was closed.

## **ENGINEER’S ITEMS**

Ms. Roberts reviewed in turn each of the six Resolutions included on the agenda under “Engineer’s Items.” Councilman Sikorski asked her how much the Borough will receive in water and sewer connection fees from Enchantment. She stated that the revenue is likely to be between \$400,000 and \$500,000 and will begin coming in during 2006.

**Resolutions 2005-204, 205, 206, 207, 208 and 209** were moved by Councilman Sikorski and seconded by Councilwoman Laudenberger.

**Roll Call:** Councilmembers Laudenberger, Sikorski, Schneider and Thompson voted yes. Councilmembers Quattrone and Sackowitz were absent.

**Resolutions adopted, 4-0-2.**

**RESOLUTION 2005-204      AUTHORIZING PAYMENT NO. 9 – CB&I SERVICES, INC.**  
(WYCKOFF’S MILL WATER STORAGE TOWER, R&R FILE NO. H1212)

**WHEREAS** on June 7, 2004 the Borough of Hightstown awarded a contract for the construction of an elevated water storage tank to Chicago Bridge & Iron (CB&I) Services, Inc. of New Castle, Delaware, in the amount of Nine Hundred and Seven Thousand Four Hundred and Fifty-Two (\$907,452.00) Dollars; and

**WHEREAS** four change orders to that contract have subsequently been approved in the amounts of \$402.00, \$2,849.00, \$4,970.00 and \$12,210.00 respectively, bringing the total contract price to Nine Hundred and Twenty-Seven Thousand Eight Hundred and Eighty-Three (\$927,883.00) Dollars; and

**WHEREAS** the contractor has submitted Payment Request No. 9 for work done in the total amount of \$43,999.06, together with the required certified payrolls, and the Borough Engineer recommended approval of same;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that Payment Request No. 9 from Chicago Bridge & Iron (CB&I) Services, Inc. of New Castle, Delaware in the amount of \$43,999.06 is hereby approved.

**RESOLUTION 2005-205      AUTHORIZING PAYMENT NO. 1 – S. BROTHERS, INC.  
(OAK LANE RECONSTRUCTION, R&R FILE NO. H1729)**

**WHEREAS**, on June 20, 2005 the Borough Council awarded a contract for the reconstruction of Oak Lane to S. Brothers General Contractors, Inc. of South River, New Jersey; and

**WHEREAS** the contractor has submitted Payment Request No. 1 for work done in the total amount of \$203,150.08, together with the required certified payrolls; and

**WHEREAS** the Borough Engineer has recommended approval of this payment request;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that Payment Request No. 1 from S. Brothers General Contractors, Inc. of South River, New Jersey in the amount of \$203,150.08 is hereby approved, and the Treasurer is authorized to issue same.

**RESOLUTION 2005-206      AUTHORIZING RECEIPT OF BIDS – RECONSTRUCTION OF WYCKOFF'S MILL ROAD**

**BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough Engineer is hereby authorized to prepare specifications and advertise for bids for the following project(s):

**Reconstruction of Wyckoff's Mill Road**

and that the Borough Clerk is authorized to receive same following proper advertisement.

**RESOLUTION 2005-207      AUTHORIZING BOROUGH ADMINISTRATOR TO SIGN APPLICATIONS RELATED TO THE  
RECONSTRUCTION OF WYCKOFF'S MILL ROAD**

**WHEREAS** the Borough Engineer has prepared the following applications related to the reconstruction of Wyckoff's Mill Road:

1. Soil Erosion and Sediment Control Plan Certification, to be submitted to Mercer County Soil Conservation District;
2. Request for Authorization (RFA) Form, to be submitted to the New Jersey Department of Environmental Protection, Bureau of Nonpoint Pollution Control; and

**WHEREAS** said applications must be signed by the Borough Administrator, and she has requested permission to do so;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that Borough Administrator Candace Gallagher is hereby authorized to sign the above-referenced applications, full copies of which are annexed hereto and made a part hereof, on behalf of the Borough of Hightstown.

**RESOLUTION AUTHORIZING REIMBURSEMENT BY THE BOROUGH TO ENCHANTMENT AT  
HIGHTSTOWN, L.L.C., FOR CONSTRUCTION OF WATER MAIN AND OFF-SITE  
IMPROVEMENTS, AND APPLICATION OF SAID REIMBURSEMENT TO WATER-SEWER  
CONNECTION FEES DUE AND PAYABLE TO THE BOROUGH**

**WHEREAS**, the Robertson Douglas Group, a.k.a. Enchantment at Hightstown, L.L.C. (hereinafter the "Developer"), has been in the process of constructing a residential subdivision known as the Enchantment at Hightstown, pursuant to appropriate Planning Board approvals; and

**WHEREAS**, part of the construction activities involve the installation of a new water main in order to adequately service the proposed development; and

**WHEREAS**, the Borough has requested that the Developer perform certain work which would not otherwise be required, such as the installation of a larger sized water main that is ten (10) inches in diameter rather than the typical size of eight (8) inches in diameter, which shall allow the new water tower to function to its best capacity, as well as the performance of certain work which is located off-site of the development; and

**WHEREAS**, during the Planning Board approval process, it was agreed by the parties that the Developer would perform this additional work and that the Borough would reimburse the Developer for the additional costs associated with such work; and

**WHEREAS**, the installation of the water main and performance of the off-site work has now been completed by the Developer; and

**WHEREAS**, the Developer has submitted its cost for performing this work, along with appropriate supporting documentation, in the amount of \$34,325.00; and

**WHEREAS**, the Borough Engineer has confirmed that the required work has been completed satisfactorily, and that the cost estimate provided by the Developer is reasonable for the work performed; and

**WHEREAS**, the Borough is now required to reimburse the Developer for this \$34,325.00 amount; and

**WHEREAS**, rather than providing for said reimbursement through an increase in the Borough's debt or through the bonding process, the Borough has determined that it would be in the best interests of the Borough to provide the reimbursement in the form of a credit (in the amount of \$34,325.00) against water-sewer connection fees that will become due and payable by the Developer to the Borough in the future.

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

1. That the Borough hereby authorizes reimbursement to the Developer for the construction of a water main and off-site improvements. Said reimbursement shall be in the form of a credit in the amount of \$34,325.00 against water-sewer connection fees that shall be due and payable from the Developer to the Borough in the future, relative to residential units at the Enchantment at Hightstown subdivision. Such credit shall be provided by the Borough in a manner which is acceptable to the Borough's Chief Financial Officer.
2. That a certified copy of this Resolution shall be provided to each of the following:
  - a. Robertson Douglas Group (a.k.a. Enchantment at Hightstown, L.L.C.)
  - b. Carlton Kempf, Esquire
  - c. Frederick C. Raffetto, Esquire, Borough Attorney
  - d. Gary Rosensweig, Esquire, Planning Board Attorney
  - e. Carmela Roberts, Borough Engineer
  - f. Arlene O'Rourke, Treasurer
  - g. George Lang, Chief Financial Officer
  - h. Candace Gallagher, Business Administrator/Clerk

**AUTHORIZING VARIOUS IMPROVEMENTS AT THE BOROUGH'S  
ADVANCED WASTEWATER TREATMENT PLANT**

**WHEREAS** the Borough of Hightstown has been notified by the New Jersey DEP that it must apply for an Industrial Stormwater Permit; and

**WHEREAS** the Borough Engineer, Superintendent of the Advanced Wastewater Treatment Plant and Superintendent of Public Works have reviewed operations at the Plant, and have recommended that the Borough make certain modifications to the Plant which would allow the Borough to submit a "Non-Applicability" form, negating the need for a permit and its associated monitoring and permit fees; and

**WHEREAS** the recommended modifications are as follows:

1. Install curbing in front of the Jet-Vac disposal area.
2. Relocate the grit dumpster to the west. Install a paved pad and asphalt curb with an inlet at the low point that is piped to the nearby sanitary sewer.
3. At the chemical delivery area, install asphalt to pitch the area to a low point. Connect the low area to the magnesium discharge line, which discharges directly to the sanitary sewer.
4. Pave and asphalt curb an area next to the cold storage tanks for outdoor storage of the hoses that are used in daily operations. Install an inlet in the low point in this area and connect the inlet to the sanitary sewer.
5. Pave a small berm, shallow enough for delivery trucks to drive over, in an area that runs from the northerly side of the cold storage tanks to the trench drain by the inlet building, to capture spills from septic or sludge trucks. In addition, reshape the area near the trench drain to assure that spills do not bypass the trench drain. Also install a curb on the westerly side of the cold storage tanks that will assure all spills in the vicinity of septage deliveries, sludge hauling and sludge operations can be washed into the trench drain by the inlet building.
6. Reinstall posts and railings at the rear entrance to the Filter building; and

**WHEREAS** the Borough Engineer has estimated that the total cost of these various improvements will not exceed \$22,000.00; and

**WHEREAS** the Chief Financial Officer has certified the availability of funding for these expenditures; and

**WHEREAS** the Mayor and Council agree that it is in the best interest of the Borough to proceed with these improvements in order to avoid the need for an Industrial Stormwater Permit, which would result in substantial additional costs to the Borough;

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

1. The Borough Administrator is hereby authorized to take whatever actions are needed in order to undertake the improvements referenced herein, provided that all requirements of the Local Public Contracts Law are met.
2. Any single expenditure totaling more than \$2,500 shall be authorized jointly by the Borough Administrator and the Chief Financial Officer.
3. The Borough Administrator and the Chief Financial Officer shall be authorized to jointly approve expenditures for this purpose up to a total of \$22,000.

## ORDINANCES

### PUBLIC HEARING AND FINAL READING: ORDINANCE 2005-33,

AN ORDINANCE TO FURTHER AMEND ORDINANCE 2002-26, ADOPTED DECEMBER 20, 2002, REGARDING ADMINISTRATIVE FEES CHARGED FOR SPECIAL DUTY BY POLICE OFFICERS

Following a brief review by Ms. Gallagher, Mayor Patten opened the public hearing on Ordinance 2005-33. No one came forward and the hearing was closed.

Ordinance 2005-33 was moved for adoption by Councilwoman Laudenberg, seconded by Councilman Sikorski.

**Roll Call:** Councilmembers Laudenberg, Schneider, Sikorski and Thompson voted yes. Councilmembers Quattrone and Sackowitz were absent.

**Ordinance adopted, 4-0-2.**

### **ORDINANCE 2005-33                    AN ORDINANCE TO FURTHER AMEND ORDINANCE 2002-26, ADOPTED DECEMBER 30, 2002, REGARDING ADMINISTRATIVE FEES CHARGED FOR SPECIAL DUTY BY POLICE OFFICERS**

**WHEREAS** Ordinance 2002-26 was adopted on December 30, 2002 and amended on February 2, 2004, and established police salaries for the years 2002, 2003, 2004 and 2005; and

**WHEREAS** said Ordinance also provides for pay to police officers for special duty, as well as an administrative fee charged by the Borough for same; and

**WHEREAS** the Ordinance specifically provides that no administrative fee shall be assessed to any Board of Education or school; and

**WHEREAS** it is necessary to amend Ordinance 2002-26 to further provide that no administrative fee shall be assessed to governmental units or agencies;

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

Section 1. Section 3, Paragraph E of Ordinance 2002-26 is hereby amended to include the provision that no administrative fee shall be charged to governmental units or agencies.

Section 2. This Ordinance shall take effect upon its passage and publication as provided for by law, and the provisions contained herein shall be retroactive to January 1, 2005.

### INTRODUCTION AND FIRST READING: ORDINANCE 2005-34,

BOND ORDINANCE PROVIDING FOR STREETScape AND OTHER IMPROVEMENTS IN THE MAIN STREET REDEVELOPMENT AREA IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$450,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$95,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Ms. Gallagher and Ms. Roberts reviewed the provisions of Ordinance 2005-34, which will fund streetscape improvements in the Main Street redevelopment area (on the west side of Main Street between Franklin and Bank Streets, and on the south side of Bank Street between North Main Street and the Rocky Brook). A Small Cities grant awarded for this purpose will provide \$350,000 toward this work. Ms. Roberts noted that the improvements will be the same as those in the downtown area. Curbs will be replaced only where needed. No roadway work is planned.

Ordinance 2005-34 was moved for introduction by Councilwoman Laudenberg and seconded by Councilman Sikorski.

**Roll Call:** Councilmembers Laudenberg, Schneider, Sikorski and Thompson voted yes. Councilmembers Quattrone and Sackowitz were absent.

**Ordinance introduced, 4-0-2.**

The public hearing and final reading for Ordinance 2005-34 was set for October 17, 2005.

**INTRODUCTION AND FIRST READING: ORDINANCE 2005-35,**  
**ESTABLISHING A MUTUAL AID AGREEMENT FOR EMERGENCY POLICE SERVICES AMONG**  
**AND BETWEEN THE MUNICIPALITIES OF MERCER COUNTY PURSUANT TO N.J.S.A. 40A:14-**  
**156, 40A:14-156.1, 40A:14-156.2, AND 40A:14-156.3**

Ms. Gallagher reviewed the provisions of this Ordinance, which, she said, would formalize an existing mutual aid arrangement between Mercer County municipalities for emergency situations where more officers, or officers with special expertise, are needed. There is no cost to the Borough, and it will be of benefit to all of the participating towns.

Councilman Sikorski noted that this is "a step in the right direction." He then moved the Ordinance for introduction. The motion was seconded by Councilwoman Laudenberg.

**Roll Call:** Councilmembers Laudenberg, Schneider, Sikorski and Thompson voted yes. Councilmembers Quattrone and Sackowitz were absent.

**Ordinance introduced, 4-0-2.**

The public hearing and final reading for Ordinance 2005-35 was set for October 17, 2005.

**INTRODUCTION AND FIRST READING: ORDINANCE 2005-36<sup>1</sup>,**  
**AN ORDINANCE AUTHORIZING THE VACATION OF A PAPER STREET KNOWN AS**  
**EVERGREEN AVENUE**

Mr. Raffetto reviewed the provisions of Ordinance 2005-36. He noted that the Borough Clerk's office has reviewed the Borough's files to find that Evergreen Avenue existed as far back as 1917 and was under Borough jurisdiction then. At this time, we do not know how it came into being. It has never been improved for open to public use. The law, he said, allows municipalities to vacate areas like this and the most likely scenario is that, after the vacation ordinance is adopted and recorded, that portion of the property on each side of the center line would automatically go to the adjacent property owners, at least one of whom is very interested in obtaining the property and is willing to post funds in escrow to cover the associated costs. This ordinance will begin the process, he said.

Discussion ensued. Dr. Talmazan, one of the adjacent owners, was in attendance and informed Council that one half of the property is paved and used as a driveway, and the other half is grass.

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<sup>1</sup> Clerk's note: This ordinance was actually introduced later in the meeting, under "Old Business," but is included here for the sake of continuity.



Councilman Sikorski asked if the Borough is giving up property that has a value, and whether the tax assessment would increase for the property or properties to which the land would revert. Mr. Raffetto stated that this *would* impact the assessed value, and added that it would only have value to the adjacent properties, as it is a non-buildable parcel in and of itself. The ultimate disposition of the property, however, will depend on what the title search reveals regarding how the property was acquired by the Borough.

Council President Schneider asked if the Borough has any choice in how the property is disposed of. Mr. Raffetto stated that we do not. Depending on what the title search shows, it would either be vacated, in which case the property would automatically revert back to the adjacent property owners, or it would need to be deeded over to them.

Councilwoman Laudenberg asked the Borough Attorney to confirm that one property owner would not be able to acquire all of the property unless the other owner agreed. He stated that this is correct.

**Ordinance 2005-36** was moved for introduction by Council President Schneider and seconded by Councilman Thompson.

**Roll Call:** Councilmembers Laudenberg, Schneider, Sikorski and Thompson voted yes. Councilmembers Quattrone and Sackowitz were absent.

**Ordinance introduced, 4-0-2.**

At the recommendation of the Borough Attorney, the public hearing and final reading for Ordinance 2005-36 was set for November 7, 2005.

#### INTRODUCTION AND FIRST READING: ORDINANCE 2005-37,

AN ORDINANCE TO AMEND ORDINANCE 2000-10, ADOPTED JUNE 5, 2000, ENTITLED  
“BOND ORDINANCE PROVIDING FOR PHASE ONE OF THE GREENWAYS PROJECT IN AND BY  
THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY,  
APPROPRIATING \$287,000.00 THEREFOR AND AUTHORIZING THE ISSUANCE OF  
\$272,650.00 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST  
THEREOF”

Ms. Gallagher explained that this Ordinance will increase the portion of the appropriation provided therein which is chargeable to Section 20 expenses. It will not increase the total appropriation.

Ordinance 2005-37 was moved for introduction by Councilman Sikorski and seconded by Councilwoman Laudenberg.

**Roll Call:** Councilmembers Laudenberg, Schneider, Sikorski and Thompson voted yes. Councilmembers Quattrone and Sackowitz were absent.

**Ordinance introduced, 4-0-2.**

The public hearing and final reading for Ordinance 2005-37 was set for October 17, 2005.

## RESOLUTIONS

### RESOLUTION 2005-210, AUTHORIZING THE SALE OF CERTAIN BOROUGH-OWNED PROPERTY LOCATED ON ACADEMY STREET TO ORDONEZ REALTY, LLC

Mr. Raffetto stated that he was present at the recent auction of Borough-owned property on Academy Street. Representations were made in documents provided by the auctioneer and by the Borough regarding the restrictions of the sale and the current zoning of the property, and Mr. Raffetto made a public announcement prior to the start of the bidding in this regard. Specifically, within three months of the closing date, the buyer must file an application before the Planning Board to construct either a duplex or a triplex containing at least one affordable unit, and if approval is received, must construct the units accordingly.

Bidding was "quite lively," he said, and the successful bidder, Ordonez Realty, LLC, has signed a contract agreeing to purchase the property for \$142,500 plus the 10 percent buyer's premium (paid to the auction company). Closing must take place within 45 days, and the Borough Council must adopt this Resolution to confirm the sale within 14 days. The downpayment provided at the auction by the buyer has been deposited in a trust account at Mr. Raffetto's office pending closing.

Councilman Sikorski stated that he was present at the auction and was pleased with the result.

**Resolution 2005-210** was moved by Councilman Sikorski and seconded by Councilwoman Laudenberger.

**Roll Call:** Councilmembers Laudenberger, Schneider, Sikorski and Thompson voted yes. Councilmembers Quattrone and Sackowitz were absent.

**Resolution adopted, 4-0-2.**

### RESOLUTION 2005-210      RESOLUTION AUTHORIZING THE SALE OF CERTAIN BOROUGH – OWNED PROPERTY LOCATED ON ACADEMY STREET TO ORDONEZ REALTY, L.L.C.

**WHEREAS**, by Resolution No. 2005-178, as amended by Resolution No. 2005-184, the Borough of Hightstown authorized the public sale at auction of two (2) adjacent Borough-owned lots located on Academy Street (which have now been consolidated), in accordance with N.J.S.A. 40A:12-13; and

**WHEREAS**, the two adjacent lots were formerly identified as Block 40, Lots 20 and 21 on the Borough's Tax Map, and were located at 216 Academy Street (Lot 20) and 220-222 Academy Street (Lot 21); and

**WHEREAS**, since consolidation, the unified parcel is now known and designated as Block 40, Lot 20 on the Tax Map, and is also referenced as 216-222 Academy Street; and

**WHEREAS**, following the adoption of Resolution Nos. 2005-178 and 2005-184, the Borough of Hightstown duly advertised the open public sale of the property at auction to the highest bidder in accordance with N.J.S.A. 40A:12-13; and

**WHEREAS**, the public auction was scheduled for, and was held on, September 23, 2005, at the Hightstown Borough Hall; and

**WHEREAS**, at the advertised time and place, numerous bidders were present to participate in the public auction; and

**WHEREAS**, the Borough retained the firm of Max Spann Auction Company to conduct the auction on behalf of the Borough; and

**WHEREAS**, at the conclusion of the bidding, Ordonez Realty, L.L.C., submitted the highest bid, in the amount of \$142,500.00; and

**WHEREAS**, the total purchase price, which includes the required ten percent (10%) buyer's premium to be paid by the successful bidder (in order to compensate Max Spann Auction Company for its services), amounts to \$156,750.00; and

**WHEREAS**, at the conclusion of the public auction, Ordonez Realty, L.L.C., executed a proposed contract for the purchase of the unified parcel, which contract had been previously reviewed and approved by the Borough Attorney, and provided its required ten percent (10%) down payment of the total purchase price in the amount of \$15,675.00; and

**WHEREAS**, the Borough Attorney is currently maintaining the said ten percent (10%) down payment amount in his Firm's Attorney Trust Account pending closing of title to the property; and

**WHEREAS**, pursuant to the requirements of Resolution Nos. 2005-178 and 2005-184, the Borough Council must accept or reject the purchase offer not later than fourteen (14) days following the date of the public sale, or else all offers shall be deemed to have been rejected; and

**WHEREAS**, the Borough Council is pleased with the results of the public auction, and wishes to confirm the sale of the unified parcel to Ordonez Realty, L.L.C., on its high bid of \$142,500.00 (equating to \$156,750.00 when the ten percent (10%) buyer's premium is incorporated), subject to all requirements set forth in Resolution Nos. 2005-178 and 2005-184; and

**WHEREAS**, the Borough Council wishes to authorize the Mayor and Borough Clerk to execute the proposed Contract for Sale of the unified parcel to Ordonez Realty, L.L.C., as well as to execute a Deed and all necessary documents in order to effectuate this transaction, and to authorize the Borough Attorney to undertake all relevant matters to facilitate the closing of title to this property.

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

1. That the sale of the unified parcel which is now known and designated as Block 40, Lot 20 on the Hightstown Borough Tax Map, and which is also known as 216-222 Academy Street, to Ordonez Realty, L.L.C., with an address of 138 South Main Street, Hightstown, New Jersey, is hereby confirmed in the amount of \$142,500.00 (equating to \$156,750.00 when the ten percent (10%) buyer's premium is incorporated), subject to all requirements set forth in Resolution Nos. 2005-178 and 2005-184.
2. That the Mayor is authorized to execute and the Municipal Clerk to attest the attached Contract for Sale of Real Estate, as well as a Deed and all other necessary documents, in order to effectuate the sale of the subject property from the Borough of Hightstown to Ordonez Realty, L.L.C.
3. That the Borough Attorney is authorized and directed to proceed with all matters that are required in order to facilitate the closing of title to this property.
4. That a certified copy of this Resolution shall be provided to each of the following;
  - a. Ordonez Realty, L.L.C.
  - b. Gus Siggelakis, Esquire
  - c. Frederick C. Raffetto, Esquire
  - d. Candace Gallagher, Borough Clerk/Administrator

## **CONSENT AGENDA**

**Resolutions 2005-211, 212, 213, 214, 215 and 216** were moved by Councilman Sikorski and seconded by Councilwoman Laudenberger.

**Roll Call:** Councilmembers Laudenberger, Schneider, Sikorski and Thompson voted yes. Councilmembers Quattrone and Sackowitz were absent.

**Resolutions adopted, 4-0-2.**

**RESOLUTION 2005-211      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 and the Treasurer in the amount of **\$546,595.79** from the following accounts:

|  |                             |
|--|-----------------------------|
| Current  | \$ 142,182.78               |
| W/S Operating  | 67,584.10                   |
| General Capital  | 247,628.30                  |
| W/S Capital  | 49,331.22                   |
| Animal Control   | 5.40                        |
| Grant  | 474.51                      |
| Trust  | 2,042.50                    |
| Tax Collector Lien Trust                                 | 35,702.98                   |
| Escrow – Subdivision & Site Plan (First Washington Bank) | <u>1,644.00</u>             |
| <b>Total</b>   | <b><u>\$ 546,595.79</u></b> |

**RESOLUTION 2005- 212      AUTHORIZING ISSUANCE OF LICENSE FOR AUCTION - EMPIRE AUCTIONS**

**WHEREAS**, an application for a license to hold an auction at 10 a.m. on Saturday, October 15, 2005 at 278 Monmouth Street in the Borough of Hightstown has been submitted by Empire Auctions, together with the required fee; and

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

**WHEREAS**, it is the desire of the Mayor and Council that a license be issued to Empire Auctions 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 Auctions for their auction to be held at 10 a.m. on Saturday, October 15, 2005 at 278 Monmouth Street.

**RESOLUTION 2005-213      AUTHORIZING REFUND OF AMOUNT PAID FOR GRASS BAGS**

**WHEREAS** Phil Swart, 556 North Main Street, purchased a bag of 10 grass bags from the Borough Clerk's office on August 24, 2005 for a price of \$20.00, paid in cash; and

**WHEREAS** he subsequently determined that he would not be using the bags and returned them to the Borough, and has requested a refund of the \$20.00 paid for them;

**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 of \$20.00 to Phil Swart, 556 North Main Street, for grass bags returned unused to the Borough.

**RESOLUTIONS 2005-214      RESOLUTION SUPPORTING RENEWAL OF THE NEW JERSEY TRANSPORTATION TRUST FUND AND INCREASED DEDICATION FOR LOCAL AID**

**WHEREAS**, on June 30, 2006 the New Jersey Transportation Trust Fund will have no capital funding available to provide local aid for transportation projects because all incoming revenue will be used for debt service payments; and

**WHEREAS**, local governments have received approximately \$2.0 billion from the Transportation Trust Fund and approximately \$300 million in bridge bond funds and \$275 million in federal local road funds; and

**WHEREAS**, local roadways and bridges carry 55% of the traffic on county, municipal and state highways, and local governments maintain 32,810 centerline miles of roads, 2,498 major bridges and 4,584 minor bridges; and

**WHEREAS**, a review of annual local transportation needs indicates \$211 million for county bridges, \$7.5 million for municipal bridges, \$44 million for county roadways and \$112 million for municipal roadways, for a total of \$374.5 million; and

**WHEREAS**, it is imperative that local governments receive a stable, dependable and long-term source of funding to actively maintain the State's roadways and bridges; and

**WHEREAS**, it is in the best interest of local governments to work in collaboration with the Governor of the State of New Jersey, the Commissioner of the New Jersey Department of Transportation and the New Jersey State Legislature to quantify the State's transportation needs and pursue the appropriate methods of funding;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Hightstown that that the Borough of Hightstown hereby calls upon the Governor and the State Legislature to provide for a stable, dependable and long-term source of funding to support the renewal of the New Jersey Transportation Trust Fund and an increase in the amount dedicated to local aid; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution be forwarded to the Governor of the State of New Jersey, the Commissioner of the Department of Transportation and members of the State Legislature and the New Jersey League of Municipalities.

#### **RESOLUTION 2005-215      AUTHORIZING REFUND OF TAX OVERPAYMENT**

**WHEREAS** in the course of a real estate closing, duplicate payments for 3<sup>rd</sup> quarter taxes on Block 48.01, Lot 5 (120 Prospect Street) were received by the Borough on July 8, 2005 and August 23, 2005 respectively, each in the amount of \$3,400.00, resulting in an overpayment of 3<sup>rd</sup> quarter taxes in the amount of \$3,400.00; and

**WHEREAS** Weichert Financial Services, as mortgagee for this property, has requested that the overpayment be applied as follows:

|            |   |
|------------|---|
| \$3,247.06 | towards the 4 <sup>th</sup> quarter 2005 taxes                                    |
| \$152.94   | returned to Weichert Financial Services to credit Mortgagor's Escrow Account; and |

**WHEREAS** the Tax Collector has requested permission to grant this request;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Tax Collector is hereby authorized to apply \$3,247.06 of the overpayment of 3<sup>rd</sup> quarter taxes on Block 48.01, Lot 5 (120 Prospect Street) to 4<sup>th</sup> quarter taxes for that property, and the Treasurer is hereby authorized to refund to Weichert Financial Services, 225 Littleton Road, Morris Plains, New Jersey 07950, the amount of \$152.94 as set forth herein.

#### **RESOLUTION 2005-216      AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL-156 TO LADIES AUXILIARY, HIGHTSTOWN ENGINE CO. NO. 1**

**WHEREAS**, the Ladies Auxiliary of Hightstown Engine Co. No. 1 wishes to hold an off-premise merchandise raffle at the Hightstown Firehouse on January 22, 2006; and

**WHEREAS**, the group has submitted application number RA-156 for this raffle, together with the required fees; and

**WHEREAS**, the Borough Clerk and the Chief of Police have reviewed the application and have determined that the requirements of N.J.S.A. 5:8-53, regarding the applicant, the members in charge of the game, and the game itself, have been met;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Raffle License No. RL-156 to the Hightstown Engine Co. No. 1 Ladies Auxiliary for their raffle to be held on January 22, 2006.

## UNFINISHED BUSINESS

### DISCUSSION AND POSSIBLE INTRODUCTION: ORDINANCE 2005-36, AN ORDINANCE AUTHORIZING THE VACATION OF A PAPER STREET KNOWN AS EVERGREEN AVENUE

For the sake of continuity, this item has been included under “Ordinances” on page 8 of these minutes.

## NEW BUSINESS

### REDEVELOPERS AND PAY-TO-PLAY

Mr. Raffetto stated that Hightstown may have been the first municipality to adopt an Ordinance <sup>2</sup> regarding Pay-to-Play with respect to redevelopers. Since that time, Common Cause and the Center for Civic Responsibility have come up with model ordinance which they are seeking to enlist other municipalities to adopt. It differs slightly from that which was adopted by the Borough, and, he said, Council may want to review the differences and revise our ordinance to be consistent with their recommendations. Doing so would ensure that the Ordinance is as defensible as possible, he said. After a brief discussion, it was agreed that Mr. Raffetto will prepare a memo for Council's review delineating the differences between the Borough's adopted Ordinance and the model ordinance.

## COUNCIL COMMENTS AND COMMITTEE REPORTS

Councilman Thompson stated, regarding earlier public comment by Mr. Sarafin, “I’m not sure that an emotional response is helping a situation that we all find unpleasant.” He asked if Mr. Sarafin’s behavior is illegal and enforceable. If not, he said, although it is offensive and unpleasant, responding to it doesn’t make it any better. “If it is legal for someone to do that for three minutes,” he said, “no reaction is appropriate.”

Councilwoman Laudenberger said that she feels it is important to let Mr. Sarafin know at times that “we really do not appreciate the language that he uses.” She reminded all that the 3<sup>rd</sup> Annual Community Fair is scheduled to take place on Saturday, October 8. 40 vendors and 30 organizations have registered, she said, and there is a full slate of entertainment, including performances by two of our Councilmen – Patrick Thompson and Ron Sackowitz. The committee is still seeking volunteers, she said, and is looking for someone to don the McGruff crime-fighting dog outfit.

Council President Schneider said that his feelings regarding public comment by Mr. Sarafin are “sticks and stones ....”

Councilman Sikorski reported that:

- He anticipates a “heavy agenda” for the October 11 Planning Board meeting.
- Construction Official Harry Wetterskog has had an emergency appendectomy and will be out of the office for about two weeks.
- He has noticed a greater police presence in his neighborhood and also on foot patrol downtown.

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<sup>2</sup> Ordinance 2004-26, adopted on November 1, 2004.

- He would like to obtain a list of the Mayor's appointees to the Housing Code Committee and to the Planning Board's Affordable Housing Committee.

Regarding Mr. Sarafin's behavior during the public comment session, Councilman Sikorski asked the Borough attorney about the time limits and how long Mr. Sarafin would actually be entitled to speak. "If the three minutes is not extended," he said, "is that not the end of the three minute diatribe he insists on giving? He is not entitled to use the remaining time, correct?" Mr. Sikorski said that the Borough "should strictly adhere to the three minute rule." Mr. Sarafin and others, he said, have a constitutional right to express themselves, and although it may be inappropriate, indicate a lack of understanding of the process, and "test our patience," it is the price we pay for democracy. He said that although he empathizes with the Mayor in his role as presiding officer, it is up to the Mayor and not to Council to "exercise judicial restraint." "We should give the devil his due," and said, "and tolerate three minutes."

Mr. Sikorski went on to say that he resents comments made by Mr. Sarafin suggesting that Council members do nothing but come to two meetings a month and collect their paychecks. "Members of Council are hard working," he said, "and more than earn their \$300 per month."

Mr. Raffetto stated that the governing body is required to set aside some portion of every meeting for public comment; however, "you have the right to limit and restrict it as you see fit .... You have the right at the end of three minutes to say 'Thank you, time is up' and not allow the speaker to continue." He agreed with Councilman Sikorski that the three minute limit should be strictly enforced. Regarding the substance of comments made by the public, Mr. Raffetto said that certain first amendment rights do exist; however, those who may be offended can leave the room at any time. The law, he said, provides that, unless a person prevents the meeting from moving forward, we have the obligation to hear them out. If, however, a speaker is preventing Council from getting on with business, we should have them removed. He said that, if it appears that a speaker will be preventing Council from proceeding with public business, he or she should first be warned and we should have someone ready to remove that person from the chambers. Councilman Thompson asked if it is appropriate to remove a speaker if he is obstructionist *but* within the three minute time frame. Mr. Raffetto stated that this is a gray area; however, "someone who is boisterous and refuses to leave does not have the right to take over a meeting like that." Councilman Thompson asked about the legality of public obscenity. Mr. Raffetto replied that there is not really an "obscenity statute," but if the presiding officer warns the speaker to refrain and makes an effort to calm things, and the individual gets to the point where they are so boisterous as to prevent civility and decorum in continuing, he can be taken out of the room. He added that offensive language is not illegal, *per se*.

Mayor Patten said that he "will not allow anyone to denigrate anyone or call people names that are profane." "That is disrespect at the highest level," he said, and referred to it as "bullying." He expressed concern for those in the audience and that some could be offended to the point of engaging in physical violence.

The Mayor went on to report on his recent activities, including: a visit to Hightstown High School, where he witnessed a "wonderful diversity"; moderating a League of Municipalities seminar on pensions; speaking at a press conference at the State House to express concerns about high property taxes; attendance at a League of Municipalities summit on gangs (he noted that the Borough is being proactive in this regard); attendance at a meeting with the County Executive regarding hurricane relief efforts; hosting a meeting of the Mercer County Economic Development department at Wachovia Bank; participation in activities related to Hispanic Heritage Month; meeting with the Latino Advisory Committee; speaking to third grade students at the McKnight and Walter C. Black schools about his job as Mayor; attendance at a property tax debate at The College of New Jersey; attendance at the Community Action Service Center's annual gala; meeting with members of the First Baptist Church, along with Roger Cook, regarding the Greenways; and attendance at a seminar on eminent domain presented by Ed McManimon. On a sad note, he said, he also attended the funerals of Miss Kathryn Dennis and Leonard Van Hise.

Lastly, Mayor Patten reported that he was recently notified by our legislators that the Borough has received a grant of \$180,000 from the New Jersey Department of Transportation for work on Clinton Street and Cole Avenue.

## **PUBLIC COMMENT II**

Mayor Patten opened the floor for public comment.

**Paul Byrne**, 320 Stockton Street, commended Mayor Patten for taking action with Eugene Sarafin during the first public comment session and said that it is not in the best interest of Hightstown to allow that sort of behavior at public meetings. He would like to see more sensitivity on the part of Council to those in the audience, he said. In addition, Mr. Byrne said, Council members should be appalled at Mr. Sarafin's comments at the October 3 meeting regarding Miss Kathryn Dennis. "I would like Council and the Attorney to rise to the occasion," he said. "Don't sit back and let it happen.... Be sensitive to the people of Hightstown that object to this."

**Torry Watkins**, 68 Meadow Drive, commended the Mayor and Council for their willingness to consider "bigger and better versions of the Pay-to-Play ordinance and to cooperate with the citizens' campaign." He noted that the ordinance "could sunset at the end of the year unless we do something about it." He urged members of the governing body to use whatever influence they have in this regard.

**Kathy Patten**, 135 South Street, stated that the audience at Council meetings also has a role to play when someone's behavior is out of line. "Council may be compelled to listen," she said, "but we don't have to." She urged members of the public to leave the room "when that kind of atrocious language is used."

Upon motion by Councilwoman Laudenberger, seconded by Councilman Sikorski and unanimously approved, the meeting was adjourned at 8:32 p.m.

Respectfully submitted,

Candace B. Gallagher, RMC  
Borough Clerk