

## OPEN SESSION

Mayor Robert Patten called the meeting to order at 7:00 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>Vacancy</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; George Lang, Chief Financial Officer; Frederick Raffetto, Esq., Borough Attorney; and Randall Gottesman of Community Grants & Planning.

### APPROVAL OF AGENDA

Deleted from the agenda was a discussion regarding the redevelopment of the Mill property and Resolution 2005-62, which would name a conditional redeveloper for that property and authorize the execution of a conditional redeveloper's agreement in connection therewith. The agenda was moved as amended by Councilman Sikorski, seconded by Councilwoman Laudenberger and unanimously approved.

### APPROVAL OF MINUTES

Upon motion by Councilman Sikorski, seconded by Councilwoman Laudenberger, the minutes of the **January 24, 2005 budget meeting** were **approved as submitted** by all but Councilmembers Quattrone and Schneider, who abstained because they were not present at that meeting.

Upon motion by Councilman Sikorski, seconded by Councilwoman Laudenberger, the minutes of the **February 7, 2005 regular meeting** were **unanimously approved as submitted**.

Ms. Gallagher noted for the record that no quorum was present for the scheduled budget meeting of **February 10, 2005**. A statement to that effect has been placed in the official minutes book.

Upon motion by Councilman Sikorski, seconded by Councilwoman Laudenberger, the minutes of the **February 15, 2005 budget meeting** were **unanimously approved as submitted**.

## PUBLIC COMMENT I

Mayor Patten opened the floor to public comment.

**Eugene Sarafin**, 600-628 South Main Street, criticized Resolution 2005-66, included on this meeting agenda, regarding the actions of the United States Bureau of Immigrations and Customs Enforcement (ICE), calling the Resolution “bulls\*\*t.” He noted a discussion to be held in executive session regarding tax appeal litigation by Presbyterian Homes and suggested that the property had probably been over assessed in terms of equalized value. He added that he would take the Borough to tax court for its failure to revalue its assessments.

**Louise Sanford**, spoke as a representative of the Mercer County Latin American Legal Defense and Education Fund to support Resolution 2005-66, and to applaud the governing body for recognizing the public safety issue inherent in the failure of undocumented immigrants to report criminal activity due to their fear of deportation.

**Mr. Sarafin** spoke again to refer to the “hypocrisy of allowing immigrants to come here and work, make a living and then take them away.” ... “We don’t want police to enforce the laws ... we let them drive without licenses or tests ... someone has to get their act together in our society,” he said. He referred once again to the assessment of Presbyterian Homes and to the need for revaluation.

**Kathy Patten**, 135 South Street, urged Council to adopt Resolution 2005-66, and stated that the Hightstown East Windsor Equity Coalition has been talking about such a Resolution for months. Recent immigration activity in town, she said, brought it forth at this time, and she commended the Chief of Police for helping to write the Resolution and the Council for considering it at this meeting. The role of the local police department, she said, is to maintain safety in the community. Our officers have worked hard to develop a positive relationship with the immigrant population. That population, she went on to say, are often victims of crime and exploited because of their fear of going to the police. It is important to assure them that the Borough supports the basic human rights provided to them by the Bill of Rights, which protects all people in our country. Local police, she said, do not enforce immigration laws because it is a federal responsibility and creates fear of local police. She said that this Resolution will go a long way towards restoring the faith of our immigrant community in our police department.

**Ken Hitchner**, 450 South Main Street, also spoke in favor of Resolution 2005-66. He is a representative of the Social Justice Committee of St. Anthony’s of Padua Church, which has more than 1,000 Latino parishioners. “We have a large Latino community here,” he said, “and we have done well with them. Sgt. Rossi and an East Windsor police officer met with over 250 Latinos in an excellent meeting of real communication.” Mr. Hitchner stated that our Latino residents often work two jobs, and we educate their children with no questions asked. He asked Council to do whatever they can “to bring a modicum of comfort to them, and impact the safety of these people. They are law abiding, churchgoing, and hard working.”

No one else came forward and the public comment session was closed.

## RESOLUTION 2005-48, APPOINTMENT OF COUNCILMEMBER

Mayor Patten reviewed the procedure for filling the vacancy on Council left by the resignation, effective February 1, 2005, of Councilwoman Susan Holtzclaw. The three names put forth by the Republican Committee, he said, are Ashley Hutchinson, Ronald Sackowitz and Christopher Emigholtz. The Mayor provided a brief background of each candidate, and opened the floor for nominations.

Council President Schneider nominated Ron Sackowitz to fill the vacancy, and the nomination was seconded by Councilman Sikorski. No other nominations were heard, and a roll call vote was taken on Resolution 2005-48, to appoint Ron Sackowitz as Councilmember.

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

**Resolution adopted, 5-0.**

**RESOLUTION 2005-48 APPOINTING COUNCIL MEMBER TO FILL VACANCY**

**WHEREAS**, due to the resignation of Councilmember Susan Holtzclaw, whose elected term ran from January 1, 2003 through December 31, 2005, there exists a vacancy in the office of Councilmember; and

**WHEREAS**, pursuant to the Municipal Vacancy Law (N.J.S.A. 40A:16-1 *et seq.*), the Municipal Committee of the Republican Party has submitted the following three names for Council's consideration in filling the vacancy (listed in alphabetic order):

**Chris Emigholz  
Ashley Hutchinson  
Ron Sackowitz**

; and

**WHEREAS**, it is the desire of the Mayor and Council to appoint Ron Sackowitz to fill the position of Councilmember for the remainder of the unexpired term ending December 31, 2005;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that Ron Sackowitz is hereby appointed to serve in the position of Councilmember for the remainder of the unexpired term ending December 31, 2005.

Mayor Patten swore in Councilman Sackowitz, who spoke briefly to express his excitement about "the way Hightstown is going." He said that he feels that he can be "a voice for some unity."

## **GRANT FUNDING 2005**

### **AVAILABLE GRANT FUNDING**

Randall Gottesman of Community Grants & Planning, Inc. addressed Council to review upcoming grant opportunities:

- **Safe Streets to Schools** (which application, he said, the Borough Engineer would be able to prepare). This program requires no match by the Borough, but it is generally helpful for the municipality to offer to pay for the engineering and design, if the project is funded. Eligible activities include new construction of pedestrian facilities that promote school safety, including new sidewalks, pedestrian walkways, crosswalks, traffic signals, pedestrian signs, warning devices, traffic calming and intersection improvements. The average award is \$95,000.

Ms. Roberts noted that the Borough has applied for this funding in the past along with Transportation Trust funding for roadway reconstruction. We have applied for funding to install sidewalks on Leshin Lane, Morrison Avenue and Summit Street. The program is geared, she said, toward installing sidewalks where none currently exist. We did receive funding under this program for Second Avenue sidewalks, she said, and this year, we received funding for Oak Lane. We generally apply for more than one street, with priorities noted, and she would recommend that Leshin Lane be first once again on our priority list. Mr. Gottesman recommended that the Borough apply for this funding again in 2005.

- **Smart Growth Planning Grant.** This funding, Mr. Gottesman said, seeks to promote bikeways, pedestrian projects and open space planning. The average award is \$10,800.

- **NJDOT Municipal Aid for Local Bikeways** – Mr. Gottesman stated that East Windsor has secured funding under this program. The program funds construction of bike paths and lanes, route signage or making roadways compatible through hazard removal or widening. The average award is \$153,000.
- **Department of Homeland Security - Assistance to Firefighters.** Last year's average award under this grant was \$84,000, Mr. Gottesman said. Eligible activities include firefighter safety and equipment. This is a relatively new grant. Local fire departments are eligible to apply, and there is a set aside for EMS squads which are not affiliated with a local fire department. The application deadline is April 8. Although \$600 million is set aside nationally, he said, "competition is going to be extreme." This is a simple application, and the Borough's investment for Borough would not be as extensive as with other federal grants.
- **Department of Homeland Security – Staffing for Adequate Fire and Emergency Response (SAFER).** Most of the funding under this new program, Mr. Gottesman said, will go to paid fire departments, however they are setting aside ten percent of the funding for volunteer retention and recruitment efforts. This grant will also be extremely competitive. "I prefer programs with better odds, but if you like, we can do it efficiently for you," he said.

Mr. Gottesman suggested that, if Council is interested in applying for any of these grants, a subcommittee meet with him to discuss it in more detail.

## RESOLUTION 2005-60, AUTHORIZING PROFESSIONAL SERVICES AGREEMENT FOR GRANT ADMINISTRATION (NJDOT TRANSPORTATION ENHANCEMENT PROGRAM)

Following a brief review by Ms. Gallagher, Resolution 2005-60 was moved by Councilwoman Laudenberg and seconded by Councilman Quattrone.

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

**Resolution adopted, 6-0.**

## RESOLUTION 2005-60      AUTHORIZING PROFESSIONAL SERVICES AGREEMENT – COMMUNITY GRANTS & PLANNING, INC. (NJDOT TRANSPORTATION ENHANCEMENT PROGRAM)

**WHEREAS**, there exists the need for consultant services to assist in the planning, administration and implementation of the \$310,000.00 NJDOT Transportation Enhancement program grant received by the Borough for the revitalization of Mercer Street; and

**WHEREAS**, it is the desire of the Mayor and Council to engage Community Grants & Planning, Inc. of East Windsor, NJ, to perform these services for a total fee not to exceed \$16,150.00, as outlined in the agreement which is attached hereto and made a part hereof; and

**WHEREAS**, the Chief Financial Officer has certified the availability of funds for this expenditure;

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

1. The agreement with Community Grants & Planning, P.A., which is attached hereto and made a part hereof, is hereby approved, and the Mayor and Borough Clerk are authorized to execute same.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a).
3. This agreement shall become effective upon the effective date of Bond Ordinance 2005-04.
4. A copy of this Resolution as well as the agreement shall be placed on file in the office of the Borough Clerk.

5. A notice of this action shall be printed once in the official newspaper as required by law.

## **RESOLUTION 2005-61, AUTHORIZING PROFESSIONAL SERVICES AGREEMENT FOR ADMINISTRATION OF RECAPTURED SMALL CITIES HOUSING REHABILITATION FUNDS**

Following a brief review by Ms. Gallagher, Resolution 2005-61 was moved by Councilman Quattrone, seconded by Council President Schneider.

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

**Resolution adopted, 6-0.**

### **RESOLUTION 2005-61      AUTHORIZING PROFESSIONAL SERVICES AGREEMENT FOR ADMINISTRATION OF RECAPTURED SMALL CITIES HOUSING REHABILITATION FUNDS**

**WHEREAS**, there exists the need for consultant services in connection with the administration of the Borough's recaptured funds from the Hightstown-East Windsor Small Cities Housing Rehabilitation Program and in accordance with the Hightstown Borough Housing Rehabilitation Program Policies and Procedures Manual; and

**WHEREAS**, it is the desire of the Mayor and Council to engage Community Grants & Planning, Inc. of East Windsor, NJ, to perform these services for a per unit administrative fee of 18 percent of the awarded bid price per project, but not less than \$2,000 per project, and additional fees for Lead Risk Assessment, if necessary, as outlined in the agreement which is attached hereto and made a part hereof; and

**WHEREAS**, administrative fees paid to Community Grants & Planning under this agreement will be paid from the Revolving Loan Fund, at no cost to Borough taxpayers;

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

1. The agreement with Community Grants & Planning, P.A., which is attached hereto and made a part hereof, is hereby approved, and the Mayor and Borough Clerk are authorized to execute same.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a).
3. A copy of this Resolution as well as the agreement shall be placed on file in the office of the Borough Clerk.
4. A notice of this action shall be printed once in the official newspaper as required by law.

## **ENGINEER'S ITEMS**

Ms. Roberts reviewed the Resolutions included under "Engineer's Items" on the agenda. **Resolutions 2005-63, 64, 65 and 74** were moved as a group by Councilwoman Laudenberg, seconded by Councilman Quattrone.

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

**Resolutions adopted, 6-0.**

### **RESOLUTION 2005-63      AUTHORIZING PAYMENT NO. 3 AND FINAL TO U.S. TANK PAINTING, INC. (PAINTING OF ACTIVATED SLUDGE TANKS & TERTIARY FILTERS AT THE AWWTP, VCEA FILE NO. 9211)**

**WHEREAS**, the Borough has awarded a contract for the painting of activated sludge tanks and tertiary filters at the Borough's Advanced Wastewater Treatment Plant (VCEA File No. 9211) to U.S. Tank Painting of Hillside, New Jersey; and

**WHEREAS** the total amount of the contract, inclusive of Change Order No. 1 thereto, is Eighty Four Thousand Five Hundred (\$84,500.00) Dollars; and

**WHEREAS**, U.S. Tank Painting has submitted Payment Request No. 3 and Final for this project in the amount of \$1,690.00, and the Borough Engineer has recommended that this request be approved;

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

1. Payment No. 3 and Final to U.S. Tank Painting, Inc. in the amount of \$1,690.00 is hereby approved, and the Borough Treasurer is authorized to issue same.
2. The "Painting of Activated Sludge Tanks and Tertiary Filters, AWWTP" project is hereby accepted.
3. The Borough Clerk is authorized and directed to release the Contractor's performance and payment guarantees in the amount of \$75,000.00.
4. The Borough acknowledges that the Contractor has submitted an acceptable one-year maintenance guarantee in the amount of \$12,675.00.

**RESOLUTION 2006-64                      REQUESTING EXTENSION OF TIME IN WHICH TO AWARD CONTRACT FOR  
GREENWAYS PROJECT, PHASE I**

**WHEREAS**, the Borough of Hightstown has been awarded funding through the New Jersey Department of Transportation's Transportation Trust Fund for Phases I and II of the Greenways Project; and

**WHEREAS**, the deadline (as previously extended) to award a contract for both phases of the project is March 20, 2005; and

**WHEREAS**, delays were encountered in obtaining signatures required for wetlands permitting and easements, requiring revision of the original wetlands permit application and plans, and as a result of changes in forms used by the New Jersey Department of Environmental Protection which required that certain submissions be re-signed and re-submitted; and

**WHEREAS** the Borough of Hightstown changed Borough Engineers as of January 1, 2005, resulting in additional delays while projects were reviewed and assigned to the former and current engineers; and

**WHEREAS** for purposes of continuity and to facilitate moving forward with this project as quickly as possible, the Borough's former Engineer, Van Cleef Engineering Associates, has been retained to continue the firm's work on Phase I of this project; and

**WHEREAS** DEP permit applications are now signed and in the process of being submitted, and plans and specifications for the project are substantially complete, however it will not be possible to award a contract for the project prior to the March 20 deadline date; and

**WHEREAS** the Borough anticipates the award of a contract for this work no later than June 20, 2005;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough hereby requests from the New Jersey Department of Transportation a three-month extension of time to June 20, 2005, in which to award a contract for Phase I of the Greenways project.

**RESOLUTION 2005-65                      REQUESTING EXTENSION OF TIME IN WHICH TO AWARD CONTRACT FOR  
GREENWAYS PROJECT, PHASE II**

**WHEREAS**, the Borough of Hightstown has been awarded funding through the New Jersey Department of Transportation's Transportation Trust Fund for Phases I and II of the Greenways Project; and

**WHEREAS**, the deadline (as previously extended) to award a contract for both phases of the project is March 20, 2005; and

**WHEREAS**, delays were encountered in adopting the Borough's 2004 budget and in providing the needed funding for work on Phase II of this project; and

**WHEREAS**, it will not be possible for the Borough to bid and award this contract prior to the March 20 deadline date; and

**WHEREAS**, funds have now been provided for this project through the adoption of Bond Ordinance 2005-03;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough hereby requests from the New Jersey Department of Transportation a one-year extension of time to March 20, 2006, in which to award a contract for Phase II of the Greenways project.

**RESOLUTION 2005-74                      AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE AND REDUCTION OF AMOUNTS REMAINING IN ESCROW – THE PEDDIE SCHOOL (ETRA ROAD FENCE PROJECT)**

**WHEREAS** the Peddie School has posted a performance guarantee and inspection escrow with the Borough for the their Etra Road fence project as follows:

Cash portion of bond	\$8,374.68
Non-cash bond	\$75,372.12

; and

**WHEREAS** the Borough Engineer has inspected the projects and has recommended the release of the performance bond and reduction in the escrow funds to a balance of \$300.00, subject to receipt of a two-year maintenance bond in the amount of \$8,397.10; and

**WHEREAS** said maintenance bond has been posted by the Peddie School and reviewed by the Borough Attorney and Borough Engineer, and found to be satisfactory;

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

1. The Borough Clerk is authorized and directed to release to the Peddie School the non-cash performance bond held relative to their Etra Road fence project, as detailed herein.
2. The Treasurer is authorized and directed to release to the Peddie School the cash portion of the performance bond held relative to their Etra Road fence project, in the amount of \$8,374.68.
3. The Treasurer is authorized and directed to release to the Peddie School all but \$300.00 of the amounts remaining in their escrow account for this project, subject to certifications from the Borough's professionals that all amounts due to them for this project have been fully paid.
4. A certified copy of this Resolution shall be provided to the following:
  - a. Charles Galbraith, Business Administrator, The Peddie School
  - b. Arlene O'Rourke, Treasurer
  - c. Debbie Bodine-Kolo, Planning Board Secretary
  - d. Carmela Roberts, Borough Engineer
  - e. Paul Pogorzelski, Van Cleef Engineering Associates
  - f. Gary Rosensweig, Planning Board Attorney

## ORDINANCES

PUBLIC HEARING AND FINAL READING: ORDINANCE 2005-07,  
ADOPTING NEW ZONING MAP AND AMENDING CHAPTER 28, "ZONING," OF THE *REVISED  
GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN*

Following a brief review by Mr. Raffetto, Mayor Patten opened the public hearing on Ordinance 2005-07.

**Eugene Sarafin**, 600-628 South Main Street, noted his presence at the hearing.

No one else came forward and the public hearing was closed.

Ordinance 2005-07 was moved for adoption by Councilman Sikorski, seconded by Councilman Quattrone.

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

**Ordinance adopted, 5-0-1.**

**ORDINANCE 2005-07**      **AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN ADOPTING AN UPDATED ZONING MAP, AND AMENDING AND SUPPLEMENTING SUBSECTION 28-3-2, ENTITLED, "ZONING MAP," OF SECTION 28-3, "DISTRICTS ESTABLISHED; ZONING MAP," OF CHAPTER 28, "ZONING," OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY."**

**WHEREAS**, the Borough of Hightstown has adopted an Official Zoning Map of the Borough, dated June 2003, which depicts the boundaries of all zoning districts within the Borough of Hightstown; and

**WHEREAS**, since the adoption of that Zoning Map, the Borough Council has adopted Ordinance No. 2004-20, which approved and adopted a Redevelopment Plan for the Borough of Hightstown; and

**WHEREAS**, the said Redevelopment Plan governs certain specific areas located within the Borough which have been designated as Redevelopment Zones; and

**WHEREAS**, these Redevelopment Zones include the following: Redevelopment Sub-Area I (Bank Street); Redevelopment Sub-Area II (South Academy Street); and Redevelopment Sub-Area III (Route 33); and

**WHEREAS**, the Borough Engineer has now prepared an updated Zoning Map which reflects and incorporates the three (3) Redevelopment Zones referenced above; and

**WHEREAS**, the Borough Engineer has also revised the Zoning Map in order to correct certain errors which were contained in the prior Zoning Map; and

**WHEREAS**, a copy of the updated and amended Zoning Map, as prepared by Roberts & Reymann Engineering, L.L.C. and dated January 2005, is attached hereto and made a part hereof; and

**WHEREAS**, the updated and amended Zoning Map has been reviewed and approved by the Borough Planner, as it relates to the newly adopted Redevelopment Zones; and

**WHEREAS**, the Borough Council, having considered the same, now wishes to approve and adopt the attached updated and amended Zoning Map so that it shall now represent the Official Zoning Map of the Borough of Hightstown pursuant to N.J.S.A. 40:55D-32; and

**WHEREAS**, the Borough Council also wishes to revise the Borough Code accordingly.



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

1. That, in accordance with N.J.S.A. 40:55D-32, the Borough Council hereby approves and adopts the attached amended and updated Zoning Map, as prepared by Roberts & Reymann Engineering, L.L.C. and dated January 2005, to represent the Official Zoning Map of the Borough of Hightstown.
2. That the adoption of the attached updated Zoning Map does not revise the classification or boundaries of any existing properties or districts within the Borough of Hightstown, but rather simply provides an updated depiction of the zoning districts of the Borough as previously established through Ordinances that have already been adopted by the Borough, including Ordinance No. 2004-20, which approved and adopted a Redevelopment Plan for the Borough of Hightstown.
3. That the attached updated Zoning Map shall supersede the prior Zoning Map of the Borough of Hightstown, which was dated June 2003.
4. That Subsection 28-3-2, entitled, "Zoning Map," of Section 28-3, "Districts Established; Zoning Map," of Chapter 28, "Zoning," of the "Revised General Ordinances of the Borough of Hightstown, New Jersey," is hereby amended and supplemented in the following respects (deletions are shown with ~~striethrough~~; additions are shown with underline):

**Subsection 28-3-2 Zoning Map.**

The boundaries of the districts are hereby established as shown on the Zoning Map, Borough of Hightstown, Mercer County, New Jersey dated ~~June 2003~~ January 2005, which, with all explanatory mater thereon, is hereby adopted and made a part of this Chapter by reference. Such map shall be kept on file in the offices of the Borough Clerk for the use and benefit of the public.

5. That, prior to the adoption of this Ordinance a copy of this Ordinance and the attached updated Zoning Map shall be forwarded to the Hightstown Borough Planning Board for its review and recommendation in accordance with N.J.S.A. 40:55D-26.
6. That, following the adoption of this Ordinance, a copy of this Ordinance and the attached updated Zoning Map shall be filed with the Mercer County Clerk's Office in accordance with N.J.S.A. 40:55D-16.
7. That the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.
8. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.
9. That this Ordinance shall take effect upon final passage and publication in accordance with the law, but not until a copy of this Ordinance and the attached updated Zoning Map have been filed with the Mercer County Clerk's Office pursuant to N.J.S.A. 40:55D-16.

**INTRODUCTION AND FIRST READING: ORDINANCE 2005-08,**

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO  
ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)**

Chief Financial Officer George Lang reviewed the provisions of Ordinance 2005-08 and recommended its adoption. The ordinance will provide the option for the Borough to increase its "inside the cap" appropriations by up to 3.5%, and, more importantly, will preserve our ability to utilize cap banking. Even though we may not need it this year, he said, we may need the ability to use cap banking in future years.

Ordinance 2005-08 was moved for introduction by Councilman Sikorski and seconded by Councilman Schneider.

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

**Ordinance introduced, 6-0.**

The public hearing and final reading for Ordinance 2005-08 was set for March 7, 2005.

**INTRODUCTION AND FIRST READING: ORDINANCE 2005-09,**

AN ORDINANCE TO AMEND SECTION 2-55.2 OF THE *REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN*, REGARDING FEES TO BE CHARGED FOR COPIES OF DOCUMENTS REQUESTED THROUGH THE MUNICIPAL PROSECUTOR FOR MUNICIPAL COURT DISCOVERY

Following a brief review by Mr. Raffetto and Ms. Gallagher, Ordinance 2005-09 was moved for introduction by Councilman Quattrone and seconded by Councilman Sikorski.

**Roll Call:** Councilmembers Laudenberger, Quattrone, Sakowitz, Schneider, Sikorski and Thompson voted yes.

**Ordinance introduced 6-0.**

The public hearing and final reading for Ordinance 2005-09 was set for March 7, 2005.

**INTRODUCTION AND FIRST READING: ORDINANCE 2005-10,**

AN ORDINANCE TO AMEND CHAPTER 18, "WATER AND SEWER," OF THE *REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN* TO ESTABLISH RATES FOR THE ACCEPTANCE AND PROCESSING OF CERTAIN FATS AND GREASES FROM COMMERCIAL ENTITIES

Following a brief review by Ms. Gallagher and Ms. Roberts, Ordinance 2005-10 was moved for introduction by Councilman Sikorski, seconded by Council President Schneider.

Councilman Quattrone commended AWWTP Superintendent Biff Searing for his work in "staying on top of things."

**Roll Call:** Councilmembers Laudenberger, Quattrone, Sakowitz, Schneider, Sikorski and Thompson vote yes.

**Ordinance introduced, 6-0.**

The public hearing and final reading for Ordinance 2005-10 was set for March 7, 2005.

## **RESOLUTIONS**

**RESOLUTION 2005-66, RESOLUTION REGARDING ACTIONS WITHIN HIGHTSTOWN BOROUGH BY THE UNITED STATES BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT**

Mayor Patten invited Dr. David Abalos to address Council with regard to this Resolution.

Dr. Abalos first reported that Police Sgt. Brian Rossi and East Windsor Police Lt. Brady recently participated in a meeting with about 250 members of the Hispanic community to explain various local ordinances and regulations, review

requirements with respect to driving and licenses, and discuss security issues and the needs of the community. It was a wonderful give-and-take, he said, and the officers were assured by a representative of those present that they will do everything they can "to make sure that we follow the laws of the towns."

Dr. Abalos expressed his strong support for Resolution 2005-66. This Resolution, he said, as well as an Executive Order issued in Trenton and what was done in Princeton, are attempts to reassure residents that, "when you live in this community, you're protected by laws and the U.S. Constitution, whether or not you're documented" and that everything possible will be done to make sure that they are secure in their homes. This Resolution, he said, does not confer any rights that are not already guaranteed by the U.S. Constitution and by Supreme Court rulings.

Dr. Abalos noted the distinction between the four law enforcement agencies: local, state, county and federal (ICE). Local police are most concerned, he said, about making sure that they have the trust and confidence of the community so that residents will not hesitate to come forward when a crime has been committed. He estimated that 20% to 25% of the Borough's population is now Latino. The main concern of local police is not to turn people over to ICE, but to make sure that local laws are being followed. If ICE does come in to the community, it is a courtesy for them to alert our local police department, and if there is a report that the person or persons ICE is seeking may be armed, then our local officers may need to be present to provide back up in that situation. The community understands and accepts this, he said. The issue of trust is crucial to the safety of the entire community, he said, because otherwise, crimes may not be reported.

In Hightstown, Dr. Abalos said, there is an established Puerto Rican community which has been here for 35 to 40 years, a Columbian community which has been here for about 15 years, and more recently, the Borough has seen arrivals from Ecuador, Guatemala, Honduras and Mexico. It is important to create a safety net for those who are here to help them with the difficulties they are facing. They come here, he said, because they can't survive elsewhere. For example, 15 million Mexican farmers are dependent on the production of corn for their livelihood, but American companies come in to Mexico and sell corn on the market at lower prices. Those who come here often work in landscaping, roofing, construction and service jobs. If we were to send back every undocumented person in this area, he said, many businesses would have to shut down. These are good, hardworking people who are facing the same troubles as were faced many years ago by Irish, Italian, and Polish immigrants. There is a fund into which undocumented immigrants pay social security and federal taxes. Generally, they earn low wages and often work two or three different jobs. It is extremely difficult to get documentation, he said.

Dr. Abalos closed his comments by saying that the gratitude of our Latino community for this country is tremendous. They are doing all that they can, he said, to live here with a sense of dignity and respect. He urged the governing body to adopt this Resolution.

Mayor Patten read Resolution 2005-66 aloud and in full, and stated that, if passed tonight, this will go far in advancing the trust of all in our local police and government. He added that he and Chief Eufemia have been invited to participate on the coming Sunday in a dialogue with the Latino community, and having adopted this Resolution would enhance the opportunity for them to present the positive attitude of our community.

Councilman Quattrone said that he learned a lot at this meeting, and would like to learn more about the issue before taking action. He suggested that action be tabled for at least two months. Mr. Raffetto noted that under Robert's Rules of Order, tabling is only appropriate as a temporary measure, for example, when waiting for someone to arrive later in the meeting. However, action could be "postponed" until a future meeting. After a brief discussion, Councilman Quattrone moved that action on this Resolution be postponed until March 7. That motion was seconded by Councilman Sikorski.

Discussion continued, and concern was expressed by some members of Council regarding the strong terms used in the language of the Resolution, such as a reference to "fear and outrage" among the Latino community.

Councilman Sikorski expressed his discomfort with the Resolution, and stated that he took an oath on January 1 “to uphold and protect the Constitution and our laws.” He asked about the legalities involved with warrants and arrests, and Mr. Raffetto stated that Chief Eufemia would be able to elaborate on this at the next meeting.

Councilwoman Laudenberger noted that this Resolution “did not come about because of the article in the paper.” Months ago, she said, raids in other local areas brought this issue to the forefront. At that point, the Equity Coalition decided to move toward formulating this Resolution, and Chief Eufemia has been working with them on it for quite awhile. He has put a lot of time and effort in this, she said. She expressed her support for the Resolution, and stated that all residents should feel safe in our community, whether or not they are citizens.

Discussion continued, and further concerns were expressed regarding the language of the Resolution and its implications. Mayor Patten suggested that adopting this Resolution would be an affirmation of Council’s oath to uphold the Constitution. Councilman Sikorski stated again that he was “uncomfortable with the wording and the timing, and I want more time to digest this.”

Councilman Quattrone asked for a definition of “undocumented immigrant.” Dr. Abalos stated that these are immigrants who are in this country without legal documents. “Illegal,” Mr. Quattrone said, “is against everything that this country is about.” He expressed concern that an undocumented immigrant could be a criminal in his or her own country, and we wouldn’t know about it. “That’s where ICE comes in,” he said. “They’re only after troublemakers and they’re doing their job.”

Council President Schneider stated that he is very concerned about the threat to public safety inherent in this – the possibility that crimes may be committed and go unreported due to fear of going to the police. However, he felt that action should be delayed until the wording of the Resolution can be reworked. Mayor Patten stated that it is important not to delay this beyond the next Council meeting. “There is that distrust, he said, and there are people that are being taken advantage of out there.” He suggested that, due to the issues with the language of the Resolution, it be postponed at this time.

A roll call vote was taken on the **motion to postpone action on this Resolution until March 7.**

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

**Motion carried (Resolution postponed), 6-0.**

## **RESOLUTION 2005-73, AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR AUCTION SERVICES WITH MAX SPANN AUCTION CO. FOR THE SALE OF SURPLUS MUNICIPAL LAND**

Mayor Patten introduced Max Spann and Robert Dann of Max Spann Auction Co., who addressed the governing body to provide an overview of the services they provide to municipal and governmental clients in the disposition of real estate. Their clientele include Hamilton (Morris County), Burlington, Chesterfield, Bordentown, Tewksbury, Lakehurst, and others. They would like to assist Hightstown in selling the lots on Academy Street.

Councilman Quattrone asked what fee they charge, and if the property could be sold with the provision that it be used for low income or affordable housing. Mr. Spann stated that the seller in an auction has nearly complete control of the terms of the sale, and we could require that. However, restrictions placed on the property do affect its market value. Their fee is charged to the buyer, not to the seller, and it is 10 percent of the final sale price.

Mr. Raffetto expressed some concern with the 10 percent buyer’s fee, since the Local Lands and Buildings Law caps the fee that a municipality may pay at five percent. Although technically this is a fee paid by the buyer, and not by the

municipality, he had some reservations due to the fact that the buyer would likely take that fee into consideration when formulating their maximum bid. Mr. Spann spoke of the strong marketing efforts that the firm provides, and stated that buyer's premiums have been shown to net sellers the most money.

Mayor Patten asked about the pricing of the property. Mr. Spann stated that there are three types of auctions: (1) a simple auction where the final bid is the final sales price; (2) an auction with a publicly stated reserve – which, he said, must be attractive enough to create the incentive to bid; and (3) an auction with an undisclosed reserve, which would be his recommendation. Council would have the option of approving or disapproving whatever the final bid turns out to be. Mr. Spann recommended that the Borough speak with the Mayors or Administrators of other towns which they have represented, and said that he hopes to have the opportunity to represent Hightstown in this sale.

Mr. Raffetto suggested that the agreement be amended to clarify that the firm, if retained, would be retained only for this sale, and noted other parts of the agreement where blanks would need to be filled in, including the date of the proposed sale. He added that he will need to further research the issue of the 10 percent buyer's premium. Mr. Spann stated that other municipal attorneys have questioned this also, and his firm is unique in the greater New Jersey area in handling these sales in that way.

After some discussion, it was generally agreed that this Resolution would be postponed until these issues could be resolved, and until the lots have been officially consolidated and their sale could be formally authorized. A formal **motion to postpone action on the Resolution until March 7** was made by Councilwoman Laudenberger, seconded by Councilman Sikorski. A roll call vote was taken.

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

**Motion carried (Resolution postponed), 6-0.**

## BUDGETARY RESOLUTIONS

**Resolution 2005-67** was moved by Councilman Sikorski, seconded by Councilwoman Laudenberger.

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

**Resolution adopted, 6-0.**

### **RESOLUTION 2005-67      AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS PRIOR TO ADOPTION OF THE 2005 BUDGET**

**WHEREAS**, an emergent condition has arisen with respect to inadequate appropriation balances remaining in some line items of the 2005 temporary budget; and

**WHEREAS**, N.J.S.A. 40A:4-20 provides for the creation of emergency appropriations for the purposes above mentioned; and

**WHEREAS**, it is the desire of the Mayor and Council to create emergency temporary appropriations as set forth on Schedule "A," attached; and

**WHEREAS**, the total emergency temporary appropriations in resolutions adopted in the year 2005 pursuant to the provisions of N.J.S.A. 40A:4-20 (Chapter 96, P.L. 1951, as amended), including this resolution, total:

	<i>THIS RESOLUTION</i>	<i>PREVIOUS TOTAL</i>	<i>CUMULATIVE TOTAL</i>
Current	51,852.50	116,500.00	<b>168,352.50</b>
Capital Outlay – Current	0.00	0.00	<b>0.00</b>
Debt Service - Current	0.00	252,118.00	<b>252,118.00</b>
Water/Sewer	47,000.00	22,100.00	<b>69,100.00</b>
Capital Outlay – W/S	0.00	0.00	<b>0.00</b>
Debt Service - W/S	0.00	594,430.00	<b>594,430.00</b>
<b>TOTAL</b>	<b>98,852.50</b>	<b>985,148.00</b>	<b>1,084,000.50</b>

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Hightstown (not less than two-thirds of all the members of thereof affirmatively concurring) that, in accordance with N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation is hereby made for each item listed on the schedules that are attached hereto and made a part hereof.
2. Each emergency appropriation listed will be provided for in the 2005 budget under the same title as written herein;
3. One certified copy of this resolution will be filed with the Director of Local Government Services, and a copy provided to the Treasurer.

## CONSENT AGENDA

**Resolutions 2005-68, 69, 70 and 72** were moved by Councilwoman Laudenberg, seconded by Councilman Sikorski.

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

**Resolutions adopted, 6-0.**

### **RESOLUTION 2005-68      AUTHORIZING APPLICATION FOR A RECYCLING TONNAGE GRANT**

**WHEREAS**, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

**WHEREAS**, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

**WHEREAS**, the New Jersey Department of Environmental Protection and Energy is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

**WHEREAS**, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

**WHEREAS**, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling, and will indicate the assent of the Mayor and Council of the Borough of Hightstown to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations;

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

1. The Borough of Hightstown hereby endorses the submission of a recycling tonnage grant application to the New Jersey Department of Environmental Protection.
2. Lawrence Blake, Public Works Superintendent, 148 North Main Street, Hightstown, New Jersey 08520, is hereby designated and directed to ensure that the application is properly completed and timely filed;
3. Monies received from the recycling tonnage grant shall be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

**RESOLUTION 2005-69****AUTHORIZING INTERLOCAL AGREEMENT WITH EAST WINDSOR TOWNSHIP FOR SENIOR SERVICES**

**WHEREAS**, with the adoption of Resolution 2004-63 on February 17, 2004, the Borough Council approved an Interlocal Service Agreement with the Township of East Windsor for the provision of Senior Services for the period March 1, 2004 through February 28, 2005; and

**WHEREAS**, the parties desire to enter into a successor agreement to continue the provision of Senior Services to the Borough by the Township of East Windsor through February 28, 2006; and

**WHEREAS**, the Interlocal Services Act, N.J.S.A. 40:8A-1 et seq. authorizes the approval of Interlocal Service Agreements by Resolution; and

**WHEREAS**, the Mayor and Council have reviewed the proposed Interlocal Service Agreement for Senior Services for the period March 1, 2005 through February 28, 2006, which agreement is attached hereto and made a part hereof; and

**WHEREAS**, the Borough's net share of costs for these services, by the terms of this agreement, will be Twenty Two Thousand Nine Hundred and Fifteen Dollars and Fifty-Three Cents (\$22,915.53) for this 12-month period; and

**WHEREAS** the Chief Financial Officer has certified the extent to which funding for this expenditure is available;

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

1. The attached Interlocal Service Agreement with the Township of East Windsor for Senior Services for the period March 1, 2005 through February 28, 2006 is hereby approved, in accordance with the provisions of N.J.S.A. 40:8A-4.
2. The Mayor and Borough Clerk are hereby authorized and directed to execute the attached agreement for same.
3. Continuation of this agreement beyond December 31, 2005 is subject to the provision of adequate funds in the Borough's 2006 budget.

**RESOLUTION 2005-70****AUTHORIZING ADDITIONAL TAXICAB FOR USE BY CESAR S. GUZHNAV ("MEGA TAXI")**

**WHEREAS** Cesar S. Guzhnav ("Mega Taxi") has been granted a 2005 taxicab owner's license by the Hightstown Borough Council; and

**WHEREAS** Mr. Guzhnav wishes to include an additional vehicle in his fleet as follows:

**2000 Ford Crown Victoria  
VIN # 2FAFP71W1YX110253**

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

1. Addition of the vehicle described herein to the taxicab license of Cesar S. Guzhnav ("Mega Taxi") is hereby approved, subject to approval by the Chief of Police.
2. The Borough Clerk is hereby authorized to provide appropriate documentation to Mega Taxi to facilitate the use of said vehicle.

**RESOLUTION 2005-72****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 Mayor, the appropriate Councilmember and the Treasurer in the amount of **\$9,970,620.27** from the following accounts:

Current	\$ 2,201,191.74
W/S Operating	347,442.20
General Capital	5,629,434.08
W/S Capital	1,759,190.00
Animal Control	687.00
Trust	2,880.00
Public Defender	200.00
Grant	130.00
RCA-COAH	28,725.00
Escrow – Subdivision & Site Plan (First Washington Bank)	740.25
<b>Total</b>	<b><u>\$ 9,970,620.27</u></b>

## **NEW BUSINESS**

### **REVALUATION OF BOROUGH PROPERTIES**

Ms. Gallagher stated that the Borough Tax Assessor has recommended that the Borough undertake a revaluation of its assessments. In addition, Mercer County Tax Administrator Martin Guhl has indicated that he will be *ordering* a revaluation for Hightstown. The cost is estimated at \$120,000, Ms. Gallagher said, and can be spread over the budgets of the next five years. Mr. Raffetto stated that it is his understanding that, if we are ordered to revalue, that order will be received in 2005 and it would be requested that the revaluation be in place for 2008. Further information will be provided as it becomes available.

## **CORRESPONDENCE**

The following items of correspondence were included in the meeting packets, noted for the record and placed on file in the Borough Clerk's office:

- Letter from GHEWIP commending the Borough's Public Work's department
- Tax/Water/Sewer Collector's Report – January 2005
- Letter from Comcast regarding renewal of their CATV Franchise

## **PUBLIC COMMENT II**

Mayor Patten opened the floor to public comment.

**Eugene Sarafin**, 600-628 South Main Street, was pleased to hear that the Borough will be having a revaluation, and urged that we "hire professionals" to do the work. With respect to Resolution 2005-66, Mr. Sarafin stated, "ICE is a terrible operation – they respect no one. They're incompetent – keep them out." He commended Council for a "great job." "You do process things," he said, "and make an effort." He closed by saying that a motion to table is a maneuver to stop debate on an issue.



No one else came forward and the floor was closed.

## **EXECUTIVE SESSION**

The Borough Clerk read aloud **Resolution 2002-71**, authorizing a closed session for the purpose of discussing the Presbyterian Homes tax appeal litigation and anticipated litigation. The Resolution was moved by Councilman Sikorski, seconded by Council President Schneider.

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

**Resolution adopted, 6-0.**

### **RESOLUTION 2005-71      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 February 22, 2005 at approximately 9:25 p.m. at Borough Hall 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:

#### **Tax Appeal Litigation – Presbyterian Homes Anticipated Litigation**

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: May 22, 2005 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.

Upon reconvening into open session, adjournment was moved by Councilwoman Laudenberger, seconded by Councilman Sackowitz and unanimously approved. The meeting was adjourned at 9:40 p.m..

Respectfully submitted,

Candace B. Gallagher, RMC  
Borough Clerk