

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>Councilmember Harinxma</i>	✓	
<i>Councilmember Quattrone</i>	ARRIVED LATER IN MEETING	
<i>Councilmember Rosenberg</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; James M. Eufemia, Chief of Police and Frederick Raffetto, Esq., Borough Attorney.

APPROVAL OF AGENDA

The agenda was moved by Councilmember Sikorski, seconded by Councilmember Rosenberg and unanimously approved as submitted.

APPROVAL OF MINUTES

Minutes of the June 19, 2006 open session were moved by Councilmember Sikorski, seconded by Councilmember Harinxma and unanimously approved as submitted.

PUBLIC COMMENT I

Mayor Patten opened the floor for public comment.

Phyllis Deal, 305 Stockton Street, stated that, when she first moved to her residence on Stockton Street 30 years ago, houses there did not look like they do today – they were “all white with black shutters.” That, however, she said, “doesn’t make it historically correct – Victorians did whatever they pleased.” She noted that her home is historically correct, except for the siding, and said that she does not feel that “we are in a place to tell people that they can’t put up siding, or what colors to paint their houses. That’s overstepping the bounds of what the Historical Commission was set up to do.” Ms. Deal added that she would have voted against the establishment of a historic district if that intention was stated at

the time. "I don't like the direction this is going in," she said, adding that her siding, like that of Dan Buriak's home, is designed to look like wood, but is *not* wood siding, as she does not want to "pay to paint every few years."

Torry Watkins, 68 Meadow Drive, addressed Council regarding several issues:

- He stated that "Phyllis [Deal] is right on track," and advised the Mayor and Council to listen to her and to others who are raising objections about the possibility of restrictions in the Historic District.
- He asked Council to pull Resolution 2006-170 from the consent agenda for further comment.
- He objected to the recent replacement, outside the courtroom, of the non-working water cooler with a dispenser of bottled water, saying that it is an "insult to the public to ask them to come to the courtroom and pay to drink water when we have some of the finest drinking water obtainable in the United States."

J.P. Gibbons, 602 N. Main Street, reported that signs have been placed across the street at the corner advertising the nail studio. He also stated that this agenda includes a Resolution to approve a Developer's Agreement with a developer who "continuously violated" the terms of their developer's agreement for North Preserve. He noted a "tree line that moved 10 feet" and asked Council to "give more consideration to prior problems" with this developer.

ORDINANCES

PUBLIC HEARING AND FINAL READING: ORDINANCE 2006-17,

ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION IN THE AMOUNT OF \$15,000 FOR EXPENSES RELATED TO THE PREPARATION AND EXECUTION OF A COMPLETE REVALUATION OF REAL PROPERTY IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY

Following a brief review by Ms. Gallagher, Mayor Patten opened the public hearing on Ordinance 2006-17. No one came forward and the hearing was closed.

Ordinance 2006-17 was moved for adoption by Council President Schneider and seconded by Councilmember Sikorski.

Roll Call: Councilmembers Harinxma, Rosenberg, Schneider, Sikorski and Thompson voted yes.
Councilmember Quattrone was absent.

Ordinance adopted, 5-0.

ORDINANCE 2006-17 **ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION IN THE AMOUNT OF \$15,000 FOR EXPENSES RELATED TO THE PREPARATION AND EXECUTION OF A COMPLETE REVALUATION OF REAL PROPERTY IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY**

WHEREAS, on May 1, 2006, the Borough of Hightstown was ordered by the Mercer County Board of Taxation to implement a municipal-wide revaluation to be completed by September 30, 2007 and to be effective for the 2008 tax year; and

WHEREAS, *N.J.S.A. 40A:4-53* authorizes a municipality to adopt an ordinance authorizing special emergency appropriations for this purpose, and

WHEREAS, *N.J.S.A. 40A:4-55* provides that, following adoption of said ordinance, the municipality shall, by a 2/3 vote of the full governing body, adopt a Resolution setting forth the amount appropriated and providing for the issuance of "Special Emergency Notes," at least 1/5 of which shall mature and be paid in each year; and

WHEREAS, it is necessary to provide funding at this time for updates to the Borough's tax maps which are necessary in order to bring them into compliance with the State of New Jersey Tax Map Regulations and Standards prior to beginning the revaluation;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hightstown (not less than two-thirds of all the members thereof affirmatively concurring) as follows:

Section 1. Tax map updates related to the preparation and execution of a complete program of revaluation of real property for use by the local assessor in and by the Borough of Hightstown are hereby authorized, and a special emergency appropriation of \$15,000 is hereby authorized pursuant to the Local Budget Law (N.J.S.A. 40A:4-53).

Section 2. A copy of this ordinance as finally adopted shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey.

Section 3. This Ordinance shall take effect in accordance with applicable law.

INTRODUCTION AND FIRST READING: ORDINANCE 2006-18,

BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF WATER METERS IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$250,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$238,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Ms. Gallagher stated that this Ordinance would provide an appropriation for the purchase of approximately 1,700 "radio read" water meters as a part of the Borough's continuing program to replace all meters in the Borough with meters that can be read with a device that eliminates the need to read each meter individually. The quarterly meter readings that previously took two employees one to two weeks to complete will be able to be accomplished by one person in one day or less. A trial program was begun during 2005 and is working well, she said, and added that, in addition to the efficiency of the new system, it is likely that readings will be more accurate with the new meters.

Ordinance 2006-18 was moved for introduction by Councilmember Thompson and seconded by Council President Schneider.

Councilmember Quattrone arrived at the meeting at this time.

Councilmember Sikorski asked if this could be financed other than through a bond ordinance. Ms. Gallagher stated that it could be included as a line item in the budget, but that would not be her recommendation. Council President Schneider asked if the "payback period" had been computed. Ms. Gallagher stated that it has not.

Councilmember Quattrone noted that the new meters will give water department personnel "more time to do their job." "It's a great way to read the meters," he said, "...almost flawless."

Roll Call: Councilmembers Harinxma, Quattrone, Schneider, Sikorski, Rosenberg and Thompson voted yes.

Ordinance introduced, 6-0.

The public hearing and final reading for Ordinance 2006-18 was set for August 7, 2006.

RESOLUTIONS

RESOLUTION 2006-161, A RESOLUTION AUTHORIZING THE ISSUANCE OF \$15,000 SPECIAL EMERGENCY NOTES FOR EXPENSES RELATED TO THE PREPARATION AND EXECUTION OF A COMPLETE REVALUATION OF REAL PROPERTY IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY

Following a brief review by Ms. Gallagher, Resolution 2006-161 was moved by Councilmember Sikorski and seconded by Councilmember Harinxma.

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, Schneider, Sikorski and Thompson voted yes.

Resolution adopted, 6-0.

RESOLUTION 2006-161 A RESOLUTION AUTHORIZING THE ISSUANCE OF \$15,000 SPECIAL EMERGENCY NOTES FOR EXPENSES RELATED TO THE PREPARATION AND EXECUTION OF A COMPLETE REVALUATION OF REAL PROPERTY IN AND BY THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY

WHEREAS, on May 1, 2006, the Borough of Hightstown was ordered by the Mercer County Board of Taxation to implement a municipal-wide revaluation to be completed by September 30, 2007 and to be effective for the 2008 tax year; and

WHEREAS, it is necessary to provide funding at this time for updates to the Borough's tax maps which are necessary in order to bring them into compliance with the State of New Jersey Tax Map Regulations and Standards prior to beginning the revaluation; and

WHEREAS *N.J.S.A. 40A:4-53* authorizes a municipality to adopt an ordinance authorizing special emergency appropriations for this purpose, and such Ordinance, numbered 2006-17, was finally adopted by the Borough of Hightstown on July 17, 2006; and

WHEREAS, *N.J.S.A. 40A:4-55* provides that, following adoption of said ordinance, the municipality shall, by a 2/3 vote of the full governing body, adopt a Resolution setting forth the amount appropriated and providing for the issuance of "Special Emergency Notes," at least 1/5 of which shall mature and be paid in each year;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown in the County of Mercer, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) as follows:

1. Ordinance 2006-17, authorizing a special emergency appropriation of \$15,000 for expenses related to the preparation and execution of a complete program of revaluation of real property for the use of the local assessor, has been finally adopted by the Borough of Hightstown (the "Borough") in accordance with the provisions of *N.J.S.A. 40A:4-53*.
2. In order to finance the special emergency appropriation described in Section 1 of this resolution, the Borough is hereby authorized to borrow the sum of \$15,000 and to issue special emergency notes therefor in accordance with the Local Budget Law of New Jersey (*N.J.S.A. 40A:4-55*).
3. The special emergency notes authorized by this resolution may be issued in amounts and denominations not exceeding in the aggregate the amount of notes authorized herein, as determined by the chief financial officer of the Borough pursuant to this resolution.
4. The Borough may finance the special emergency appropriation from surplus funds available or may borrow money in a manner prescribed herein. Where an appropriation is financed from surplus funds available, at least one-fifth of the amount thereof shall be included in each annual budget until the appropriation has been fully provided for. The following matters in connection with the notes are hereby determined:

- (a) All notes issued hereunder and any renewals thereof shall mature at such time as may be determined by the chief financial officer within the limitations of the Local Budget Law, provided however, that at least one-fifth of all such notes and the renewals thereof shall mature and be paid in each year so that all notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the date of this resolution;
 - (b) All notes issued hereunder shall bear interest at such rate or rates as may be determined by the chief financial officer;
 - (c) The notes shall be in the form determined by the chief financial officer and the chief financial officer's signature upon the notes shall be conclusive as to such determination;
- 5. The chief financial officer is hereby authorized and directed to determine all matters in connection with the notes not determined by this or a subsequent resolution and the chief financial officer's signature upon the notes shall be conclusive as to such determination.
 - 6. The chief financial officer is hereby authorized to sell the notes from time to time at public or private sale in such amounts as such officer may determine at not less than par and to deliver the same from time to time to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof and payment therefor.
 - 7. Any instrument issued pursuant to this resolution shall be a general obligation of the Borough. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations and, unless otherwise paid or payment provided for, an amount sufficient for such payment shall be inserted in the budget and a tax sufficient to provide for the payment thereof shall be levied and collected.
 - 8. The chief financial officer is authorized and directed to report in writing to this governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this resolution is made, such report to include the amount, description, interest rate and maturity of the notes sold, the price obtained and the name of the purchaser.
 - 9. A copy of this resolution as adopted shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey.
 - 10. This resolution shall take effect immediately.

RESOLUTION 2006-162, AUTHORIZING PROFESSIONAL SERVICES AGREEMENT FOR UPDATES TO BOROUGH TAX MAP

Following a brief review by Ms. Gallagher and Ms. Roberts, Resolution 2006-162 was moved by Councilmember Quattrone and seconded by Councilmember Thompson.

Ms. Roberts noted that the maps will be converted during this process to a digital format. Currently, they are Mylar copies that must be corrected and redrawn by hand.

Councilmember Sikorski asked Mr. Raffetto if properties of unknown ownership would be incorporated into this tax map. Mr. Raffetto replied that part of Ms. Roberts' work would involve a review of those properties. Council President Schneider asked about the benefits of digital mapping, and if the price quoted includes the conversion of all of the Borough's tax maps to digital format. Ms. Roberts stated that the price does include the conversion of all of the Borough's digital maps. Digital maps must still be drawn by hand (or in some cases scanned) the first time, but revisions over time are done with the ease of word processing. Images can be enlarged or reduced, and lines can be moved in minutes. It allows more flexibility, and revisions are far less time consuming. She noted that, each year, her office updates our tax maps with any lot changes which took place during the prior year.

Councilman Quattrone asked if the construction office's digital files and the work that the Environmental Commission is hoping to accomplish with placing the location of shade trees could be added to the digital map. Ms. Roberts stated that the map would be in AutoCAD format, and the files Mr. Quattrone is referring to are GIS files. They would not be compatible.

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, Schneider, Sikorski and Thompson voted yes.

Resolution adopted, 6-0.

**RESOLUTION 2006-162 AUTHORIZING PROFESSIONAL SERVICES AGREEMENT FOR UPDATES TO
BOROUGH TAX MAP**

WHEREAS, on May 1, 2006, the Borough of Hightstown was ordered by the Mercer County Board of Taxation to implement a municipal-wide revaluation to be completed by September 30, 2007 and to be effective for the 2008 tax year; and

WHEREAS, updates to the Borough's tax maps are necessary in order to bring them into compliance with the State of New Jersey Tax Map Regulations and Standards prior to beginning the revaluation; and

WHEREAS, the necessary work must be performed by a professional engineer; and

WHEREAS, the firm of Roberts & Reymann Engineering, LLC has offered to perform such services as set forth in the attached letter dated December 28, 2005 for an amount not to exceed \$14,600.00; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "professional services" without public advertising for bids and bidding therefor, provided that the Resolution authorizing the contract and the contract itself are available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation within the municipality; and

WHEREAS Ordinance 2006-17 and Resolution 2006-161 have been adopted by the Mayor and Council in accordance with *N.J.S.A. 40A:4-53 et seq.* and provide an appropriation of \$15,000.00 for this expense and the financing of same through the issuance of special emergency notes;

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

1. That the Mayor is authorized to execute and the Borough Clerk to attest a professional services agreement between the Borough of Hightstown and Roberts & Reymann Engineering, LLC for updates to the Borough's tax maps as set forth herein, for an amount not to exceed \$14,600.00.
2. That this contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because Roberts & Reymann, LLC is a firm whose engineers are authorized by law to practice a recognized profession.
3. That notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the Borough.
4. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Carmela Roberts, P.E., Borough Engineer
 - b. Arlene O'Rourke, Borough Treasurer
 - c. George Lang, Borough Chief Financial Officer
 - d. Ken Pacera, Tax Assessor
5. That a copy of this Resolution as well as the agreement shall be placed on file in the office of the Borough Clerk.

RESOLUTION 2006-163, AUTHORIZING PARTICIPATION IN MUNICIPAL ASSESSMENT PROGRAM –
STONY BROOK - MILLSTONE WATERSHED ASSOCIATION

Ms. Gallagher provided an overview of the Municipal Assessment Program offered by the Stony Brook – Millstone Watershed Association, as presented by Jennifer Coffey of that organization at the June 5th Council meeting. The program is offered at no cost to the Borough, she said, and would assist the Borough in identifying and achieving long-term planning goals. Work could begin in the fall or early winter.

Resolution 2006-163 was moved by Councilmember Thompson and seconded by Councilmember Sikorski.

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, Schneider, Sikorski and Thompson voted yes.

Resolution adopted, 6-0.

RESOLUTION 2006-163 AUTHORIZING PARTICIPATION IN MUNICIPAL ASSESSMENT PROGRAM –
STONY BROOK - MILLSTONE WATERSHED ASSOCIATION

WHEREAS the Stony Brook-Millstone Watershed Association ("SBMWA") is a nonprofit regional association overseeing the 265 square miles that make up the Millstone Watershed, of which Hightstown Borough is a part; and

WHEREAS the SBMWA is conducting a Municipal Assessment Program designed to assist municipalities in achieve their own unique vision while protecting the natural environment, and to provide a comprehensive analysis of how a municipality's land use, zoning, and other ordinances support its vision; and

WHEREAS on June 5, 2006, a representative of the SBMWA appeared before the Borough Council to seek the Borough's participation in said Program; and

WHEREAS there is no cost to the Borough to participate in the program, as it is fully funded by grants from the U.S. Environmental Protection Agency and the Geraldine R. Dodge Foundation; and

WHEREAS the Hightstown Environmental Commission and the Hightstown Planning Board have each endorsed this program;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough desires and intends to actively participate in the Municipal Assessment Program being conducted by the Stony Brook-Millstone Watershed Association, as presented to the Borough Council by the SBMWA on June 5, 2006, and that the Mayor is hereby authorized to execute, and the Borough Clerk authorized to attest, any and all documents necessary to effectuate same, subject to review and approval of the Borough Attorney.

ENGINEER'S ITEMS

RESOLUTION 2006-164, AUTHORIZING PAYMENT NO. 2 AND CHANGE ORDER NO. 1 – JONICO, INC.
(GREENWAYS, PHASE II PROJECT)

Ms. Roberts reviewed the provisions of Resolution 2006-164. Councilman Quattrone asked if fences would be installed at the Greenway, and Ms. Roberts replied that fences were put in near Dawes Park that day. Fencing will also be installed on Academy Street near the park and on a portion of Cranbury Station Road near Mount's Garage. Mr. Quattrone asked Chief Eufemia, "Are you okay with the Greenway so far?" The Chief replied that he would prefer to defer judgment on that until a bit more time passes. He said that he did meet with Ms. Roberts and Roger Cook regarding some items, and "all came to a good conclusion."

Resolution 2006-164 was moved by Councilmember Rosenberg and seconded by Councilmember Harinxma.

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, Schneider, Sikorski and Thompson voted yes.

Resolution adopted, 6-0.

**RESOLUTION 2006-164 AUTHORIZING PAYMENT NO. 2 AND CHANGE ORDER NO. 1 – JONICO, INC.
(GREENWAYS, PHASE II PROJECT)**

WHEREAS, on March 20, 2006 the Borough Council awarded a contract for the Greenways, Phase II project to Jonico, Inc. of Lambertville, NJ in the amount of two hundred and one thousand five hundred thirty-three (\$201,533.00) Dollars; and

WHEREAS, the contractor has submitted Change Order No. 1 to this contract in the net amount of \$14,380.00, as detailed on the attached documentation; and

WHEREAS, the contractor has also submitted Payment Request No. 2 for work done in the total amount of \$110,914.93, together with the required certified payrolls; and

WHEREAS, the Borough Engineer has recommended approval of Change Order No. 1 and Payment Request No. 2;

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

1. Change Order No. 1 to the contract with Jonico, Inc. of Lambertville, New Jersey, in the net amount of \$14,380.00 is hereby approved, and the Mayor is authorized to execute same.
2. By virtue of the approval of Change Order No. 1, the revised contract price is Two Hundred Fifteen Thousand Nine Hundred and Thirteen (\$215,913.00) Dollars.
3. Payment Request No. 2 by Jonico, Inc. in the amount of \$110,914.93 is hereby approved, and the Treasurer is authorized to issue same.

**RESOLUTION 2006-165, AUTHORIZING DEVELOPER'S CONSTRUCTION AGREEMENT WITH
D. M. PROPERTIES, INC. - SOUTH ACADEMY STREET MAJOR SUBDIVISION**

Ms. Roberts reviewed the provisions of Resolution 2006-165, which would approve a Developer's Construction Agreement with D. M. Properties relative to their major subdivision on South Academy Street (adjacent to the property recently auctioned by the Borough). Two duplexes will be built and certain public improvements made related to stormwater, water and sewer. Most of the Borough's interest, she said, is related to the work in the street.

In light of comments made earlier during Public Comment by J. P. Gibbons, a lengthy discussion ensued.

Mayor Patten asked how often an inspector would be onsite. Ms. Roberts replied that, during construction, an inspector would probably be there everyday. They will be there throughout the street work while connections are being made, she said, and after that, will check onsite periodically. They will inspect the driveway construction, lot grading and landscaping.

Councilman Thompson asked Ms. Roberts to comment regarding the Borough's history with this developer, particularly with respect to the North Preserve development. The Developer's Agreement for that project, Ms. Roberts said, involved an extension of the Borough's sanitary sewer, the paving of a good length of Maple Avenue and three water/sewer services on North Main Street. It was a lot with large, beautiful trees and the Planning Board was specific about the trees to be removed and protected. Ms. Roberts said that she was called to the site a number of times when the contractor was not following what was in the Developer's Agreement and added that the agreement had apparently not gotten to the contractor.

Councilmember Harinxma asked what safeguards could be put into place to prevent problems from happening. "After a tree is chopped down, we can't do anything," she added. Ms. Roberts stated that, in the case of North Preserve, the Developer's Agreement was modified and the developer was required to install other and more trees. That incident

happened, she said, "because the developer jumped the gun and started ahead of time." She pointed out that there are not many trees, if any, on the South Academy Street lot which is the subject of this agreement. "What we need to be careful about," she said, "is the general housekeeping of this development -- that people in that area are not disturbed." The Borough can specify allowable days and times for construction, and when deliveries can be made. Ms. Roberts stated that there is "some basis for being a little concerned about the contractor doing proper work and we'll need to spend more time there."

Mayor Patten asked Ms. Roberts to comment on the location of the trees in question at the North Preserve site. Ms. Roberts stated that, when the developer came to the Planning Board, there were a number of large evergreens at the property line. "Their plan," she said, "showed the trees to be in a place that Mr. Gibbons did not agree with. We had the plan resurveyed... At the end of a few go rounds, we found that the tree was on the developer's side of the property line, according to that surveyor."

Mayor Patten asked if there was litigation surrounding this issue. Mr. Raffetto recalled that there was, and that the survey showed the tree to be on the developer's property.

Councilman Thompson asked what remedies the Borough would have "if the developer was egregious." "We can stop construction," Ms. Roberts said. "I've done it. It is costly to a developer and I don't do it lightly." Mr. Thompson asked, "In this case, would the Borough be able to not name that developer?" Ms. Roberts replied that the Planning Board grants approval of the subdivision, and the Borough enters into a Developer's Agreement. Mr. Raffetto stated, "There is nothing in the law that authorizes us to rule out a developer based on prior negative experience. You can keep a close watch, and there are some provisions in the agreement about providing notice, etc., and the developer must agree not to proceed when a stop work order issued. There is enforcing power built into the agreement. Carmela is saying that there will be strict and constant oversight." Councilman Thompson asked Ms. Roberts if she is comfortable with the language of this agreement. "Yes," she said. "It has been effective for me in the past."

Council President Schneider asked if the property is in a Redevelopment Zone. Ms. Roberts stated that it is, but there is no Redevelopment Plan in place for this area. This was a typical Planning Board application, she said. Mr. Schneider asked if the requirements in the agreement could be modified to include Council's concerns. "I would like to see this be a little stronger," he said. "I don't want to delay it, but I don't want to be running into an issue where there are questionable surveys."

Mayor Patten asked if the Planning Board put into place any restrictions regarding trees at this site. Ms. Roberts stated that trees were not an issue at the Planning Board. "There was an error on the North Preserve survey," she said, "... the first time I have seen an error. The mistake was corrected. I don't know how it developed." Mayor Patten asked who gave permission for that tree to be taken down ahead of time. Ms. Roberts replied that it did not come from her office and she believes it was approved by the Construction Official, who "believed he was doing the right thing."

Councilman Sikorski asked if the \$21,750 fee to paid toward affordable housing under this agreement would be multiplied by four. Mr. Raffetto stated that it would, as it is a "per unit" fee. Mr. Sikorski noted that the agreement includes a provision that no construction permit would be issued until the developer "has satisfied all terms and conditions of the Planning Board approvals." Ms. Roberts added that there are other approvals needed as well. The developer's agreement must be executed and a performance bond provided before it becomes a "legal major subdivision," she said.

Councilman Thompson asked, "So we have the ability to influence the language in this agreement, but not the authority to choose who the developer is going to be, unlike redevelopment?" "Yes," Ms. Roberts replied. "This is more like a typical Planning Board application, even though it is in a redevelopment zone." She added that we make each Developer's Agreement specific to the project it covers.

Mayor Patten asked if there were problems with Grant Preserve (the first development in the Borough by D. M. Properties). "No," she replied. Mr. Patten asked if there have been problems with Old Hights Overlook, Enchantment and the Main Street revitalization project. "Yes," she said. "To have problems during construction is not unusual."

Councilmember Harinxma asked if a stronger presence by inspectors at the site would help to prevent some of the problems that have happened before, and if it is possible to do that. "It can happen," Ms. Roberts said. "We've had an inspector in the Borough nearly everyday all year."

Councilman Sikorski asked if this project went through the Architectural Review Subcommittee. "Yes," Ms. Roberts replied. "As of last Friday, I received formal notification that the committee was satisfied with the plans." It was noted that this is an informal review committee made up of four Planning Board members who meet with applicants and make suggestions regarding how they believe their plans might be modified to make them more suitable to the surrounding neighborhood. In this case, there were a number of these meetings during the Planning Board's review, and the developer completely revamped their architectural plans based on the committee's recommendations.

At this time, Resolution 2006-165 was moved by Councilmember Thompson and seconded by Council President Schneider. Discussion continued.

Council President Schneider stated that his concern is regarding any actions the developer might take without approval that could be irreversible (whether it is cutting down a tree or tearing apart a roadway). He asked if a provision could be included in the agreement which would require that in a case like that, the agreement would be "put on hold and would come back to Council." Mr. Raffetto stated that the Borough has the ability to take a developer to court and obtain an immediate injunction to stop them from moving forward, and Ms. Roberts added that she too has the ability to issue a Stop Work Order immediately. "Enforcement mechanisms are built in," she said. The Mayor asked, "How do you enforce the agreement if the developer refuses to comply?" Ms. Roberts stated that, fortunately, she has not encountered that situation, but if she did, she would refer the matter to either the Chief of Police or the Borough Attorney. Chief Eufemia stated that he has seen Stop Work Orders issued, and each time, contractors have complied immediately. "There is too much at stake for them not to," he said. "I've never seen the need for criminal enforcement." Mr. Raffetto stated that he would be able to obtain an order of court that would prevent work even beyond a Stop Work Order, but just the SWO has been enough in the past.

Mayor Patten noted that this agreement is consistent with other Developer's Agreements approved by the Borough in the past, and questioned whether it is appropriate to require this developer to meet more stringent requirements "due to rumors out there." "Are we going to be that strict with other developers?," he asked. Mr. Raffetto stated, "You can modify this agreement as you see fit, but I feel comfortable with it, as does Carmela."

Council President Schneider asked what would happen in the event of an instance such as a tree being cut down without approval. Mr. Raffetto stated that, in that event, the developer would be held responsible for restitution. Mr. Schneider again suggested that, as a deterrent to that sort of thing, a provision be included that would put the entire agreement on hold, and require the developer to come back to Council in order for it to be reinstated.

Councilman Sikorski noted that Mr. Wetterskog has enforcement powers and can issue Stop Work Orders also, with fines of up to \$5,000 per day. "He is pretty active on watching these sites," he said, "as is Carmela." He noted that the agreement includes an extensive provision making the developer responsible for any and all damage to public and private property.

Councilman Thompson stated that, based on the recommendations of Ms. Roberts and Mr. Raffetto, he feels comfortable moving forward with the agreement as written, but he would not object to adding language to address the concerns expressed by Council President Schneider and Councilmember Harinxma. He added that "the comments brought forward by a member of the public do add a different gravity to this."

Mayor Patten asked Council to "be careful not to punish someone for what someone else may have done."

Council President Schneider asked the Borough Attorney for his recommendations. Mr. Raffetto stated once again that he feels comfortable with the agreement as currently written, but if it is Council's wish, he could add language along the lines of bringing it back to Council with the threat of revocation in the event of noncompliance. The agreement could be approved at this meeting with the provision that he make that amendment to the language. Mayor Patten noted that this provision should be consistently applied. Council President Schneider agreed, stating, "we should do this with everyone going forward."

With that, Councilman Thompson and Council President Schneider amended their original motion and second to include the provision that the agreement would be amended as discussed.

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, Schneider, Sikorski and Thompson voted yes.

Resolution adopted, 6-0.

**RESOLUTION 2006-165 AUTHORIZING DEVELOPER'S CONSTRUCTION AGREEMENT WITH D. M. PROPERTIES, INC. -
SOUTH ACADEMY STREET MAJOR SUBDIVISION**

WHEREAS the Borough Engineer has worked with the Borough Attorney to create a Developer's Agreement with D. M. Properties, Inc., 10 Gumani Court, Freehold, New Jersey, relative to their proposed development in the Borough of Hightstown, which agreement is attached hereto and incorporated herein;

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

1. A Developer's Agreement with D. M. Properties, Inc. relative to their proposed development in the Borough of Hightstown, which agreement is attached hereto and incorporated herein¹, is hereby approved, and the Mayor and Borough Clerk are authorized to execute same.
2. A certified copy of this Resolution shall be provided forthwith to D. M. Properties, Inc.; Carmela Roberts, Borough Engineer; Frederick Raffetto, Esq., Borough Attorney; and Gary Rosensweig, Esq., Planning Board Attorney.

STATUS REPORT: COLE AVENUE AND CLINTON STREET RECONSTRUCTION

Ms. Roberts reported that, earlier in the month, she met onsite with residents of Cole Avenue and Clinton Street along with Mayor Patten, Larry Blake and Ms. Gallagher. "They liked what is planned," she said. Those plans include making the roadway at least 20 feet wide, improving the curve in the road near Maxwell Avenue, adding curbing along the entire length of the street, adding drainage piping, and connecting sump pumps where there are storm drains to accommodate them. Plans have been sent to NJDOT in conformance with our grant agreement. She plans to advertise for bids during the coming week and receive them prior to the next meeting, and anticipates awarding a contract at the August 7 meeting. Construction could then begin in September.

Councilman Quattrone asked if the work planned would alleviate drainage problems at a residence near Maxwell Avenue. Ms. Roberts replied that we will be putting in 4" curbs and reshaping the center part of the roadway. This should improve the situation tremendously, if not completely, she said, as it will keep the water within the roadway rather than allowing it to puddle onto private property.

¹ See end of these 7/17/06 minutes.

CONSENT AGENDA

Resolution 2006-170 was pulled from the consent agenda for separate consideration.

Resolutions 2006-166, 167, 168 and 169 were moved for adoption by Councilmember Sikorski and seconded by Councilmember Thompson.

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, Sikorski, Schneider and Thompson voted yes.

Resolutions adopted, 6-0.

RESOLUTION 2006-166 AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE – RAC GENERAL CONTRACTORS, INC. (BACKWASH RECOVERY TANK PROJECT)

WHEREAS, on April 3, 2006, the Borough Council adopted Resolution 2006-97, which authorized final payment to RAC General Contractors, Inc. for the performance of certain work known as the "Backwash Recovery Tank Project," subject to various terms and conditions, including the posting of a one-year maintenance guarantee; and

WHEREAS, all of the requirements enumerated in Resolution 2006-97 were met, the maintenance guarantee was posted, and final payment has been made to RAC General Contractors; and

WHEREAS, the Borough Clerk has requested permission to return the performance bond originally posted by RAC for this project; and

WHEREAS, the Borough Engineer and Borough Attorney have no objection to the release of this performance bond;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized and directed to return to RAC General Contractors, Inc. the performance bond originally posted by them in the amount of \$424,950.00, along with a certified copy of this Resolution.

RESOLUTION 2006-167 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 **\$619,515.28** from the following accounts:

Current	\$ 358,953.72
W/S Operating	160,795.56
General Capital	36,237.87
W/S Capital	27,300.08
Animal Control Account	698.37
Trust	5,848.31
Public Defender	400.00
Grant	4,264.12
RCA COAH Escrow	10,100.00
Escrow-Subdivision & Site Plan (First Washington Bank)	14,917.25
Total	<u>\$619,515.28</u>

RESOLUTION 2006-168**AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS
PRIOR TO ADOPTION OF THE 2006 BUDGET**

WHEREAS, an emergent condition has arisen with respect to inadequate appropriation balances remaining in some line items of the 2006 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 2006 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	150,400.00	1,694,132.00	1,844,532.00
Capital Outlay – Current	0.00	0.00	0.00
Debt Service - Current	0.00	127,207.00	127,207.00
Water/Sewer	242,875.00	655,496.06	898,371.06
Capital Outlay – W/S	0.00	0.00	0.00
Debt Service - W/S	0.00	591,550.00	591,550.00
TOTAL	393,275.00	3,068,385.06	3,461,660.06

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 2006 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.

RESOLUTION 2006-169**AUTHORIZING RECEIPT OF BIDS FOR WATER METERS**

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Administrator is hereby authorized to prepare specifications and advertise for bids for the purchase of radio read water meters, and that the Borough is authorized to receive bids for same following proper advertisement.

Resolution 2006-170 was moved by Councilmember Quattrone and seconded by Councilmember Sikorski.

Ms. Gallagher explained that the bid specifications will be revised to include a traditional rear-loading garbage truck as well as the automated truck and containers included in the original bid specifications. That truck will be needed regardless of whether or not the Borough resumes in-house garbage collection, she said. Ms. Gallagher added that bids are being received for garbage collection as well as for garbage trucks so that we will be able to compare costs and move forward with the most favorable option for the Borough.

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, Schneider, Sikorski and Thompson voted yes.

Resolution adopted, 6-0.

**A RESOLUTION AUTHORIZING THE REJECTION OF ALL BIDS RECEIVED FOR THE
PURCHASE OF AN AUTOMATED GARBAGE TRUCK AND CONTAINERS, AND AUTHORIZING
THE BOROUGH TO REVISE THE BID SPECIFICATIONS AND TO RE-ADVERTISE FOR BIDS**

WHEREAS, bids for the purchase of an automated garbage truck and containers were received by the Borough on June 19, 2006 in accordance with the provisions of the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.* and

WHEREAS, subsequent thereto, the Borough has determined that it wishes to substantially revise the bid specifications; and

WHEREAS, as a result, and pursuant to N.J.S.A. 40A:11-13.2(d), the Borough wishes to reject all of the bids heretofore received for the provision of this equipment, and to authorize the Borough to re-advertise for the receipt of competitive bids for garbage trucks and containers, as revised.

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 all bids heretofore received by the Borough of Hightstown for the purchase of automated garbage trucks and containers are hereby rejected pursuant to N.J.S.A. 40A:11-13.2(d).
2. That the Borough is hereby authorized to revise the bid specifications for this purchase and to re-advertise for the receipt of competitive bids, as revised, pursuant to and in accordance with the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.
3. That the Borough Administrator is hereby authorized and directed to return all bid packages (and associated documents) previously received to all of the prior bidders.
4. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Candace B. Gallagher, Borough Clerk/Administrator
 - b. Larry Blake, Director, Department of Public Works
 - c. Frederick C. Raffetto, Esquire, Borough Attorney

BUDGET 2006

PUBLIC HEARING: RESOLUTION 2006-150, AMENDING THE 2006 BUDGET

Ms. Gallagher reviewed the budget amendment adopted on June 19, noting that State law requires that a public hearing be held on the amendment, although no further action by Council is necessary. That amendment, she said, incorporates various grant funding (including both revenues and offsetting appropriations), and adds funds for advertising, salaries in Public Works and in Housing, postage, gasoline, telephone, and social security. It reduces appropriations for the Condominium Services Act, street lighting, tipping fees, municipal court salaries and LOSAP. In the utility budget, revenue was added from utility capital surplus, revenues were lowered from connection fees and the appropriations for salaries and certain other expenses were reduced. The net effect of all amendments is zero, she said.

Mr. Raffetto noted that the amendment was read in full by Ms. Gallagher prior to its adoption, and has been duly advertised and provided to any members of the public who have requested same.

Mayor Patten opened the public hearing on the amendment.

Eugene Sarafin, 600-628 South Main Street, stated that he has no respect for any member of the governing body. "The budget is a bunch of s**t," he said, "and so are you."

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

COUNCIL COMMENTS AND COMMITTEE REPORTS

Councilmember Harinxma reported that the second in a series of free summer concerts sponsored by the Parks and Recreation Commission will take place on the coming Wednesday at Association Park from 6:30 to 8:30 p.m. Concerts will also be held on August 2 and August 30. The Commission is also making plans for an outdoor movie during the third week in September on the grounds of the VFW. Ms. Harinxma further reported that Eugene Lambert was a guest at the last meeting, and will be serving as an alternate member of the Commission. He started a basketball program in Dawes Park which is enjoying a very good response. The program has grown from two nights per week to add Saturday mornings as well.

Councilman Thompson commended Councilmember Harinxma for her work on the summer concerts and Councilmember Rosenberg for his assistance with promoting the events. "Our new Council members are contributing to the benefit of the people of Hightstown," Mr. Thompson said.

Councilman Quattrone reported that the Public Works department is very busy. He echoed Councilman Thompson's commendations of our newest Councilmembers, and also commended the members of the First Aid Squad, who are currently covering two nights each week and "doing a wonderful job." There are usually four or five people there now, he said. Recently, they covered a bad accident on turnpike, and their performance was complimented by our police and fire departments. Two more members have passed their EMT test.

Mr. Quattrone also reported that he is scheduling a safety meeting for our Public Works, water and sewer plant employees, and that Public Works is currently working on replacing fluorescent lighting tubes throughout Borough facilities with brighter and more energy-efficient tubes obtained from the State.

Councilmember Sikorski reported that, at their last meeting, the Planning Board approved plans for the renovation of Michael's Plaza. He brought those plans with him to this meeting for the review of anyone interested. The Board of Health, he said, did not meet in July.

Ms. Gallagher reported, in response to comments from Mr. Watkins earlier in the meeting, that the new water vending machine was installed at her direction. The water fountain, she said, had become a health hazard as people have been observed spitting into it during court sessions.

Chief Eufemia reminded all that the Borough offers a "cooling shelter" for residents during periods of extreme heat. He also noted the importance of checking on friends and neighbors, particularly the elderly, during this time.

Mayor Patten reported that the last concert in the park "was great!" He thanked Councilmember Harinxma for initiating that series of concerts. He noted that the Central Jersey Regional Equity Coalition will sponsor an evening with our legislators on July 27. Topics to be discussed include property tax reform, affordable housing and immigration reform. Lastly, he reported that the 4th Annual Community Fair will be held on October 7th. This year's theme is "Hometown Harvest."

Ms. Roberts reported that Wilson Avenue repairs will begin on the coming Wednesday. "Residents will be notified tomorrow," she said.

PUBLIC COMMENT II

Mayor Patten opened the floor for public comment.

Eugene Sarafin, 600-628 South Main Street, stated, "I have no respect for people that steal from me. I don't wish to talk to morons."

J.P. Gibbons, 602 North Main Street, requested that he be given longer than three minutes to speak in order that he can "provide vital information" to the governing body. Council President Schneider said that he "would be willing to see where we are at the end of three minutes."

Mr. Gibbons stated that a lawsuit was brought as a result of the dispute over the location of the tree that was taken down at North Preserve, and was dismissed by the Superior Court Judge "only because we failed to file within 45 days." He said that he waited 90 days for Council to investigate this prior to filing suit. Mr. Gibbons went on to say that one of the stipulations of the Planning Board's final approval for North Preserve was that there be no additional construction within the drip line of the existing trees. After their approval, he said, the Board received a revised survey which "showed that the trees had moved 10 feet south into the development." Based on the revised survey, Mr. Gibbons said, the Board authorized a fifth house to be built. He recounted the events surrounding the tree coming down, and said that Stop Work Orders were issued on several occasions for various reasons, including soil conservation violations. "I stopped the lawsuit," he said, "because it would have to be refiled, this time against the Borough." He said that he had been assured by the Borough that this would be straightened out.

Council President Schneider recalled that "we did take some action in response."

Following Mr. Gibbons' comments, the Mayor noted that the Borough's public comment session is "not a forum for criticizing people in the community."

Satish Mehta of D. M. Properties informed Council that, before this issue came up, Mr. Gibbons had tried to purchase this property, but lost it to D. M. Properties. After that, he said, he "expressed discontent." Mr. Mehta stated that all surveys showed that the trees were on his property, and they had permission from Mr. Wetterskog to remove the tree. It was cut with that permission, he said. He added that, when the lawsuit filed by Mr. Gibbons was dismissed by the Judge, it was not only because of the late filing. "They did not have a survey to prove anything otherwise," he said.

No one else came forward and the floor was closed.

Adjournment was moved by Councilmember Sikorski, seconded by Councilmember Quattrone and unanimously approved. The meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Candace B. Gallagher, RMC
Borough Clerk