

## OPEN SESSION

Mayor Robert Patten called the meeting to order at 7:05 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>	✓	
<i>Councilmember Rosenberg</i>	✓	
<i>Councilmember Schneider</i>	✓	
<i>Councilmember Sikorski</i>	✓	
<i>Councilmember Thompson</i>	✓	

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

### APPROVAL OF AGENDA

The agenda was amended at the request of Councilmember Thompson to include a discussion under "Unfinished Business" regarding the report by Peter Sockler which was presented at the last meeting. The agenda was then moved as amended by Councilmember Sikorski, seconded by Council President Schneider and approved by all.

### APPROVAL OF MINUTES

Minutes of the February 21, 2006 meeting, open and closed sessions, were moved by Councilmember Sikorski, seconded by Council President Schneider and unanimously approved as submitted.

## PUBLIC COMMENT I

Mayor Patten opened the floor for public comment.

**Barbara Harrington**, 137 South Street, stated that she read an article in the most recent *Windsor Hights Herald* which indicated that one Councilmember "demanded" additional funds from Peddie School, and that another stated that the parking lot revitalization project funded by Peddie was "self-serving." "If the reporting is accurate," she said, "I am surprised and disappointed that Council would potentially jeopardize ... a beneficial relationship with the pillar of our community." She noted that Peddie School employs people here, contributes to the arts in our community, and lends prestige to the Borough and asked that, in the future, Council members "think before making a public comment ... that could jeopardize what we're already getting." She added that the tone of the request showed "a lack of maturity and

experience,” and suggested that, if Council as a whole opted to request more funding from the school, they could “find other ways to go about it rather than public denigration.” Ms. Harrington added that she has no ties to the Peddie School.

Councilmember Thompson noted that recordings and minutes of Borough Council meetings are available through the Borough Clerk’s office and may provide a “better idea” of what was said at the meeting in question.

**Eugene Sarafin**, 600-628 South Main Street, stated that it is “insulting” to allow only three minutes per person for public comment, and that Hightstown should be “closed down” because it is not viable. He claimed that the Borough spends “three times what East Windsor spends for municipal costs” and suggested that Peddie School be made into a reform school. “It’s been a s\*\*t town for 70 years,” he said, “... and it’s not changing.”

**J. P. Gibbons**, 602 N. Main Street, welcomed Council’s newest members and noted that he had been out of town for two months. He referenced minutes of the February 6 meeting wherein the Mayor stated, regarding the Mill’s redevelopment, that the Borough has a “qualified developer.” “I disagree,” Mr. Gibbons said. “The track record of that developer is unacceptable.” He added that it is “amazing that we constantly approve certain developers that have shown a proclivity to exaggerate and submit fraudulent certifications to the Planning Board and Council.” He cautioned Council to carefully check the track record of any developer for a major project.

No one else came forward and the floor was closed.

## PUBLIC HEARING

### APPLICATION BY VERIZON, INC. FOR MUNICIPAL CONSENT TO OPERATE A CABLE TELEVISION SYSTEM IN THE BOROUGH OF HIGHTSTOWN

Anna Lustenberg, Director of Public Policy and External Affairs for Verizon, Inc., addressed the Mayor, Council and public in attendance regarding Verizon’s application for municipal consent to operate a cable television system in the Borough. Service would be provided through a fiber optic system (FiOS). “Hightstown,” she said, “could be the first municipality in New Jersey to open its doors to robust cable television competition of a historic proportion.” She said that allowing Verizon into this market would result in competitive pricing and improved customer service, and presented a brief video about the system.

John Hendricks of Verizon then addressed the Mayor and Council. Hightstown’s public hearing on this issue, he said, is the first in New Jersey; however, within a month or two, there will have been over 100 hearings held. He explained that the system to be put into place by Verizon will consist of an all-fiber network, and the fiber optic cable will run directly to each building. This, he said, provides a much higher capacity for programming. Verizon plans to include a robust offering of foreign language channels and the competition is likely to result in lower prices and better service. He added that another attribute of the system is that the channels will be set up in “communities of interest,” grouped by type, to make it easier for customers to find the channel they are seeking.

Nicholas Holland, outside counsel for Verizon, reviewed the franchise process. New Jersey differs from other states, he said, in that the Board of Public Utilities ultimately grants cable television franchises. The first step for Verizon is to come to each town individually to request municipal consent to provide the service. He noted that State and Federal laws promote competition in cable service, and requested that Council act favorably on this application. In considering the proposal, he said, Council must consider Verizon’s financial responsibility, technical competency and general fitness. “We believe that information has been presented in our application and here tonight,” he said. Once consent is granted, it would be documented in the form of an ordinance, which must first be reviewed by the Office of Cable Television.

Councilmember Thompson asked how much rates have gone down in other communities where cable television competition has come into play. Mr. Hendricks stated that two studies done have shown that, where there is competition in the cable market, rates tend to go down by as much as 15%. In Texas, he said, rates lowered by more than 15%. As this is still in its first stages, he said, it is hard to predict what the overall impact would be, but he would expect that, at the very least, competition would create pressure not to raise rates. Mr. Thompson asked if there have been any instances where rates went up, and Mr. Hendricks replied "not in our experience, but we're new in the game so far."

Council President Schneider asked what would happen with the fiber optic installations that Verizon has been putting into place around town in the event that the application was denied. Mr. Hendricks stated that Verizon would still be able to offer telephone service over those lines. He went on to explain that, cable television companies operate under Title 6, and must be granted permission from a municipality to use its public right of ways. Verizon services were offered under Title 2, where they were permitted to offer telecommunications, internet and telephone services. They felt, however, that they needed a community franchise in order to offer cable television services.

Ms. Lustenberg explained that the work being done throughout town by Verizon is an upgrade of their existing network, following existing routes. They are "overlashing" the conduit and will be running fiber through it. In some of the newer communities, she said, service lines will be underground, and they will be obtaining permits for road openings.

Mayor Patten asked if there is information regarding Verizon's fiber optic system available online for review. Ms. Lustenberg replied that Verizon's website, [www.verizon.com/nj](http://www.verizon.com/nj), includes a section devoted to FiOS. Mayor Patten noted that Hightstown is "in the heart of New Jersey," located midway between New York and Philadelphia. He asked if customers would receive New York or Philadelphia channels. Mr. Hendricks stated that Hightstown is considered to be in the Philadelphia programming area and would receive Philadelphia channels; however, Verizon is discussing trying to offer New York channels as well and will be working hard to do so. Mayor Patten asked if Verizon would be providing cable boxes. Mr. Hendrix stated that any service level above the basic tier would require a box. They have a "strong customer service component," he said, and will maintain a local office within a reasonable distance to provide local service. "Verizon prides itself on making itself available with real people for real service," he said.

Councilmember Quattrone stated that he has seen television spots regarding a cable tax that people would have to pay even without receiving service. Mr. Hendrix stated that the proposal for a statewide franchise is "changing the manner in which we have franchising. We're here looking for a local franchise," he said. "If the state law is passed, Hightstown would have its choice of which system to operate under. Right now, the company would pay 2% of gross revenue as a franchise fee."

Mayor Patten then opened the floor to the public for questions.

**Eugene Sarafin**, 600-628 South Main Street, stated that Comcast has been in Hightstown since 1982, and rates started then at \$13/month. He "implored" Council to grant consent to Verizon. Comcast's prices have become "absurd," he said, and their system is "antiquated." Verizon, he said, offers 10MB and 30MB bandwidths on FiOS. Regarding public access, he said, "we've never had it. There's Channel 28 for the schools, and they give an hour for the League of Women Voters, but they have no interest in that." He suggested that the Borough negotiate with Verizon in this regard. Mr. Hendricks stated that Verizon would like to interconnect with the existing access channel. Mr. Sarafin went on to say that Comcast has gotten special permission to offer both New York and Philadelphia stations, and it would be "unacceptable" for Verizon to offer only Philadelphia programming. "Comcast can do both," he said, "and you should too if you want to sell your service."

**Torry Watkins**, 68 Meadow Drive, recalled that, when Storer Cable Communications (Comcast's predecessor) came in to the Borough, they "offered the moon" in terms of production facilities – the ability to telecast meetings, debate nights, etc. – but delivered on very little. "Comcast has thrown up every obstacle they could," he said, when it came to

cooperating with the community in that fashion. He asked what Verizon would offer in the way of production facilities. Mr. Hendricks stated that this would be a subject for discussion with the Borough in developing the municipal consent ordinance. "The community," he said, "needs to tell us what their cable-related needs are."

**Jerry Keenan**, a resident of East Windsor Township, said that he attended this hearing because he feels strongly about this issue. "We all hate opening a cable bill and seeing another rate increase," he said. "I call on the municipal body to approve this because this country was based on competition, and right now there is none – it's Comcast or nothing." Satellite TV, he added, is "not really an option." Competition, Mr. Keenan said, will bring better prices and improved customer service. "I call on all municipal bodies across the state to approve a local agreement with Verizon," he said, "and anyone else [who offers the service]."

**J.P. Gibbons**, 602 North Main Street, stated that he saw a news report that AT&T bought Southern Bell, and said, "there may be a third application coming in within the next year." Mr. Gibbons made the following comments: (1) Originally, Comcast connected residences and businesses for free, but then started charging for that. He would like to see a guarantee of some sort from Verizon that the initial connection will remain at no or minimal charge; (2) Comcast utilizes coaxial cable while Verizon will be using fiber optic lines. We should try, he said, to make the technology as easy as possible for someone to switch between the services. "You are in the best possible bargaining position," he said, "and are the experimentation Verizon needs."

**Eugene Sarafin**, 600-628 South Main Street, stated that "the problem with a cable franchise is that it's unregulated. Type 2 is regulated. Why does Verizon want a franchise for cable when fiber optics are capable of putting 10 movies per channel?" Mr. Hendricks said that the answer is "competition. Cable TV companies have gotten into the telephone business," he said, "plus internet and cable television. If we don't meet the competitive threat with triple play, we won't be in business as long as we intend to be. We are asking for permission to compete with companies who are taking our customers." Mr. Sarafin urged Council to approve the application. "Just do it," he said, "and see what happens."

Mayor Patten asked Mr. Raffetto to review this process.

Mr. Raffetto stated that Verizon is seeking consent to operate cable television service within the Borough. The process and time frames are established by statute. The Borough received Verizon's application, and scheduled and advertised the public hearing in a timely fashion. The Mayor has established a cable television advisory committee. Tonight, he said, is the first opportunity to publicly hear from Verizon regarding their request. He stated that the Borough has the option to continue the public hearing for up to 30 days. Once it is concluded, the Borough must make a determination within the next 30 days as to whether or not to grant consent. If granted, a proposed ordinance must be forwarded by the Borough within 45 days to the Office of Cable Television for their review. Following their review, the Borough would introduce and adopt the ordinance.

Mayor Patten recommended that the public hearing be continued at the next meeting, and Mr. Hendricks stated that Verizon would have a representative present at that meeting to answer any further questions.

**Motion:** It was moved by Councilmember Sikorski that the public hearing on Verizon's application for municipal consent be continued until the Borough's next regular meeting on March 20, 2006. His motion was seconded by Councilmember Harinxma and a roll call vote was taken.

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

**Motion carried, 6-0.**

Councilmember Sikorski asked Mr. Raffetto if it would be appropriate for the Borough to take action following the conclusion of the public hearing. "Yes," replied Mr. Raffetto.

## **SPECIAL GUEST**

Mayor Patten noted the presence at this meeting of a "surprise visitor," **The Honorable Jennifer Beck**, 12<sup>th</sup> District Assemblywoman. Ms. Beck spoke briefly, and expressed her appreciation for the public's support in electing her. She stated that the Legislature is "working on difficult issues" including property taxes, and she has introduced several bills, including a bill to redistribute Abbott funds to school districts that have seen enrollment growth. She added that she has asked the Speaker to post the "30 and 3 Plan" to reduce property taxes by 30% over three years. Ms. Beck introduced her Chief of Staff, Kevin Israel, who was in attendance as well, and welcomed the input of all as she works to represent us in the Legislature.

## **ORDINANCES**

### **FINAL READING: ORDINANCE 2006-03,**

**AN ORDINANCE PROHIBITING PARKING AT CERTAIN TIMES ALONG A PORTION OF ROGERS AVENUE IN THE BOROUGH OF HIGHTSTOWN, AND AMENDING SECTION 7-13.1 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN ACCORDINGLY**

Following a brief review by Ms. Gallagher, Councilmember Quattrone stated that he has spoken with Chief Eufemia about this Ordinance, and would like to amend it to allow parking in this location on both Saturdays and Sundays. This would be acceptable to Chief Eufemia, he said, because truck traffic is lighter on weekends. He provided draft copies of the Ordinance that included this revision.

**Motion:** Councilmember Quattrone then moved that the Ordinance be amended to allow parking on both Saturdays and Sundays. His motion was seconded by Councilmember Sikorski and a roll call vote was taken.

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

**Ordinance amended, 6-0.**

Mr. Raffetto stated that, as this amendment would be considered substantive, the Ordinance should be reintroduced and readvertised.

**Ordinance 2006-03** was moved for reintroduction as amended by Councilmember Quattrone and seconded by Councilmember Sikorski.

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

**Ordinance reintroduced, 6-0.**

The public hearing and final reading for Ordinance 2006-03, as amended, was scheduled for March 20, 2006.

## PUBLIC HEARING: ORDINANCE 2006-08,

### AMENDING CHAPTER 29, "SIGNS," OF THE *REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN*

Ms. Gallagher provided a brief review of Ordinance 2006-08, which would amend the Borough's sign ordinance in accordance with the Planning Board's recommendation to allow and regulate "sandwich board" signs within the CC-1 and CC-2 zoning districts. She noted that no action can be taken on this Ordinance until Council has received comments from the Planning Board following its introduction. Those comments are expected to be received following the March 13 Planning Board meeting.

Mayor Patten opened the public hearing on the Ordinance.

**Mike Vanderbeck**, 344 Stockton Street (and proprietor of the Slowdown Café), spoke in favor of the Ordinance, which, he said, "brings uniformity to the town."

**J.P. Gibbons**, 602 North Main Street, expressed support for the ordinance, but recalled that, several years ago, when the sign ordinance was adopted, the barber shop had problems in putting a sign on both sides of his windows, since his store faced two streets. "My concern is uniformity and continuity," he said. "If you do it, enforce it." He added that any type of ordinance should be looked at to determine its impact, and which businesses are or will be in violation of it, and whether they will comply voluntarily or not.

**Eugene Sarafin**, 600-628 South Main Street, said that his experience has been that the Borough has done a good job on sign ordinances "and they don't work." "Pass it," he said, "and if it doesn't work, learn from it. There is no perfect ordinance."

No one else came forward and the public hearing was closed. Action on this ordinance will be taken at the March 20 meeting following receipt of comments from the Planning Board.

## INTRODUCTION AND FIRST READING: ORDINANCE 2006-09,

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

Ms. Gallagher reviewed the provisions of Ordinance 2006-09, explaining that this Ordinance is adopted each year in order to preserve our ability to utilize a cap "bank" if needed. It will also allow 2006 budget appropriations within the cap to increase, if necessary, by up to 3½ percent rather than 2½ percent, which would otherwise be the limitation. Chief Financial Officer George Lang has recommended that this Ordinance be adopted.

Ordinance 2006-09 was moved for introduction by Councilmember Quattrone and seconded by Councilmember Sikorski.

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

**Ordinance introduced, 6-0.**

The public hearing and final reading for Ordinance 2006-09 was set for March 20, 2006.

## INTRODUCTION AND FIRST READING: ORDINANCE 2006-10,

### AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN PROVIDING FOR THE PROCEDURES FOR APPLICATION, APPROVAL AND ADMINISTRATION OF TAX EXEMPTION AND ABATEMENT AGREEMENTS

Mr. Raffetto reviewed the provisions of Ordinance 2006-10, which, he said, is the “first step in moving forward with the tax abatement process relating to redevelopment activities.” This ordinance, he said, was drafted by our Bond Counsel and establishes the process to be followed, and an additional ordinance would need to be approved by Council in order to authorize a tax abatement specific to any given project. This is a “relatively standard ordinance,” he said, that all municipalities which move forward with this type of activity must adopt.

Mr. Raffetto noted that he reviewed with Ed McManimon’s office that day the fees that are proposed in this Ordinance. Those fees, he said, were based on the scope of the Mill project and Hightstown in particular, and are fees that Mr. McManimon’s office felt were appropriate based on their experience in comparable towns; however, they are not set by statute and Council has the discretion to increase them. Mr. Baumann has indicated that they could be increased by up to 100% over what had been included in the draft ordinance, but to go higher than that would be “arbitrary.”

Ordinance 2006-10 was moved for introduction by Councilmember Sikorski and seconded by Councilmember Quattrone. Discussion continued.

Councilmember Sikorski recommended that the fees included in the Ordinance be doubled in order to cover the Borough’s professional costs. He noted that this Ordinance “is essential regardless of the developer chosen” and added that a PILOT will provide hundreds of thousands of dollars in tax revenue during the course of the program.

Mr. Raffetto noted that this Ordinance refers to a short term (up to five years) tax abatement. If the Borough were to consider a long term abatement, a separate ordinance would be needed.

Council President Schneider suggested that “it would not be arbitrary” to increase the fee to \$45,000 for a project such as the Mill, with an estimated \$30 million cost. (The fees included in the proposed ordinance were \$2,500 for projects under \$1 million, \$5,000 for projects between \$1 million and \$5 million, and \$7,500 for projects over \$5 million.) Mayor Patten stated that these fees are intended to cover the Borough’s costs, rather than to provide a profit. This was verified by Mr. Raffetto. Mr. Schneider pointed out that the Ordinance as drafted indicates that the fee can be waived. If so, he said, it should be possible to waive a portion of the fee in the event that the Borough’s costs were significantly less than the fee charged. Councilmember Thompson asked if a high fee could dissuade a potential developer. If so, he said, it may be best not to increase it.

Mr. Raffetto recommended said that the introduction of this Ordinance be postponed until the following reading in order to discuss the concerns of Council with Mr. McManimon’s office.

After further discussion, it was unanimously agreed that the introduction of Ordinance 2006-10 would be postponed to the next regular council meeting.

## RESOLUTIONS

### RESOLUTION 2006-76, ENDORSING THE U.S. MAYORS CLIMATE PROTECTION AGREEMENT

Councilmember Rosenberg reviewed the provisions of Resolution 2006-76, which he had requested be placed on this agenda for Council’s action. The Environmental Commission has reviewed the Resolution and supports its adoption, and the Resolution is nonbinding. It shows the Borough’s support for the U.S. Mayors Climate Protection Agreement and

states that the Borough will strive to reduce emissions and take other proactive measures to reduce global warming pollution. We are already doing much toward these ends, he said.

Mayor Patten stated that this is “an excellent item,” and thanked Councilmember Rosenberg for bringing it forward.

Resolution 2006-76 was moved by Councilmember Rosenberg and seconded by Councilmember Quattrone.

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

**Resolution adopted, 6-0.**

**RESOLUTION 2006-76                      ENDORSING THE U.S. MAYORS CLIMATE PROTECTION AGREEMENT**

**WHEREAS**, the U.S. Conference of Mayors has previously adopted strong policy resolutions calling for cities, communities and the federal government to take actions to reduce global warming pollution; and

**WHEREAS**, the Inter-Governmental Panel on Climate Change (IPCC), the international community’s most respected assemblage of scientists, has found that climate disruption is a reality and that human activities are largely responsible for increasing concentrations of global warming pollution; and

**WHEREAS**, recent, well-documented impacts of climate disruption include average global sea level increases of four to eight inches during the 20th century; a 40 percent decline in Arctic sea-ice thickness; and nine of the ten hottest years on record occurring in the past decade; and

**WHEREAS**, climate disruption of the magnitude now predicted by the scientific community will cause extremely costly disruption of human and natural systems throughout the world including: increased risk of floods or droughts; sea-level rises that interact with coastal storms to erode beaches, inundate land, and damage structures; more frequent and extreme heat waves; more frequent and greater concentrations of smog; and

**WHEREAS**, the United States of America, with less than five percent of the world’s population, is responsible for producing approximately 25 percent of the world’s global warming pollutants; and

**WHEREAS**, many leading US companies that have adopted greenhouse gas reduction programs to demonstrate corporate social responsibility have also publicly expressed preference for the US to adopt precise and mandatory emissions targets and timetables as a means by which to remain competitive in the international marketplace, to mitigate financial risk and to promote sound investment decisions; and

**WHEREAS**, state and local governments throughout the United States are adopting emission reduction targets and programs and that this leadership is bipartisan, coming from Republican and Democratic governors and mayors alike; and

**WHEREAS**, many cities throughout the nation, both large and small, are reducing global warming pollutants through programs that provide economic and quality of life benefits such as reduced energy bills, green space preservation, air quality improvements, reduced traffic congestion, improved transportation choices, and economic development and job creation through energy conservation and new energy technologies; and

**WHEREAS**, mayors from around the nation have signed the U.S. Mayors Climate Protection Agreement which, as amended at the 73rd Annual U.S. Conference of Mayors meeting, reads:

**The U.S. Mayors Climate Protection Agreement**

A. We urge the federal government and state governments to enact policies and programs to reduce global warming pollution, including efforts to: reduce the United States’ dependence on fossil fuels and accelerate the development of clean, economical energy resources and fuel-efficient technologies such as conservation, methane recovery for energy generation, waste to energy, wind and solar energy, fuel cells, efficient motor vehicles, and biofuels;



B. We urge the US Congress to pass legislation to address greenhouse gas reduction in a manner that would not adversely affect the citizens and businesses of the United States economically; and

C. We will strive to reduce global warming pollution by taking actions in our own operations and community such as:

1. Inventory global warming emissions in Borough operations and in the community, set reduction targets and create an action plan.
2. Adopt and enforce land-use policies that reduce sprawl, preserve open space, and create compact, walkable urban communities;
3. Promote transportation options such as bicycle trails, commute trip reduction programs, incentives for car pooling and public transit;
4. Increase the use of clean, alternative energy by, for example, investing in "green tags," advocating for the development of renewable energy resources, recovering landfill methane for energy production, and supporting the use of waste to energy technology;
5. Make energy efficiency a priority through building code improvements, retrofitting Borough facilities with energy efficient lighting and urging employees to conserve energy and save money;
6. Purchase only Energy Star equipment and appliances for Borough use;
7. Practice and promote sustainable building practices using the U.S. Green Building Council's LEED program or a similar system;
8. Increase the average fuel efficiency of municipal fleet vehicles; reduce the number of vehicles; launch an employee education program including anti-idling messages; convert diesel vehicles to bio-diesel;
9. Evaluate opportunities to increase pump efficiency in water and wastewater systems; recover wastewater treatment methane for energy production;
10. Increase recycling rates in Borough operations and in the community;
11. Maintain healthy urban forests; promote tree planting to increase shading and to absorb CO<sub>2</sub>; and
12. Help educate the public, schools, other jurisdictions, professional associations, business and industry about reducing global warming pollution.

**NOW, THEREFORE, BE IT RESOLVED** that Mayor and Council of the Borough of Hightstown endorse the U.S. Mayors Climate Protection Agreement as amended by the 73rd annual U.S. Conference of Mayors meeting and urge mayors and governing bodies from around the nation to join this effort.

## **CONSENT AGENDA**

**Resolutions 2006-71, 72, 73, 74 and 75** were moved by Councilmember Sikorski and seconded by Councilmember Harinxma.

Regarding Resolution 2006-75, Councilmember Sikorski noted that he attended a recent municipal court session where an attorney made unsolicited remarks praising our court.

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

**Resolutions adopted, 6-0.**

**RESOLUTION 2006-71      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 **\$594,084.24** from the following accounts:

Current	\$ 454,431.08
W/S Operating	88,986.55
General Capital	6,910.95
W/S Capital	115.00
Animal Control Account	330.00
Trust	990.00
RCA – COAH Escrow	900.00
Escrow-Subdivision & Site Plan (First Washington Bank)	41,114.06
Grant	306.60
<b>Total</b>	<b><u>\$ 594,084.24</u></b>

**RESOLUTION 2006-72      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<sup>1</sup>; 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	19,991.00	222,616.00	<b>242,607.00</b>
Capital Outlay – Current	0.00	0.00	<b>0.00</b>
Debt Service - Current	0.00	127,207.00	<b>127,207.00</b>
Water/Sewer	31,970.00	63,313.26	<b>95,283.26</b>
Capital Outlay – W/S	0.00	0.00	<b>0.00</b>
Debt Service - W/S	0.00	591,550.00	<b>591,550.00</b>
<b>TOTAL</b>	<b>51,961.00</b>	<b>1,004,686.26</b>	<b>1,056,647.26</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 2006 budget under the same title as written herein;

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<sup>1</sup> See end of these 3/6/06 minutes.

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 2006-73                      AUTHORIZING RELEASE OF AMOUNTS REMAINING IN ESCROW – JEFFREY BOND  
(R&R FILE NOS. HPB0411 AND HPB0202)**

**WHEREAS** Jeffrey Bond has posted funds in escrow relative to various improvements; and

**WHEREAS** the work is now complete, and the Borough Engineer has recommended release of all remaining escrow held by the Borough on Mr. Bond's behalf, subject to payment of any outstanding fees; and

**WHEREAS** the Borough Engineer and Planning Board Attorney have certified that no funds remain due and payable to them from these escrow funds; and

**WHEREAS** said funds now total \$97.60;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Treasurer is hereby authorized and directed to return to Jeffrey Bond, 210 South Main Street, all funds remaining in his escrow account, as detailed herein.

**RESOLUTION 2006-74                      AUTHORIZING ISSUANCE OF TAXICAB DRIVER'S LICENSE - DANIEL PESANTEZ**

**WHEREAS**, an application for issuance of a taxicab driver's license, which application complies with Section 4-21.5 of the *Revised General Ordinances of the Borough of Hightstown*, has been submitted by Daniel Pesantez, 604 Greenwich, East Windsor, New Jersey; and

**WHEREAS** said application has been reviewed by the Hightstown Borough Police Department and approved by the Chief of Police;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized to issue a 2006 taxicab driver's license to Mr. Pesantez as detailed herein.

**RESOLUTION 2006-75                      CONFIRMING REAPPOINTMENT OF BOROUGH PROSECUTOR**

**WHEREAS**, Robert Yostembski was appointed as Borough Prosecutor for a term ending March 2, 2006; and

**WHEREAS**, it is the desire of Mayor Robert Patten to reappoint Mr. Yostembski to a consecutive term; and

**WHEREAS**, in accordance with the *Revised General Ordinances of the Borough of Hightstown*, the Borough Prosecutor is appointed by the Mayor, with the advice and consent of Council, for a one-year term;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Mayor's reappointment of Robert Yostembski to the position of Borough Prosecutor for a succeeding one-year term beginning March 3, 2006, is hereby confirmed and approved.

## **UNFINISHED BUSINESS**

### **THE SOCKLER REPORT**

Councilmember Thompson stated for the record that questions arose after Peter Sockler presented his market study. The number of COAH units used by Mr. Sockler in his model, Mr. Thompson said, was inaccurate, as was the pricing. Mr. Thompson also said that the "amount of non-residential commercial retail space was significantly misstated," and noted that there was a \$700,000 swing in the environmental costs "three hours before the meeting," which turned the

project from profitable to a loss. "I'm not suggesting that either is more accurate," he said, "just that it swung at the 11<sup>th</sup> hour." The sales price per unit used by Mr. Sockler, Mr. Thompson said, "was significantly lower than what the developer himself indicated would be a likely sales price," with the result that the study was "millions of dollars in error." "If we look at the report as being definitive on profitability, we miss the mark," he said.

Mayor Patten asked Councilmember Thompson where he obtained the information he just presented. He replied that he got the information from COAH and from resident Susan Bottino. When asked by the Mayor if he had discussed his findings with Mr. Sockler, Councilmember Thompson stated that he had not. Mayor Patten recommended that he and other Councilmembers do so in order that all may have a better understanding of where the differences lie.

Councilmember Sikorski noted that studies such as that performed by Mr. Sockler "are a snapshot taken at a particular time with a particular set of givens." He noted that, regarding sales prices for affordable housing, there are different prices for various levels of affordability. For the purposes of Mr. Sockler's report, it was prudent to take the "worst case scenario," as it would be impossible to know ahead of time who would be attaining the units. All *could* be at the lower end of the income spectrum. From the builder's perspective, one would need to use the lowest numbers in any projections.

Mr. Sikorski further stated that he has been "listening to, reading and digesting [information regarding the Mill redevelopment] for two years. You can take apart a report and find an error, but it's not a substantive error." With respect to the new COAH rules, he said, you can get varied responses to the same questions, but all are "in the ballpark." The mandate of Mr. Sockler, Councilmember Sikorski said, was to present three scenarios, the third of which was to use the building closest to the parking lot and calculate the use of commercial space. That, he said, changes the COAH requirement. Councilmember Thompson, he said, is "being unmerciful" to Mr. Sockler.

Councilmember Sikorski went on to note that the Borough's adopted Redevelopment Plan states that the number of residential units is not fixed, and can be altered at the recommendation of the Planning Board. "If the developer does not make a profit," he said, "we don't succeed as a Borough." He pointed out that the projected revenue to the Borough through a PILOT program is \$460,000 to \$490,000 per year, and said "Let's be careful. Taking pot shots misses the point – 90% is right."

Councilmember Thompson responded, stating that, while a builder would be looking at the lowest sales price possible, a member of the subcommittee or redevelopment agency "would be looking with a slightly more critical lens." The number of COAH units is not "minor," he said, as a difference of five equates to about \$1 million in profit. He objected to those that would paint a "gloomysday scenario" and said that "we are a wonderful government to work with, and there is money to be made. We need to encourage developers to look at all that is right."

Councilmember Sikorski stated that it would have been helpful if both reports had been completed earlier in the process.

Council President Schneider said that he wasn't in favor of commissioning the market study in the first place, because he is "not necessarily interested in the profit for the developer. I hope they can get it done efficiently and make money, but as a resident of the town with intentions to be here for some time, I'm more interested in what is going to happen at the site." He was not in favor of parking along Bank Street, and does not believe that "a development where you have to park several hundred yards from the door is desirable." "We're getting stuck on the Sockler report," he said, adding, "As of the last presentation [by Greystone/ITN], we have dramatically reduced the amount of onsite parking required. There is no parking issue remaining. As far as traffic and congestion, anyone who lives over here knows how busy it is. We passed the Redevelopment Plan, but the last presentation *reduces* the amount of traffic and congestion." He noted that Greystone's most recent proposal has less density, and the larger units would likely result in fewer children added to our school system. "I liked the last presentation," he said. "As of that, many of the questions and problems I had with the site in the first place are removed."

Mr. Schneider went on to say that he believes that the developer has figured out how they can make a profit. "They don't need to make a lot of money," he said. "They just need the financial backing to carry it through." He did not see any point in having Mr. Sockler return to make another presentation. "Getting stuck on the report is a huge error," he said, "when what we want to be thinking about is what we're going to be living with as a neighbor."

Mayor Patten commended Council for being "good models for discussion with disagreement."

## **COUNCIL COMMENTS AND COMMITTEE REPORTS**

Councilmember Rosenberg reported that WorldWater and Power made a presentation to the Environmental Commission at their last meeting regarding their proposal for installing a solar energy facility at the Borough. They also discussed the Resolution supporting the U.S. Mayors Climate Protection Agreement and recommended its adoption. Also discussed at that meeting was the 2006 budget, the tree planting initiative, use of the GPS system to help manage trees, and the "catch 22" created by sidewalks that are damaged by tree roots. In addition, they discussed the Greenways project and how to tie into East Windsor's greenways, and he provided an update to the Commission regarding the "Clean and Green Team Project" planned for Earth Day. He invited all interested to participate.

Councilmember Harinxma reported her attendance at the most recent meeting of the Parks and Recreation Commission, where ideas for summer recreation were discussed. They would like to see Peddie Lake utilized more, and are looking into finding a vendor for paddle boats. There is still much research to be done, she said. The Commission is also considering a summer concert series with local musicians, and possibly staging an outdoor movie. They are discussing fundraising efforts as well.

Council President Schneider thanked Councilmember Rosenberg for his work in bringing to Council the Resolution to support the U.S. Mayors Climate Protection Agreement. "We spoke at length about it," he said, "and I fully support it."

Councilmember Quattrone thanked the Borough's Public Works department for "a fine paint job at Borough Hall." Due to the mild winter, he said, the Borough still has a good supply of salt and sand. A new state law allows us to carry over budgeted funding for snow removal, so our impact next year will not be as great. Mr. Quattrone went on to say that he would like to see a stronger recycling effort by Borough residents and businesses, but that he has noticed more recycling buckets out, which is a "good sign." Our downtown, he said, has been monitored and is looking better. Regarding the ordinance to allow sandwich board signs in the downtown district, he noted that they will need to be brought in at night and on windy days. He again thanked Public Works for a fine job. "They're working with the tightest staff possible," he said, "not knowing what the weather will give us. We're keeping a very tight budget."

Councilmember Sikorski reported that the Board of Health met recently and continued their discussion of whether to discontinue fluoridation of the Borough's water supply. They are likely to make a recommendation to Council based on information to be received from the New Jersey Department of Health. Fluoridation costs the Borough approximately \$3,000 per year, he said. There are opinions on both sides of this issue, but 80% of municipal water supplies are non-fluoridated. The group most affected by fluoridation are boys between the ages of 5 and 17, he said.

Mr. Sikorski further reported that he continues to meet regularly with Harry Wetterskog, who has been working on Saturdays with Tim Murray to perform rental inspections. They have covered 60% of our apartments, he said, and have so far found only two violations of our housing codes. That office is also working on several property maintenance issues and sending letters to residents who are in violation.

Ms. Gallagher reported that the Borough recently received correspondence from Verizon indicating that they plan to remove the pay phone in front of Borough Hall. If Council prefers to keep this phone, she said, we have the option to do so at a cost of \$45 per month. Currently, there is no charge. Verizon informed her that calls made from that pay phone

have averaged fewer than one per day over the past 13 months. Council discussed this briefly and were generally in favor of having the phone removed, so long as Verizon restores the grounds to their former condition.

Ms. Gallagher further reported that bid specs are being finalized for garbage collection and we anticipate receiving bids in mid-May. More details will be provided at a future meeting. We will also be receiving bids for garbage trucks and will make a full cost comparison once all bids are in.

Lastly, Ms. Gallagher reported that negotiations with both Unions will resume after March 20.

Mayor Patten reported that he serves on several committees which deal with the Route 1 corridor, traffic impacts and the proposed Turnpike expansion between exit 8A and exit 6, which is a concern for Hightstown. In addition, he reported that there are three Boy Scout troops in our area, and members of our community frequently become Eagle Scouts. Attending those events, he said, is "very exciting, and an honor." He recently attended the annual fundraising breakfast of the Latino Women's Council of Mercer County, where two Hightstown women were honored – Amanda Porter and his wife, Kathy Patten. Hightstonians are a vital part of this County, he said, adding, "I am proud to represent our town."

## **PUBLIC COMMENT II**

Mayor Patten opened the floor for public comment.

**Torry Watkins**, 68 Meadow Drive, noted that those who may need to use the pay phone in front of Borough Hall are those who come to court and don't have access to a cell phone. He suggested that the Borough make a free phone available on court nights when the need arises.

**Chris Moraitis**, 237 Rogers Avenue, thanked Council for considering his suggestions regarding the ordinance restricting parking on Rogers Avenue. As it now stands, he said, the Ordinance substantially increases the ability of Rogers Avenue residents to park on that street by allowing parking at all hours on Saturday and Sunday, "probably the most important days to those residents." He applauded Council for finding a "more workable solution" and added that we should continue to increase safety and address the quality of life issues that come along with traffic. He expressed his support for the latest version of Ordinance 2006-03.

**Eugene Sarafin**, 600-628 South Main Street, stated that an outsider who wants to be a developer here would be confused. "You have to say 'we're going to let you build so many units,'" he said, "and that should be based on the input of your financial people." He added that the "smartest thing for the developer to do" would be to tear down the building and create a mid-rise building with parking on the first floor. He told Council that they are "debating utter nonsense." "Whoever comes there," he said, if they don't make money they stick you with an albatross. The developer must have the potential of making a 30 percent profit or its not worth it." He recommended that Council "get together regarding what you want."

**Mike Vanderbeck**, 344 Stockton Street (and proprietor of the Slowdown Café), asked Council to reconsider the ordinance prohibiting parking on Rogers Avenue. "You need to look at the whole town," he said. "This is not an area to compromise." He spoke of the problem created when trucks on Rogers Avenue make a left onto Mercer Street, and said "you'll make an existing problem worse by trying to alleviate a theoretical problem. It goes counter to all we're trying to do to build the character of the town."

**J.P. Gibbons**, 602 North Main Street, stated that the biggest problem with commercial vehicles is that State statute requires that the Turnpike Authority identify signs to the shortest distance route. That means that trucks must be directed through Hightstown. However, he said, the Borough could request a sign stating "Turnpike Truck Route" that could send them to the Route 133 bypass. That would alleviate a lot of traffic problems, he said.

Mr. Gibbons also noted that the Supreme Court last week accepted an argument regarding the legality of tax abatement and tax exempt status. "It may not be the law of the land any longer," he said. He cautioned Council regarding the development of the Mill property, and recalled that "he sat through Planning Board meetings where the Borough was told that the North Main Street development could not be profitable at five houses. Also, certifications were made to the Planning Board and to Council that the tree line that had been there over 100 years had moved 10 feet south, and a month later, it moved north again." The Mill, he said, is "an albatross to start with" and has environmental and wetlands issues.

No one else came forward and the floor was closed.

Adjournment was moved by Councilmember Quattrone, seconded by Councilmember Sikorski and unanimously approved. The meeting was adjourned at 9:25 p.m..

Respectfully submitted,

Candace B. Gallagher, RMC  
Borough Clerk