

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>	✓	
<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; Tamara Lee, Planning Consultant; James M. Eufemia, Chief of Police and Frederick Raffetto, Esq., Borough Attorney.

APPROVAL OF AGENDA

Deleted from the agenda was a Resolution to authorize a transfer of funds in the 2006 budget. Added to the agenda under "New Business" was the distribution of the Borough's 2005 audit. Councilmember Sikorski requested the addition of two additional items under "New Business" – a discussion regarding "the process by which we explore our options for the Mill redevelopment" as well as a discussion regarding the municipal budget process. He then moved the agenda as amended. The motion was seconded by Councilmember Harinxma and unanimously approved.

APPROVAL OF MINUTES

Minutes of the December 4, 2006 open and closed sessions were moved by Councilmember Sikorski, seconded by Councilmember Rosenberg and unanimously approved as submitted.

APPOINTMENT OF POLICE OFFICER

Resolution 2006-273, appointing Janine M. Khalifa as a police officer, was moved by Council President Schneider and seconded by Councilmember Quattrone.

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

Resolution adopted, 6-0.

WHEREAS, Section 2-19.7 of the *Revised General Ordinances of the Borough of Hightstown* provides for the appointment of Police Officers; and

WHEREAS, applications were received by the Borough and interviews have been conducted by the Chief of Police, and it is his recommendation that Janine M. Khalifa be appointed as a Patrol Officer with the Hightstown Police Department effective this date, December 18, 2006; and

WHEREAS the Mayor and Council concur with the Police Chief's recommendation and wish to appoint Ms. Khalifa to this post;

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

1. Janine M. Khalifa is hereby appointed as Patrol Officer for the Borough of Hightstown, said appointment to become effective this date, December 18, 2006.
2. This appointment shall be probationary for a period of one year, pursuant to Section 2-19.7(c) of the *Revised General Ordinances of the Borough of Hightstown*.
3. Ms. Khalifa shall receive a salary during her first year of employment at the rate established by Borough Ordinance for a probationary patrol officer.

Mayor Patten administered the oath of office to Ms. Khalifa, and Chief Eufemia presented her with her badge and welcomed her to the department. Officer Khalifa spoke briefly to thank everyone, and to say that she is "grateful and proud to wear this uniform." "I am dedicated to serving this community," she said.

PUBLIC COMMENT I

Mayor Patten opened the floor for public comment.

Phyllis Deal, 305 Stockton Street, stated that Hightstown seems more decorated this holiday season than ever before in her 30 years here. She suggested that, in future years, the Borough sponsor a holiday decorating contest and ask our merchants to donate prizes for winners in various categories.

Nancy Walker Laudemberger, 632 South Main Street, referenced a recent article in the *Windsor Hights Herald* in which Councilmember Thompson called for an appointed task force to make certain recommendations to Council, and said, "He seems to be asking for a committee to do what I assumed Council members are charged to do." Ms. Laudemberger added that Mr. Thompson "is willing to come here twice a month to point out work that should be done" but she has not seen him working *himself* with committees and others to move things forward. She said that she was disappointed to hear of his recommendation, unless he plans "to head up the group and put in the hours and make that work for the Borough." Ms. Laudemberger closed by saying, "We do face fiscal difficulties. We always have, and we have tried in the past to make tough decisions and will have to again. Maybe this is the year that Council members should consider returning their salaries to the Borough."

Torry Watkins, 68 Meadow Drive, stated that he wondered what Ms. Laudemberger "would have to fear from a committee of interested citizens taking a look at the Borough's fiscal affairs."

No one else came forward, and the floor was closed.

ENGINEER ITEMS

RESOLUTION 2006-274, A RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPER'S CONSTRUCTION AGREEMENT WITH PEACOCK INN ASSOCIATES, INC.

Ms. Roberts reviewed the provisions of this Resolution, which was then moved by Councilmember Sikorski and seconded by Councilmember Quattrone.

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

Resolution adopted, 6-0.

RESOLUTION 2006-274 A RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPER'S CONSTRUCTION AGREEMENT WITH PEACOCK INN ASSOCIATES, INC.

WHEREAS, Peacock Inn Associates, Inc. (the "Developer") intends to develop land known as Lot 21 in Block 48.01 (the "property") within the Borough, which property is located in the R-4 Zoning District and which is being subdivided into two (2) lots;

WHEREAS, one of the lots will have a single family home constructed upon it; and

WHEREAS, the other lot, upon which a building currently exists, shall be modified to accommodate the construction of a new parking area; and

WHEREAS, the Developer has obtained minor subdivision approval for the proposed development, which approval was memorialized on August 8, 2005 by Resolution 2005-7; and

WHEREAS, in order for the Developer to commence construction, the Developer and the Borough must enter into a Developer's Construction Agreement, setting forth the terms and conditions under which the Developer shall undertake the proposed installation of all required improvements and the orderly staging of the development of the property; and

WHEREAS, a copy of the proposed Developer's Construction Agreement is attached hereto and incorporated herein; and

WHEREAS, the proposed Developer's Construction Agreement has been deemed satisfactory by both the Borough Attorney and Borough Engineer.

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

1. That the Borough is hereby authorized to enter into the attached Developer's Construction Agreement setting forth the terms and conditions under which the Developer shall undertake the proposed installation of all required improvements and the orderly staging of the development of the property.
2. That the Mayor is hereby authorized to execute and the Borough Clerk to attest the attached¹ Developer's Construction Agreement on behalf of the Borough.
3. That all Borough officials are hereby authorized and directed to take all actions that are necessary in furtherance of the attached Developer's Construction Agreement.
4. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Peacock Inn Associates, Inc.
 - b. Robert Friberg, Esq.
 - c. Candace Gallagher, Business Administrator/Clerk

¹ Included at the end of these 12/18/06 minutes.

- d. Frederick C. Raffetto, Esq., Borough Attorney
- e. Carmela Roberts, P.E., Borough Engineer

**RESOLUTION 2006-275, RESOLUTION AUTHORIZING BOROUGH ENGINEER TO SUBMIT APPLICATION TO
NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR FEDERAL AID SAFE ROUTES TO
SCHOOLS PROGRAM**

Following a brief review by Ms. Roberts, Resolution 2006-275 was moved by Councilmember Quattrone and seconded by Councilmember Sikorski.

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

Resolution adopted, 6-0.

**RESOLUTION 2006-275 RESOLUTION AUTHORIZING BOROUGH ENGINEER TO SUBMIT APPLICATION
TO NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR
FEDERAL AID SAFE ROUTES TO SCHOOLS PROGRAM**

WHEREAS, the New Jersey Department of Transportation is sponsoring a federally-funded Safe Routes to Schools program to provide funding for infrastructure projects within two miles of any elementary or middle school, the application deadline for which is December 29, 2006; and

WHEREAS, the Borough Engineer has recommended that the Borough apply for Safe Routes to Schools funding to replace damaged or unsafe existing sidewalks and construct new sidewalks at areas where sidewalks do not now exist on Summit Street and Mechanic Street within the Borough; and

WHEREAS, the Mayor and Council concur with the Engineer's recommendations and wish to apply for this funding;

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

1. The Governing Body of the Borough of Hightstown supports the project to replace damaged or unsafe existing sidewalks and construct new sidewalks at areas where sidewalk does not now exist on Summit Street and Mechanic Street within the Borough.
2. In accordance with the grant's requirements, the Borough of Hightstown shall continue to own and maintain the sidewalks installed pursuant to the Safe Routes to School Grant for a minimum of twenty (20) years following the project's completion.

RESOLUTION 2006-276, AUTHORIZING PAYMENT NO. 4 – JONICO, INC.

(RECONSTRUCTION OF COLE AVENUE AND CLINTON STREET)

Ms. Roberts reviewed this Resolution and recommended its approval. Mayor Patten asked if snow plowing will be possible this winter on these streets. "Yes," Ms. Roberts replied. "The contractor is making the road safe for snowplows and has been working closely with Public Works to assure that plows will be able to go down the road." Councilmember Quattrone asked if we have done our best to make certain that the homeowners there understand that we will not be able to open the street for five years after this work is completed. "Yes," Ms. Roberts replied. She said that letters went to the homeowners in the area of the new water main suggesting that they replace their water service at this time because their piping is old. In addition, several lots in the area have recently been subdivided, and they will be putting their new services in at this time also. Mr. Quattrone asked when those connection fees would be paid. "When they are ready to put in," Ms. Roberts replied. Mr. Quattrone also asked if Jonico can do that work. "No," Ms. Roberts stated. "Jonico is not that type of contractor." She added that some Cole and Clinton residents have asked that Council consider waiving the plumbing permit fees for replacing their water lines, and that this could come to Council formally in the near future.

Resolution 2006-276 was moved by Council President Schneider and seconded by Councilmember Quattrone.

Council President Schneider asked if waiving the plumbing fees for the water work that we have encouraged the residents to undertake would entice the residents to do that work. Ms. Roberts stated that it may, and that although not everyone *has* to do the work right now, it will benefit the Borough if they do.

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

Resolution adopted, 6-0.

**RESOLUTION 2006-276 AUTHORIZING PAYMENT NO. 4 – JONICO, INC.
(RECONSTRUCTION OF COLE AVENUE AND CLINTON STREET)**

WHEREAS, on August 7, 2006 the Borough Council awarded a contract for the reconstruction of Cole Avenue and Clinton Street to Jonico, Inc. of Lambertville, NJ in the amount of Two Hundred and Ninety-Five Thousand One Hundred and Thirty-Three (\$295,133.00) Dollars; and

WHEREAS, the Borough Council subsequently approved Change Order No. 1 to this contract in the net amount of \$82,436.29, bringing the total contract price to \$377,569.29; and

WHEREAS, the Contractor has submitted Payment Request No. 4 for this project in the total amount of \$57,543.06 (which includes \$7,737.00 for water- and sewer-related construction and \$49,806.06 for general roadway construction), and the Borough Engineer has recommended that this payment be approved, subject to receipt of the required certified payrolls;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that Payment Request No. 4 by Jonico, Inc. in the amount of \$57,543.06 is hereby approved and the Treasurer is authorized to issue payment for same, subject to receipt of the required certified payrolls.

REQUEST BY THE EAST WINDSOR REGIONAL SCHOOL DISTRICT TO INSTALL ANTENNA ON BOROUGH WATER TOWER

Ms. Roberts reported that she spoke that day with the School District's transportation superintendent. The school would like to install one antenna on top of the water standpipe at Leshin Lane in order to get better reception and better service for communication with their school buses. Currently, they have equipment on a utility pole but if the signal is interrupted by a building or by trees, the communication fails. The antenna to be placed on the tower would be a repeater with a 50-mile radius, which would allow them to keep in touch with their buses while on school trips, as well as with the senior bus, and could also be used by the Borough's own emergency services in the event that school buses were used for evacuation or other emergency purposes. "If you agree," Ms. Roberts said, "the school would go through a similar process as the cellular providers at the Planning Board." Mayor Patten asked if there is any way that this process can be streamlined for the school in order to move things along and minimize the cost.

Councilmember Quattrone asked if the school's antenna would pose any detriment to the Borough's own equipment. Currently, we have a First Aid Squad antenna there. Ms. Roberts stated that we must also be certain that it would not interfere with antennas which could be placed there by Verizon under its existing lease with the Borough.

Ms. Roberts will speak further with the school's transportation superintendent regarding these issues and bring this back to Council.

ORDINANCES

PUBLIC HEARING AND FINAL READING: ORDINANCE 2006-27,

AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN AMENDING AND SUPPLEMENTING SECTION 26-10-5, ENTITLED "EXEMPTIONS," OF SECTION 26-10, "MANDATORY DEVELOPMENT FEES," OF CHAPTER 26, "LAND USE PROCEDURES," OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, COUNTY OF MERCER, NEW JERSEY," IN ORDER TO PROVIDE AN EXEMPTION FROM THE PAYMENT OF DEVELOPMENT FEES TO CHURCHES AND OTHER HOUSES OF WORSHIP FOR CERTAIN CONSTRUCTION

Mr. Raffetto stated that when representatives of Saint Anthony Roman Catholic Church originally requested a return of the development fees paid with respect to their recent expansion, he had recommended that it be a more general exemption that would apply to all nonprofits; however, he has since reviewed this with Planner Tamara Lee, who pointed out that, if the Borough were to adopt an overall exemption, it would be "on the hook" for additional affordable units that could become a part of our COAH obligation as a result of new construction by other types of nonprofits. However, COAH's own regulations, he said, specifically exclude construction by churches and other houses of worship from those types of construction that add to a municipality's affordable housing obligation. As a result, he drafted this ordinance to provide that the exemption be specific to those entities.

Mr. Raffetto went on to say that, at the last meeting, questions were raised regarding the constitutionality of providing this sort of exemption, and what other towns are doing in this respect. This is a new phenomenon, he said, and towns are just now dealing with it. "There's not a lot out there to look at," he said, because many towns have not acted on this. He stated that valid points were raised at the last meeting, and that this exemption does favor churches as opposed to other nonprofits. He spoke with two representatives of COAH, who informed him that, because the Borough would be acting in accordance with them if adopting this Ordinance, they would assist us if we were named in litigation. Their regulations, which include this exemption, were reviewed and approved by the Attorney General's office. Their rationale, he said, is that nonprofits generally create new jobs with expansion, but a church's increasing the size of its congregation space is not viewed as creating any new jobs.

Ms. Lee stated that she did a quick review of this, and exemption clauses in development fee ordinances vary from town to town. Some exempt all nonprofits, but those towns will have to bear the burden of some of the growth share obligation. She did not find in her research any towns that have exempted just houses of worship, and was surprised to find some that towns have exempted just schools. COAH regulations state, she said, that towns *can* exempt specific types of nonprofits, provided that each classification is addressed consistently. Houses of worship are not considered by COAH to be centers of employment. Some nonprofits can get very large, but there is not as much of a variable with houses of worship. COAH itself excludes churches from their calculations, but not other nonprofits.

Ms. Lee went on to say that, in determining the extent to which a nonprofit's expansion would create new jobs, "the ultimate authority is the International Building Code," not the Borough. COAH, she said, will look at the IBC and then either assign an obligation or not. The Borough could request a waiver, but the burden would be on us to get it. Very few towns have been certified under COAH's Round III rules, she said, and the implications of growth share are just starting to be understood. She added that it does seem that the exemption for churches and nonprofits which would be provided with this Ordinance would be held up and consistent with COAH rules.

Councilmember Thompson noted that the reason that the Borough would want to exclude churches is *not* to favor houses of worship over other types of nonprofits, but rather because that type of construction will not add to our obligation. Mr. Raffetto and Ms. Lee agreed, noting that there is no harm in excluding them, because COAH already has.

Councilmember Rosenberg asked if there is a standard definition for "houses of worship," and what would prevent a household from declaring themselves as such. Ms. Lee said that this could be associated with the tax codes and what would constitute tax exemption.

Council President Schneider suggested that, instead of specifically referencing churches and other houses of worship, the language of the ordinance could refer to "construction that does not add to our COAH obligation according to COAH." Mr. Raffetto stated that this could be "administratively cumbersome," as someone would have to make the determination regarding whether or not, according to COAH, the construction in question would or would not add to our obligation. Ms. Lee noted that this issue is covered under our Growth Share ordinance, which states that the development fee applies *if* the construction increases jobs. Council President Schneider questioned, under that circumstance, why the church would have incurred this charge in the first place. Councilmember Quattrone asked why the Borough would need this Ordinance at all, since any questions regarding whether or not to charge the fee could simply be referred back to COAH and they could decide. Mr. Raffetto stated that St. Anthony paid the fee up front in order to get the construction going. Borough officials were in order in asking for that fee, he said, because it meets our regulations. Nothing in our ordinance would have allowed us to exempt them from it at that time. Ms. Lee agreed that, as currently written, our ordinances do require that the Borough collect these funds.

Council President Schneider once again suggested that the language of the ordinance be changed to waive the fee when the construction does not add to the Borough's COAH obligation. Ms. Roberts noted that this would require a determination by herself and the Planning Board in this regard, and asked Ms. Lee how long it would take for COAH to review if asked. Ms. Lee stated that COAH will not review individual applications. It would be done instead as part of their periodic review, after three, five and eight years. At that time, they will make the determination regarding whether or not a project will have added to the Borough's COAH obligation. It will not matter what the testimony was at the time, she said. Mr. Raffetto said that, when he spoke with COAH, they indicated that, even if the Borough requested a waiver, such waivers are very rarely granted, and we would ultimately be "on the hook" for those obligations.

At this time, Mayor Patten opened the public hearing on Ordinance 2006-27.

Eugene Sarafin, 600-628 South Main Street, said "Exempt churches. Give them their money back."

Torry Watkins, 68 Meadow Drive, stated that there are "illogical things going on," as a house of worship is presumed by COAH to create no jobs even if it does, and any other nonprofit is presumed to create jobs even if it doesn't. Greater Goods thrift store, he said, could double their retail space and not add a single job, as they are staffed by volunteers. He objected to this ordinance as "grossly unfair" and said that it "takes the Borough perilously close to violating the First Amendment. "It is small comfort that COAH will defend us," he added, and he urged Council to defeat this Ordinance.

Jane Cox, 183 East Ward Street, asked if the Ordinance would be retroactive, since some houses of worship in the Borough "have done big work in the last few years." She also recommended that we be "very careful with the wording" of this Ordinance.

Jerry Kienan, a resident of East Windsor and a Saint Anthony's parishioner, stated that people don't "turn out to a church because they have an extra 50 seats." He said that the new addition is beautiful, and makes it more comfortable to go to church. He asked the Borough to grant the waiver.

Mr. Sarafin spoke again to ask if it would not automatically become a part of our rules to exempt churches, since COAH does. Mr. Raffetto stated that the COAH regulation excludes the churches from the calculation, and permits towns to exempt them from the fee.

No one else came forward and the hearing was closed.

Ordinance 2006-27 was moved for adoption by Councilmember Thompson and seconded by Councilmember Sikorski. Discussion continued.

Mr. Raffetto and Ms. Lee noted that, if the Borough were to change the language of this Ordinance to remove the specific reference to "churches and other houses of worship" and instead make reference to projects that are "not creating any new residential units or adding new jobs" we would then need a mechanism for determining that. Someone in the Borough would have to go through the many pages of "use group" definitions as well as COAH's rules and regulations to make that determination.

Ms. Gallagher questioned whether it is *legal* for the Borough to charge the church a fee intended to cover an obligation that it will not have created. Ms. Lee and Mr. Raffetto responded that it is.

Mr. Raffetto suggested that, instead of referencing churches specifically, the Ordinance might refer instead to "uses excluded by COAH in 'Appendix E.'"

Councilmember Sikorski requested that a vote be taken at this time.

A motion was made by Councilmember Thompson that the language in the Ordinance be changed, as suggested by Mr. Raffetto, to refer to the list of COAH approved exemptions in Appendix E. Mr. Raffetto noted that the Borough would need to charge someone with the responsibility of making a determination in this regard on a case-by-case basis. Ms. Lee agreed and suggested that this be included in the Ordinance if making that change.

Mayor Patten asked what Council wants here. Councilmember Thompson said "We want to not charge this fee if we are not incurring an obligation." Mayor Patten asked Ms. Lee for her interpretation of what the Borough wants. "You want someone to make a determination regarding whether an obligation will be incurred," she said, "and if not, the fee will be waived." She added that the Borough could require applicants to *prove* that they are excluded based on COAH regulations. Mayor Patten noted that not all instances would have to go before the Planning Board. "Someone here," he said, "may have to say 'yes' or 'no.' Where in the scheme of things would someone say to Saint Anthony's, 'we'll give you your money back, or not?'"

Mr. Raffetto noted that, as Mayor and Council, they can simply adopt a Resolution to return these fees.

Council President Schneider asked if it is possible to reintroduce the Ordinance, with the change discussed, at this meeting. Mr. Raffetto noted that it could not be adopted this year due to the timing, and Ordinances cannot be introduced in one year and adopted in the next.

After further discussion, it was generally agreed that this ordinance would be DEFEATED.

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, Schneider, Sikorski and Thompson voted no.

Ordinance DEFEATED, 0-6.

Councilmember Thompson asked to amend the agenda to add a Resolution authorizing the fees paid by Saint Anthony to be returned to them. This met with the unanimous approval of Council.

RESOLUTION 2006-283, A RESOLUTION AUTHORIZING THE REFUND OF CERTAIN FUNDS TO ST. ANTHONY OF PADUA CHURCH IN THE BOROUGH OF HIGHTSTOWN

Resolution 2006-283 (a verbal Resolution later reduced to writing by the Borough Attorney) was moved by Councilmember Thompson and seconded by Councilmember Harinxma.

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

Resolution adopted, 6-0.

RESOLUTION 2006-283 A RESOLUTION AUTHORIZING THE REFUND OF CERTAIN FUNDS TO ST. ANTHONY OF PADUA CHURCH IN THE BOROUGH OF HIGHTSTOWN

WHEREAS, pursuant to Section 26-10, "Mandatory Development Fees," of the *Revised General Ordinances of the Borough of Hightstown* (also referenced as the "Code"), the Borough has established standards for the collection, maintenance and expenditure of development fees in accordance with the rules promulgated by the New Jersey Council on Affordable Housing (COAH); and

WHEREAS, the fees collected pursuant to the Code are intended to be utilized for the sole purpose of providing low and moderate income housing; and

WHEREAS, pursuant to the Code, all new non-residential construction within the Borough shall be subject to a fee, equivalent to two percent (2%) of the equalized value of said development; and

WHEREAS, said fee is intended to ensure that the Borough is able to satisfactorily address its affordable housing obligations; and

WHEREAS, said affordable housing obligations are directly tied to and linked with the number of new residential units constructed within the Borough as well as to the amount of new square footage of non-residential space constructed with the Borough (and specifically the number of new jobs created thereby within the Borough); and

WHEREAS, COAH has previously determined that certain construction undertaken by "churches" does not increase the number of residential units located within municipalities, nor does it create any new jobs within municipalities; and

WHEREAS, COAH has therefore determined that, in such instances, there is no additional requirement for the construction of new affordable housing units, and therefore that municipalities may exempt churches from the payment of developer's fees in those instances; and

WHEREAS, St. Anthony of Padua Church is located within the Borough, and has undertaken certain new construction at its facilities within the last year; and

WHEREAS, pursuant to Section 26-10, "Mandatory Development Fees," of the *Revised General Ordinances of the Borough of Hightstown*, the Borough was required to levy, assess and collect developer's fees based upon such construction; and

WHEREAS, the total amount of developer's fees collected from St. Anthony of Padua Church is \$25,738.87; and

WHEREAS, St. Anthony of Padua Church paid the necessary fees, under protest, but later made application for a refund of said fees from the Borough; and

WHEREAS, St. Anthony's rationale is that it is not a "developer" per se, but merely a non-profit organization making an improvement to its Church; and

WHEREAS, St. Anthony's has also submitted that the construction that has been undertaken at the Church did not create any new residential units within the Borough, nor did it create the necessity for any new jobs within the Borough; and

WHEREAS, St. Anthony's therefore submitted that the rationale for the collection of the developer's fees was not present, and that the Borough should therefore refrain from collecting the fee and/or should refund any and all fees previously paid by them for this purpose; and

WHEREAS, the Mayor and Borough Council have reviewed the request made by St. Anthony's Church in public at several recent Council meetings, and have heard the representations made by Church officials at said meetings, in support of the Church's request; and

WHEREAS, the Mayor and Borough Council members, collectively, agree that the construction undertaken at St. Anthony's Church is not the type of construction which shall increase the number of residential units within the Borough or create any new jobs within the Borough; and

WHEREAS, the Mayor and Borough Council are also mindful of the fact that St. Anthony's Church has been actively involved in assisting the low- and moderate-income community within the Borough in many ways; and

WHEREAS, the Mayor and Borough Council have therefore determined that it is not necessary or appropriate for the Borough to collect any developer's fee from St. Anthony's as a result of the recent construction undertaken at the Church; and

WHEREAS, the Mayor and Borough Council members have therefore determined that any fees previously posted by St. Anthony's shall be refunded.

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

1. That the Borough hereby authorizes and directs the appropriate Borough Officials to refund the developer's fees previously posted by St. Anthony of Padua Church in the amount of \$25,738.87, for the reasons set forth above.
2. That a Certified copy of this Resolution shall be provided to each of the following:
 - a. St. Anthony of Padua Church
 - b. Candace Gallagher, Business Administrator/Clerk
 - c. Arlene O'Rourke, Treasurer
 - d. George Lang, Chief Financial Officer
 - e. Frederick C. Raffetto, Esq., Borough Attorney
 - f. Tamara Lee, Borough Planner

PUBLIC HEARING AND FINAL READING: ORDINANCE 2006-28,

AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF CHAPTER 26, ENTITLED "LAND USE PROCEDURES," OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN," IN ORDER TO REVISE VARIOUS PROVISIONS RELATING TO LAND USE APPLICATION AND APPEAL

Following a review by Ms. Roberts, Mayor Patten opened the public hearing on Ordinance 2006-28.

Eugene Sarafin, 600-628 South Main Street, stated that this is "an ordinance to enrich engineers and attorneys." He said that this ordinance would discourage improvement of properties, and recommended that no fee be levied if the improvement in question would add to the tax roll.

Jane Cox, 183 East Ward Street, agreed with Mr. Sarafin and said, "We don't want to punish people for improving their properties."

No one else came forward and the hearing was closed.

Ordinance 2006-28 was moved for adoption by Councilmember Quattrone and seconded by Councilmember Thompson.

Councilmember Sikorski asked if this ordinance would apply to construction of a simple deck. Ms. Roberts stated that, if the project was such that it required a variance and had to come before the Planning Board, it would. Otherwise it would not, and would require only a building permit. Decks do not generally require variances.

Mayor Patten noted that the amounts required for escrow are not fees in themselves, but rather the amounts that must be posted with the Borough to cover the fees charged by our professionals in their review of the project. Any excess funds are returned to the applicant once the project is complete.

Councilmember Sikorski noted that the reason for raising the escrow amounts is to save administrative time by our Planning Board secretary in having to go back to applicants to seek the posting of additional funds. The application fee covers the Borough's costs, and escrow funds are meant to cover the professional fees. Ms. Roberts confirmed that it has been many years since these fees were increased.

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

Ordinance adopted, 6-0.

ORDINANCE 2006-28 **AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF CHAPTER 26, ENTITLED "LAND USE PROCEDURES," OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, COUNTY OF MERCER, NEW JERSEY," IN ORDER TO REVISE VARIOUS PROVISIONS RELATING TO LAND USE APPLICATION AND APPEAL**

WHEREAS, at the suggestion of the Borough Engineer, the Mayor and Borough Council have determined to amend various Sections of Chapter 26 of the Borough Code in order to revise various provisions relating to land use application and appeal.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, that Chapter 26, entitled "Land Use Procedures," of the "Revised General Ordinances of the Borough of Hightstown, Mercer County, New Jersey," is hereby amended and supplemented in the following specific respects (additions are shown with underline; deletions are shown with ~~strikeout~~):

SECTION 26-2 PLANNING BOARD.

Subsection 26-2-10 Filing of Applications.

a. Subdivision and Site Plan. The applicant shall file its application, in accordance with the checklist requirements enumerated in Section 26-9, with the Secretary of the Planning Board. At the time of filing the application, but in no event less than ~~twenty-one (21)~~ thirty-one (31) calendar days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Planning Board.

b. Variances. Applications seeking variance relief shall be filed with the Secretary of the Planning Board in accordance with the checklist requirements enumerated in subsection 26-9.3. At the time of filing the appeal or application, but in no event less than ~~twenty-one (21)~~ thirty-one (31) calendar days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Planning Board.

SECTION 26-4 PROVISIONS APPLICABLE TO PLANNING BOARD.

Subsection 26-4-4 Application Fees.

b. Each such application for development shall be accompanied by payment of a fee to the municipality as follows:

<u>APPLICATION</u>	<u>APPLICATION FEE</u>	<u>PLUS</u>	<u>ESCROW ACCOUNT</u>
SUBDIVISIONS			

(a) Minor	\$350.00 <u>\$500.00</u>	\$400.00 <u>\$600.00</u> per lot
(b) Major (Preliminary Approval)	\$550.00 <u>\$750.00</u>	\$500.00 <u>\$750.00</u> per lot
(c) Major (Final Approval)	\$350.00 <u>\$500.00</u>	\$250.00 <u>\$400.00</u> per lot
(d) Resubmission of Incomplete Application	\$350.00 <u>\$500.00</u>	None Required
(e) Concept Plan		
(Escrow charges to be credited toward development application)	\$350.00 <u>\$400.00</u>	\$500.00 <u>\$600.00</u>

SITE PLANS

		\$0.10 per square foot being disturbed, provided a minimum of \$400.00 <u>\$750.00</u> shall be deposited.
(a) Preliminary Site Plan	\$550.00 <u>\$750.00</u>	
		\$0.05 per square foot being disturbed, provided a minimum of \$250.00 <u>\$500.00</u> shall be deposited.
(b) Final Site Plan	\$350.00 <u>\$500.00</u>	
(c) Concept Plan		
(Escrow charges to be credited toward development application)	\$250.00 <u>\$400.00</u>	\$500.00 <u>\$750.00</u>
(d) Waived Site Plan	\$300.00 <u>\$500.00</u>	\$250.00 <u>\$500.00</u>
(e) Resubmission of Incomplete Application	\$350.00 <u>\$500.00</u>	None required

VARIANCES

(a) Appeal (40:55D-70a)		
Residential	\$250.00 <u>\$400.00</u>	\$200.00 <u>\$400.00</u>
Non-Residential	\$450.00 <u>\$500.00</u>	\$300.00 <u>\$500.00</u>
Sign	\$75.00	None Required
(b) Interpretation (40:55D-70b)		
Residential	\$150.00 <u>\$250.00</u>	\$200.00 <u>\$400.00</u>
Non-Residential	\$200.00 <u>\$250.00</u>	\$300.00 <u>\$500.00</u>
(c) Bulk Variance (40:55D-70d)		\$300.00 <u>\$400.00</u> per variance
Residential	\$250.00 <u>\$400.00</u>	
Non-Residential	\$350.00 <u>\$500.00</u>	\$500.00 <u>\$600.00</u> per variance

(d) Use Variance (40:55D-70d)	\$550.00 <u>\$750.00</u>	\$1,000.00 <u>\$2,000.00</u>
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CONDITIONAL USE

Residential	\$250.00 <u>\$400.00</u>	\$300.00 <u>\$500.00</u>
Non-Residential	\$350.00 <u>\$500.00</u>	\$500.00 <u>\$750.00</u>

ZONING PERMITS	\$45.00	None Required
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SECTION 26-5 APPEALS.

Subsection 26-5-1 Appeals and Applications to Planning Board Acting as Zoning Board of Adjustment.

b. Applications to the Planning Board based upon the original jurisdiction of the Board of Adjustment without prior application to the administrative officer shall be filed with the Secretary of the Planning Board. ~~Sixteen (16)~~ Eighteen (18) copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than ten (10) days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceeding and of the regular meeting dates of the Board. All applications filed in accordance with this subsection shall be accompanied by ~~sixteen (16)~~ eighteen (18) copies of the checklist as set forth in subsection 26-9.3.

SECTION 26-9 SUBDIVISION AND SITE PLAN CHECKLISTS.

Subsection 26-9-1 Checklist for Subdivision Plans.

a. Requirements.

MAJOR SUBDIVISION:

4. ~~Sixteen (16)~~ Eighteen (18) copies of all drawings and documents. Twelve (12) sets of drawings shall be half-size with graphical scale and ~~four (4)~~ six (6) sets of drawings shall be full-size.

24. Contribution Disclosure Statement, pursuant to Subsection 26-9-5 of the Revised General Ordinances of the Borough of Hightstown.

MINOR SUBDIVISION:

4. ~~Sixteen (16)~~ Eighteen (18) copies of all drawings and documents. Twelve (12) sets of drawings shall be half-size with graphical scale and ~~four (4)~~ six (6) sets of drawings shall be full-size.

Subsection 26-9-2 Checklist for Site Plan Approval.

a. Requirements.

5. ~~Sixteen (16)~~ Eighteen (18) copies of all drawings and documents. Twelve (12) sets of drawings shall be half-size with graphical scale and ~~four (4)~~ six (6) sets of drawings shall be full-size.

37. Contribution Disclosure Statement, pursuant to Subsection 26-9-5 of the Revised General Ordinances of the Borough of Hightstown.

Subsection 26-9-3 Checklist for Variance Application. Applicants seeking variance relief shall file ~~sixteen (16)~~ eighteen (18) completed copies of the following checklist along with the information and documents required therein:

1. ~~Sixteen (16)~~ Eighteen (18) copies of completed application.
2. ~~Sixteen (16)~~ Eighteen (18) copies of survey showing location of existing and proposed structures on subject.
3. ~~Sixteen (16)~~ Eighteen (18) copies of plans of the proposed structure which describe its appearance and prove its compliance with building codes.
7. Contribution Disclosure Statement, pursuant to Subsection 26-9-5 of the *Revised General Ordinances of the Borough of Hightstown*.

Subsection 26-9-4 Checklist for Sign Variance Application. Applicants seeking sign variance relief shall file ~~sixteen (16)~~ eighteen (18) completed copies of the following checklist along with the information and documents required therein:

1. Eighteen (18) copies of completed application.
2. Eighteen (18) copies of photo or sketch with dimension of sign(s) desired.
8. Contribution Disclosure Statement, pursuant to Subsection 26-9-5 of the *Revised General Ordinances of the Borough of Hightstown*.

BE IT FURTHER ORDAINED, that if any sentence, paragraph or section of this ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this ordinance.

BE IT FURTHER ORDAINED, that this ordinance shall become effective immediately upon final passage and publication in accordance with the law.

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

RESOLUTIONS

RESOLUTION 2006-277, AUTHORIZING JOINT GRANT APPLICATION WITH EAST WINDSOR TOWNSHIP FOR THE "MERCER AT PLAY PROGRAM"

Ms. Gallagher reviewed the provisions of Resolution 2006-277. Councilmember Harinxma asked if Borough residents will be able to utilize facilities that would be funded through this program. Mayor Patten stated that they would, in conjunction with other recreational programs. "Right now, we pay an extra fee," Ms. Harinxma said, and asked, "would this be similar?" Mayor Patten replied that this would be a joint application by both towns, and our residents should not expect to pay additional costs. This will go toward organized sports facilities. He expressed appreciation to East Windsor Mayor Janice Mironov for bringing Hightstown into this joint venture that will benefit both towns. Councilmember Harinxma asked if this would fall under the Township's current recreation program. "No," Mayor Patten said. "This is separate." Councilmember Sikorski expressed support for this and stated that it is a "good example of the Mayor's efforts with Mayor Mironov in addressing our common needs."

Resolution 2006-277 was moved by Councilmember Sikorski and seconded by Councilmember Quattrone.

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

Resolution adopted, 6-0.

RESOLUTION 2006-277**AUTHORIZING JOINT GRANT APPLICATION WITH EAST WINDSOR TOWNSHIP
FOR THE "MERCER AT PLAY PROGRAM"**

WHEREAS, the Borough of Hightstown desires to submit a joint application with East Windsor Township for additional active recreation facilities to be constructed in East Windsor; and

WHEREAS, Mercer County has created a grant funding program for active recreation called "Mercer At Play;" and

WHEREAS, the Borough of Hightstown desires funds to assist in the development of a new active recreation site in East Windsor Township with softball fields and combination soccer and lacrosse fields; and

WHEREAS, East Windsor Township will provide the required 50 percent match for the Mercer at Play grant and will be the lead agency for the project; and

WHEREAS, the Borough Council believes that this joint project will be beneficial to the residents of the Borough of Hightstown who participate in joint recreational activities conducted in East Windsor;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown, in the County of Mercer, State of New Jersey, that the Mayor and Municipal Clerk are hereby authorized and directed to execute and file a grant application on behalf of the Borough of Hightstown to Mercer County for the "Mercer At Play" program as part of a joint application with East Windsor Township.

CONSENT AGENDA

Resolutions 2006-278, 279, 280, 281 and 282 were moved by Councilmember Sikorski and seconded by Councilmember Rosenberg.

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

Resolutions adopted, 6-0.

RESOLUTION 2006-278**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 **\$1,086,398.67** from the following accounts:

Current	\$ 888,108.43
W/S Operating	93,000.07
General Capital	4,536.04
W/S Capital	87,480.51
Grant	299.98
Trust	1,662.50
Housing Rehab-Revolving	3,000.00
Public Defender	450.00
Escrow-Subdivision & Site Plan (First Washington Bank)	7,861.14
Total	<u>\$1,086,398.67</u>

RESOLUTION 2006-279**REQUESTING APPROVAL FOR INSERTION OF A SPECIAL ITEM OF REVENUE
IN THE 2006 BUDGET**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Hightstown hereby request the Director of the Division of Local Government Services to approve the insertion of a special item of revenue and equal appropriation in the budget of the Borough of Hightstown for the year 2006 as follows:

Source	Amount	Revenue Title	Appropriation Title
State of New Jersey Solid Waste Administration	\$2,051.36	Recycling Tonnage Grant	Recycling Tonnage Grant

RESOLUTION 2006-280**AUTHORIZING AGREEMENT FOR RANDOM CDL ALCOHOL AND DRUG TESTING PROGRAM
– COMMERCE RISK CONTROL SERVICES**

WHEREAS, there exists a need for an alcohol and controlled substances program for CDL drivers and other participants in compliance with 49 CFR 382 and 49 CFR 40 for the year 2007; and

WHEREAS, it is the desire of the Mayor and Council to retain Commerce Risk Control Services to perform this service at the cost of \$62.80 per CDL holder or other participant, plus any applicable other costs as outlined in the Agreement which is attached hereto and made a part hereof;

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

1. The agreement with Commerce Risk Control Services for provision of a CDL Alcohol and Controlled Substances Program for the period January 1, 2007 through December 31, 2007, which agreement is attached hereto and made a part hereof², is hereby approved, and the Mayor and Borough Clerk are authorized to execute same.
2. Performance under this contract is subject to the availability of sufficient funds in the 2007 budget.

RESOLUTION 2006-281**AUTHORIZING REFUND OF TAX OVERPAYMENTS**

WHEREAS, tax overpayments has been received by the Borough as follows:

Refund to:	Amount of Overpayment:	Block & Lot #	Property Address:
Pamela M. Zitani 211 Sunset Avenue Hightstown, New Jersey 08520	248.90	Block 3, Lot 51	211 Sunset Avenue
Westlake Settlement Services P.O. Box 961233 Fort Worth, TX 76161	2,467.97	Block 63, Lot 19	535 South Main Street
Wilshire Credit Corp 14523 SW Millikan Way, Suite 200 Beaverton, OR 97005	1,079.39	Block 2.01, Lot 1, C0167	184 Mill Run East

; and **WHEREAS**, the Tax Collector has requested permission to refund the overpayments;

² Included at end of these 12/18/06 minutes.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Tax Collector and Treasurer are hereby authorized to refund the tax overpayments set forth herein.

RESOLUTION 2006-282 AUTHORIZING REMOVAL OF ADDED ASSESSMENT BILLING

WHEREAS, an added assessment was placed in error on property located at 315 Grant Avenue (Block 9, Lot 13); and

WHEREAS the Tax Assessor has made an Assessor's appeal to Mercer County to remove the erroneous assessment, and the Tax Collector has requested permission to remove the added assessment bill in the amount of \$64.13, representing added taxes for the fourth quarter of 2006 and the first and second quarters of 2007;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Tax Collector is hereby authorized to remove the added assessment on Block 9, Lot 13 in the amount of \$64.13 as detailed herein, subject to approval of the Borough Tax Assessor; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be provided to the Tax Collector and Tax Assessor.

NEW BUSINESS

COST RECOVERY FOR FIRE AND POLICE SERVICES

Ms. Gallagher referenced information included in the meeting packets regarding a cost recovery system that would allow the Borough to recoup some of its costs through insurance billings for certain fire and police services. She asked Council to look over the materials and, if interested, she can arrange for a representative of the company and/or Fire Chief John Archer to make an informational presentation at a future meeting.

DISTRIBUTION OF 2005 AUDIT

Ms. Gallagher distributed copies of the 2005 audit to each Council member and stated that they would be asked to vote on a Resolution of Compliance regarding the audit at the January 16 meeting, and to sign an affidavit stating that they have reviewed, at minimum, the portion of the audit entitled "General Comments and Recommendations." She further stated that Borough Auditor William Antonides could formally present the audit at a future meeting if that is Council's wish, but it is not a legal requirement.

MILL REDEVELOPMENT

Councilmember Sikorski asked Mr. Raffetto about the status of the Borough's Conditional Redeveloper's Agreement with Greystone (aka The Wolfington Companies). Mr. Raffetto responded that the Borough named Greystone as Conditional Redeveloper with the understanding that we would enter into an agreement at the following meeting which would specify the terms and conditions under which they would hold that designation. Greystone has been reluctant to enter into that agreement, however, as they had some concerns regarding the language and they were bringing in new legal counsel and wanted him to have an adequate opportunity to review things. Essentially, Mr. Raffetto said, what both parties really wanted was a funding agreement to compensate Borough professionals, and that is what we were discussing most recently, but that has been stalled as well. As of now, no agreement is in place. Councilmember Thompson asked if that means there is no obligation on the Borough's part. "Technically, yes," Mr. Raffetto replied.

Councilmember Thompson stated that, when the Borough made the decision to designate Greystone as Conditional Redeveloper, "we did so because we had just changed our Redevelopment Ordinance to something we thought they'd be interested in doing." At that point, other developers had expressed interest, he said, but Council agreed to name

Greystone as Conditional Redeveloper because they now own the property and were likely to be presenting something that would fit within the revised Redevelopment Ordinance. "That is not the case today," he said.

Mr. Raffetto stated that when he and Mr. McManimon met with Council in closed session, the details of which he is not at liberty to discuss, it was generally agreed that the Borough would try to negotiate with Greystone a mutually acceptable plan, given our prolonged involvement with them and the fact that they are the owners of the property. Councilmember Sikorski asked if it would "behoove us at some point to force the issue on the MOU" [Memorandum of Understanding]. Mr. Raffetto stated that he has advised Greystone that, at this point, no Borough professional would be doing anything further because there are no funds available for this. Councilmember Thompson asked if it would be "prudent to review other options sometime soon." Mr. Raffetto stated that Council could consider other options for the site, if it feels that it has exhausted all possibilities with the current owner; however, they would have to budget for that.

"We need a spokesperson for this issue," Mayor Patten said. "We seem to have a lot of comments from Council and others to the press and publicly, especially when we have been discussing things in closed session." He said that this is inappropriate, and as Mayor, he should be the one to speak. He asked Council to allow the seat of Mayor to function as spokesperson in this matter.

Councilmember Sikorski stated that he would like to see a definitive time frame for execution of the MOU. "If they are serious about continuing or moving ahead, it would be in their interest to proceed," he said. Councilmember Thompson expressed concern that "we are putting ourselves in a situation with little leverage....The developer owns the property and is not interested in presenting options in sync with the consensus of the Borough."

Councilmember Sikorski asked Mr. Raffetto about the process involved if Council wished to change our existing Redevelopment Ordinance to accommodate a new situation. "If amending the Plan," Mr. Raffetto said, "it would have to go back to the Planning Board, and then come back to Council as Redevelopment Agency." Mayor Patten noted that Ms. Lee has not been involved in this process to date and suggested that she review and advise the Planning Board and Council with respect to whether there is a need to revisit and revise our Plan. Councilmember Quattrone asked where the money for this would come from. "I'm willing to give up my salary," the Mayor said.

Councilmember Thompson asked if it is possible to bond for redevelopment expenses. Ms. Gallagher stated that this is possible. Mr. Raffetto noted that there would be no reimbursement from a future redeveloper for things specific to another developer.

Councilmember Sikorski asked, "If Developer 'Y' came forward and offered to pay for a professional review of their proposal, with the understanding that Wolfington is the property owner, would that be permitted?" "Yes," Mr. Raffetto replied, "but you don't have control of the site. If you are going to name another redeveloper, it is contemplated that you are going to undertake eminent domain." He added that there is nothing to preclude another developer from making private arrangements with the owner to purchase the property. "Under Redevelopment Law," he said, "you have broad powers to negotiate. You don't need to do an RFP – you have the ability to contract with whoever you choose."

Councilmember Thompson moved that the Borough issue a Request for Proposals for the Mill redevelopment. Ms. Gallagher noted that this would need to be subject to the provision of funding. Council President Schneider asked if he could speak informally with other developers. Mr. Raffetto stated that there is nothing to preclude that at this time. Councilmember Thompson thanked Councilmember Sikorski and Nancy Walker-Laudenberger "for moving this forward."

BUDGETING PROCESS

Councilmember Thompson stated that the budgeting process the Borough has undertaken in the past "is painful and backwards.... We don't start in a place that we want to land. Going forward, it would be to our benefit to establish what

we feel we can afford for the 2007 budget, and to agree upfront that this is what we intend to spend on municipal government, and then work to find a way to get there." He asked if this Council is interested in starting at the end, and added "Difficult decisions would have to be made. There would be an increased urgency to find ways to be more efficient."

Mayor Patten stated that "we have been doing exactly that every year. We have five or six budget meetings that are open to the public, and a public hearing on the budget, and are always looking for input from the public. The onus is on *us* to do that kind of research and debate." He added, "You have to carry that philosophy to the Board of Education as well" and pointed out that school and county taxes make up the majority of the taxes we pay.

Councilmember Quattrone stated that this is an interesting concept, and in thinking of the Parks and Recreation budget, for example ... "where would I start? ... If we started at a leaner number, we'd have no parks and recreation." With respect to the police budget, Mr. Quattrone said, "the Chief will probably come in with a very small surplus. I look at what he's done, and he got hit with overtime in dealing with the school security which was uncontrollable. How would that work?" Councilmember Thompson stated that no one can predict unanticipated expenses, "but at the end of the day, we had a number that we ended up sticking to." He claimed that "unanticipated expenses would be as potentially possible" under the scenario he is proposing. Councilmember Quattrone noted that, when you can't make it to the end of the year and have to adopt an emergency appropriation, those funds have to be raised in the following year's budget. "That could happen today," Mr. Thompson said. "It wouldn't change. We'd just have lower numbers." Mr. Quattrone said that, in order to lower the numbers, the Borough would have to cut services. Councilmember Thompson responded, "... or use that urgency to find a way to do it." He suggested that the Peddie School could provide a grant to fund our parks. "If we had to work backwards," he said, "we would find additional ways."

Council President Schneider stated, "You need to be very clear as to what the Borough actually provides—fire, first aid, police, garbage, court, roads. Tax increases could be offset if we stopped plowing snow, or policing, but then property values would drop. Safety and security is the number one thing I am charged with. As to what we can do without reducing services, that is what I have always been committed to." Mr. Schneider went on to say that if we were to cut Borough services in half, the average taxpayer would see a difference of about \$400 annually on their tax bill. "We can't significantly impact that," he said, "but we *can* have a nice town that provides good services." He noted the Borough's efforts toward efficiency, and asked what would happen if we reach the fixed number that Mr. Thompson was advocating before the year was over. "Do you stop clearing the streets? Where do you go with it?"

Council President Schneider went on to say that Councilmember Thompson's suggestion is a "noble concept, but in reality, you would first have to identify that you are willing to cut ALL of our services. Residents will not be happy. I will not be happy." Councilmember Harinxma stated that she feels that what Mr. Thompson was saying was that "we might be more creative in finding ways of reducing costs by approaching other communities, etc. Efforts have been made," she said, but we need to try harder." "If residents aren't happy," Councilmember Thompson said, "we'll find other ways to do it." Mayor Patten stated that the Borough's budgeting process will begin soon, and added "I hope you will already have ideas."

Councilmember Rosenberg stated that he is open to all options, and would like to see a hypothetical plan rather than a theory. "Obviously something isn't working," he said, pointing to a four-cent tax increase in Jamesburg, a town he feels is comparable to Hightstown. "Why not look at a different plan?"

Mayor Patten stated that we can hammer this out during our budget meetings, "which can start at 6 and go till 2 a.m. if necessary."

Councilmember Quattrone thanked Councilmember Thompson for bringing this forward, and said it is "corporate thinking." "Unfortunately," he added, "it's hard to find someone else to do something for less." He said that he would "sleep on this," and that he would like to see more of this kind of discussion.

Councilmember Thompson stated, "We didn't make mistakes in our budget. The way we look at our cost structure is a mistake." Councilmember Sikorski stated, "We are faced with increased pension costs and EMS costs, and we have no control over those whatsoever. We are a community that depends on Extraordinary Aid. We are not in control over what happens in Trenton. So far, not one substantive issue has been approved which would have an impact on communities such as Hightstown. Only regionalization and interlocal services and consolidation are long term solutions. What would we eliminate? We want snow removal ... garbage ... police ... What is the rate we want to go for? We're increasing taxes on our local level at the rate of 8 to 9%, two or two-and-a-half times our cost of living increase."

Mayor Patten stated that "there has to be tax reform in how you fund public education." He added that there is no guarantee that sharing services or consolidation would substantially reduce property taxes.

PUBLIC COMMENT II

Mayor Patten opened the floor once again for public comment.

Jane Cox, 183 East Ward Street, stated that Ward Street is "Hightstown's bypass," and suggested that something be done to slow traffic there, particularly around the curve near Maxwell Avenue. She said that she recently ran off the road there to avoid an oncoming car, and recommended a three-way stop at that intersection, or speed bumps. She also noted that many overweight vehicles travel across the Ward Street Bridge.

Eugene Sarafin, 600-628 South Main Street, criticized the Bush administration and told Councilmember Thompson that his appeal regarding the budget process "was exactly what it should be." He recommended that the Borough close down its police department and criticized their handling of information regarding the Craig Nelson case, accusing the police department of "trying to ruin a man's career." "You're Nazis," he said. "We're going to take care of you. I give you one year." At this point Councilmember Quattrone left the room, and Mr. Sarafin criticized him as well.

Lonnie Brown, 219 Maxwell Avenue, stated that the taxicab operation on his block constitutes a traffic hazard and devalues surrounding properties. "My understanding," he said, "is that you're allowed to operate a cab out of your house if you live there, but not a gazillion of them. What's the deal?" Mayor Patten stated that we will be addressing this issue in the near future, and that the Borough is sensitive to his concerns. We're looking at the legal issues involved, he said, and are in the process of trying to solve the problem. Mr. Brown stated that he is in the construction business and is not able to park his concrete trucks on the street.

Torry Watkins, 68 Meadow Drive, referred to the Mayor's comment that the school budget consumes about 63% of our tax dollar and that we need a new method of funding our schools. The East Windsor Regional School District's cost per pupil, he said, is about at the State average and added, "I can't say as much for Hightstown." He claimed that, in some departments, residents are paying twice as much per capita as in some other municipalities.

No one else came forward and the floor was closed.

EXECUTIVE SESSION

Resolution 2006-272, authorizing a closed session for the purpose of discussing contract negotiations, was read aloud and in full by the Borough Clerk. It was noted that formal action may be taken following the closed session.

The Resolution was then moved by Councilmember Sikorski and seconded by Councilmember Rosenberg.

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

Resolution adopted, 6-0.

RESOLUTION 2006-272 AUTHORIZING A MEETING WHICH EXCLUDES THE PUBLIC

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that this body will hold a meeting on December 18, 2006 at approximately 9:40 p.m. at Borough Hall that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7b of the Open Public Meetings Act.

The general nature of the subject or subjects to be discussed:

Contract Negotiations – Interlocal Animal Control Services

Stated as precisely as presently possible the following is the time when and the circumstances under which the discussion conducted at said meeting can be disclosed to the public: March 18, 2007 or when the need for confidentiality no longer exists.

The public is excluded from said meeting, and further notice is dispensed with, all in accordance with sections 8 and 4a of the Open Public Meetings Act.

Upon reconvening into open session, the meeting continued.

RESOLUTION 2006-284, AUTHORIZING INTERLOCAL AGREEMENT FOR ANIMAL CONTROL SERVICES

Resolution 2006-284 was moved by Councilmember Sikorski and seconded by Council President Schneider.

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

Resolution adopted, 6-0.

RESOLUTION 2006-284 AUTHORIZING INTERLOCAL AGREEMENT FOR ANIMAL CONTROL SERVICES

WHEREAS, there exists a need for animal control services within the Borough of Hightstown; and

WHEREAS the Borough Administrator has received proposals for same, and has recommended that an Interlocal Service Agreement be entered into with Upper Freehold Township to provide such services during 2007 and 2008, in accordance with their proposal dated December 11, 2006, which proposal is attached hereto and made a part hereof; and

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

WHEREAS, it is the intention of the Mayor and Council that funds for this expenditure be provided for as needed in the 2007 budget;

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

1. The attached³ Interlocal Service Agreement with Upper Freehold Township for Animal Control Services for the period January 1, 2007 through December 31, 2008, is hereby approved, in accordance with the provisions of N.J.S.A. 40:8A-4.
2. The Mayor and Borough Clerk are hereby authorized and directed to execute the attached agreement for same.
3. Approval of this agreement is subject to the provision of adequate funds in the 2007 and 2008 budgets.

Upon motion by Councilman Sikorski, seconded by Councilmember Harinxma and unanimously approved, the meeting was adjourned at 9:58 p.m.

Respectfully submitted,

Candace B. Gallagher, RMC
Borough Clerk

³ Included at end of these 12/18/06 minutes.