

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; James M. Eufemia, Chief of Police; Kevin McManimon, Esq., Bond Counsel and George Lang, Chief Financial Officer.

APPROVAL OF AGENDA

The agenda was amended to include Resolution 2007-284, authorizing payment #2 to Think Pavers Hardscaping, LLC, and to remove Resolution 2007-283, authorizing a transfer of funds in the budget. It was moved as amended by Council President Sikorski, seconded by Councilmember Rosenberg and approved by all.

APPROVAL OF MINUTES

Minutes of the December 3, 2007 open and closed sessions were moved by Council President Sikorski, seconded by Councilmember Schneider and approved as submitted by all but Councilmember Quattrone, who abstained.

PUBLIC COMMENT I

Mayor Patten opened the floor for public comment.

Jeffrey Bond, 210 South Main Street, addressed Council regarding the Borough's new garbage plan. "You put together with Candace [Gallagher] and Larry [Blake] a well-thought out plan to save money," he said, "be more environmentally and cosmetically sensitive, and give us more control over the waste stream." Under the prior system, he noted, each household was permitted to dispose each week of up to four 32-gallon cans of garbage weighing up to 45 pounds each. The new can holds 95 gallons and can weigh up to 300 pounds. "Regardless of family size," he said, "if you recycle and abide by the rules, one container per household should be sufficient." He said that he is aware that requests have been

made by some residents for an additional can before the new system has even begun, and he would like for those people to give the program a chance. "If you feel after two or three months you really do need another container," he said, "and have good reasons for asking, I feel it could be considered ... but give the plan a chance and let it go as it is and see what we can do." He added, "It's a good plan. Keep it intact until we really need to change it."

Paul Byrne, 320 Stockton Street, said that it is incumbent upon Council to make some provision before January 1st for large families. Other towns do that, he said, and it is discriminatory not to take large families into account.

Gail Doran, 201 Hutchinson Street expressed approval for the new garbage collection plan, and said that, in her mother's community, this system "has really cleaned up the town," and the town looks better on garbage collection days. She suggested that the collections currently scheduled for Wednesdays be performed instead on Mondays so that both garbage and recycling are not out at the same time.

Gail Kelly, 121 Second Avenue, read aloud an email she said that she received from Mayor Patten urging her to attend this meeting and support the changes to the redevelopment plan. "I'm not happy with that," she said, and feels that she does not have the facts, so Council "should vote as they feel is right."

Torry Watkins, 68 Meadow Drive, stated that he was "nearly mowed down" by a skateboarder and two bicyclists at 5:30 p.m. on Saturday as he left the Chinese restaurant downtown.

Eugene Sarafin, 600-628 South Main Street, recited a list of what he sees as the Borough government's failures over the past year: no sidewalks on North or South Main Streets; a "phallus fountain"; "no effort to get together with East Windsor and resolve a whole series of problems"; no effort to "resolve the cost of government"; and failure to accomplish the revaluation (as well as East Windsor's failure to do the same). "Government has never been fair," he said.

Michael Theokas, 142 Mill Run East, stated that the Borough's downtown and new fountain look great, and there has been great progress. He added that, while he is "not completely sold" on Gov. Corzine's new plan, it does increase school funding by 10 percent, which will be important for our school district and gives us an opportunity to work with East Windsor as part of that regional school district.

Phyllis Deal, 305 Stockton Street, said that she was amused to read that Twin Rivers wants to secede from East Windsor. "Maybe we can get together with *them*," she said, "if we can't with East Windsor."

Phil Renaud, 253 Monmouth Street, stated that he has a large family and there is also a business that is run from his home, and one 95-gallon garbage container is not sufficient for them. He asked for relief from that restriction.

Mike Vanderbeck, 344 Stockton Street, said that the new garbage collection system will be wonderful, and hopes that it will reduce our costs. He sympathized with those who have large families, having grown up in one, and suggested that a bank be established wherein, for every two households who request and receive the smaller size cart, one additional garbage container could be provided to a household who needs it.

J. P. Gibbons, 602 N. Main Street, stated that he was "impressed with the transactions in the last month," and is looking forward to a "lively discussion" at this meeting regarding the Mill project.

No one else came forward and the floor was closed.

ENGINEER'S ITEMS

RESOLUTION 2007-267, REQUESTING THE NEW JERSEY DEPARTMENT OF TRANSPORTATION TO INSTALL A POST-MOUNTED PEDESTRIAN WARNING FLASHER AT ROGERS AVENUE CROSSWALK ON MERCER STREET (N.J.S.H. ROUTE 33)

Ms. Roberts reviewed the provisions of this Resolution, noting that she has spoken with DOT to inform them that the Borough wishes to review their preliminary plans for the other two beacons¹. Later, she said, we will still have the option to remove one or change its location. When she receives the plans, she will provide a copy to the Mayor and each Council member. She recommended that we review the plans before saying no to any of the locations.

After brief further discussion, Resolution 2007-267 was moved by Councilmember Quattrone and seconded by Council President Sikorski.

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

Resolution adopted, 6-0.

RESOLUTION 2007-267 REQUESTING THE NEW JERSEY DEPARTMENT OF TRANSPORTATION TO INSTALL A POST-MOUNTED PEDESTRIAN WARNING FLASHER AT ROGERS AVENUE CROSSWALK ON MERCER STREET (N.J.S.H. ROUTE 33)

WHEREAS, the Borough of Hightstown undertook revitalization of its downtown in 2002 in order to provide a more inviting place for pedestrians and to stimulate economic activity in the Borough; and

WHEREAS, said revitalization has continued during 2007 with improvements to Mercer Street;

WHEREAS, the Revitalization has included improvements to crosswalks on N.J.S.H. Route 33 at the intersections of Broad Street, South Main Street, and Rogers Avenue; and

WHEREAS, the Borough of Hightstown has seen a marked increase in pedestrian activity in the downtown and at these crosswalks since the Revitalization: and

WHEREAS, the high volume of traffic on N.J.S.H. Route 33 makes crossing the highway at these crosswalks dangerous, and vehicular traffic does not stop for the pedestrians in the crosswalks: and

WHEREAS, in 2005, the Borough requested that NJDOT design and install post-mounted pedestrian warning flashers at two crosswalks on N.J.S.H. Route 33 at Broad Street and South Main Street, and that request has recently been approved; and

WHEREAS, at this time, the Borough would like to request that NJDOT also design and install a pedestrian warning flasher at the crosswalk on N.J.S.H. Route 33 at Rogers Avenue; and

WHEREAS, installation of post-mounted pedestrian warning flashers at these locations will increase safety for pedestrians:

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

1. The Mayor and Council request that the New Jersey Department of Transportation design and install a post-mounted pedestrian warning flasher at the crosswalk on N.J.S.H. Route 33 at Rogers Avenue.
2. A copy of this resolution shall be forwarded to the New Jersey Department of Transportation.

¹ See minutes of December 3, 2007 ("Engineer's Items").

**RESOLUTION 2007-268, RESOLUTION OF CONCURRENCE WITH NJDOT TRAFFIC REGULATION ORDER
(LEFT TURN PROHIBITION AT 128 FRANKLIN STREET)**

Following a brief review by Ms. Roberts, Resolution 2007-268 was moved by Council President Sikorski and seconded by Councilmember Thompson.

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

Resolution adopted, 6-0.

**RESOLUTION 2007-268 RESOLUTION OF CONCURRENCE WITH NJDOT TRAFFIC REGULATION ORDER
(LEFT TURN PROHIBITION AT 128 FRANKLIN STREET)**

WHEREAS, on December 11, 2006 the Hightstown Planning Board approved a use variance to establish a beauty salon at 128 Franklin Street; and

WHEREAS, a condition of the Board's approval was that left turns be prohibited into or out of that property from or onto NJ Route 33; and

WHEREAS, at the Borough's request, the State of New Jersey Department of Transportation has recently approved such a Traffic Regulation Order, as follows:

No person shall make a turn at any location listed and only in the manner described:

<u>Intersection</u>	<u>Turn Prohibited</u>	<u>Time</u>	<u>Movement Prohibited</u>
Route New Jersey 33 and the 128 Franklin Street driveway (Block number 28) (Lot number 2) (30 feet east of the prolongation of the easterly curb line of Broad Street (approximate milepost 14.34)	Left	All	Northbound from the 128 Franklin Street driveway to westbound Route NJ 33

and has requested a Resolution of Concurrence from the Borough with respect to same;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Hightstown do hereby support and concur with the left turn prohibitions at 128 Franklin Street as set forth herein.

RESOLUTION 2007-269, AWARDING CONTRACT FOR PHASE ONE OF THE GREENWAYS PROJECT

Following a brief review by Ms. Roberts, Resolution 2007-269 was moved by Councilmember Rosenberg and seconded by Councilmember Thompson.

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

Resolution adopted, 6-0.

RESOLUTION 2007-269 AWARDING CONTRACT FOR PHASE ONE OF THE GREENWAYS PROJECT

WHEREAS, five bids were received on October 16, 2007 for the Greenways, Phase I, project in the Borough of Hightstown; and

WHEREAS, three of the five bids were determined to be unresponsive, as detailed in a letter to the Borough from Van Cleef Engineering Associates dated October 16, 2007, which letter is attached hereto and included herein; and

WHEREAS, it is the firm's recommendation that the contract be awarded to the lowest responsive bidder, Jonico, Inc. of Lambertville, New Jersey for the bid price of \$276,130.00; and

WHEREAS, the Borough Attorney has reviewed the bids and has determined that the bid submitted by Jonico, Inc. is in order with respect to legal compliance; and

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

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

1. The contract for Phase One of the Borough's Greenways Project is hereby awarded to Jonico, Inc. of Lambertville, NJ in the amount of two hundred and seventy-six thousand one hundred and thirty (\$276,130.00) Dollars.
2. The Mayor and Borough Clerk are hereby authorized to execute an agreement with Jonico, Inc. subject to approval of the Borough Attorney.
3. This contract is awarded subject to the approval of the New Jersey Department of Transportation.

**RESOLUTION 2007-207, AUTHORIZING PAYMENT NO. 2 TO EAGLE PAVING CORP.
(MORRISON AVENUE IMPROVEMENTS)**

Ms. Roberts reviewed the provisions of Resolution 2007-207, which was then moved by Council President Sikorski and seconded by Councilmember Harinxma.

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

Resolution adopted, 6-0.

RESOLUTION 2007-207 AUTHORIZING PAYMENT NO. 2 TO EAGLE PAVING CORP. (MORRISON AVENUE IMPROVEMENTS)

WHEREAS, on June 18, 2007, the Borough Council awarded a contract for Morrison Avenue improvements to Eagle Paving Corp. of South Toms River, New Jersey in the amount of Three Hundred and Seventy-Seven Thousand One Hundred and Ninety-Four (\$377,194.45) Dollars and Forty-Five Cents; and

WHEREAS, on September 4, 2007, the Borough Council approved Change Order No. 1 to this contract in the amount of Eight Thousand Three Hundred and Ninety-Nine Dollars (\$8,399.00), bringing the total contract price to Three Hundred Eighty-Five Thousand Five Hundred Ninety-Three Dollars and Forty-Five Cents (\$385,593.45); and

WHEREAS, the contractor has submitted Payment Request No. 2 for work done in the total amount of \$66,895.05, together with the required certified payrolls; and

WHEREAS, of that amount, \$3,000.00 is for water and sewer related construction and \$63,895.05 is for general roadway construction; and

WHEREAS, the Borough Engineer has recommended approval of this payment request, with the following deductions:

- A deduction of \$515.00 as reimbursement to the Borough for a fine from the Mercer County Soil Conservation District related to this contractor's work; and
- A deduction of \$6,750.00 as liquidated damages related to the 15-day delay, after the contract completion date, in paving Morrison Avenue, as set forth in the Borough Engineer's memo dated December 11, 2007, attached hereto; and

WHEREAS, with these deductions, the Borough's net payment to the contractor will be in the amount of Fifty Nine Thousand Six Hundred Thirty Dollars (\$59,630.05) and Five Cents;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that Payment Request No. 2 to Eagle Paving Corp. of South Toms River, New Jersey in the NET amount of \$59,630.05 as detailed herein is hereby approved, and the Treasurer is authorized to issue same.

RESOLUTIONS 2007-271 AND 2007-284 (AUTHORIZING PAYMENTS TO THINK PAVERS HARDSCAPING, LLC)

Ms. Roberts reviewed the provisions of Resolutions 2007-271 and 2007-284, authorizing payments #1 and #2, respectively, to Think Pavers Hardscaping, LLC for their work to date on the North Main and Bank Street improvements. Councilmember Rosenberg asked when the area in front of Borough Hall would be complete. Ms. Roberts stated that it would not be before the coming Thursday. We have gotten the results from half of the soil samples that were taken near the underground gasoline tanks that were discovered, and those results indicated that no cleanup would be needed. We are still waiting for the remaining results. The contractor is ready to pour the sidewalks within a day after we receive the results, she said.

Resolutions 2007-271 and 2007-284 were moved by Council President Sikorski and seconded by Councilmember Rosenberg.

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

Resolutions adopted, 6-0.

RESOLUTION 2007-271 AUTHORIZING PAYMENT NO. 1 – THINK PAVERS HARDSCAPING, LLC (NORTH MAIN STREET AND BANK STREET IMPROVEMENTS)

WHEREAS, on September 17, 2007, the Borough Council awarded a contract for improvements on North Main Street and Bank Street in the Borough of Hightstown to Think Pavers Hardscaping, LLC of Woodbury, New Jersey in the amount of Two Hundred and Forty-Seven Thousand and Forty-Four Dollars (\$247,044.00); and

WHEREAS the contractor has submitted Payment Request No. 1 for work done in the total amount of \$85,392.79; and

WHEREAS the Borough Engineer has recommended approval of this payment request, 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. 1 to Think Pavers Hardscaping, LLC of Woodbury, New Jersey in the amount of \$85,392.79 is hereby approved, and the Treasurer is authorized to issue same.

RESOLUTION 2007-284 AUTHORIZING PAYMENT NO. 2 – THINK PAVERS HARDSCAPING, LLC (NORTH MAIN STREET AND BANK STREET IMPROVEMENTS)

WHEREAS, on September 17, 2007, the Borough Council awarded a contract for improvements on North Main Street and Bank Street in the Borough of Hightstown to Think Pavers Hardscaping, LLC of Woodbury, New Jersey in the amount of Two Hundred and Forty-Seven Thousand and Forty-Four Dollars (\$247,044.00); and

WHEREAS the contractor has submitted Payment Request No. 2 for work done in the total amount of \$14,817.60; and

WHEREAS the Borough Engineer has recommended approval of this payment request, 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. 2 to Think Pavers Hardscaping, LLC of Woodbury, New Jersey in the amount of \$14,817.60 is hereby approved, and the Treasurer is authorized to issue same, subject to receipt of the required certified payrolls.

ORDINANCES

PUBLIC HEARING AND FINAL READING: ORDINANCE 2007-23,

AN ORDINANCE AMENDING THE BOROUGH'S REDEVELOPMENT PLAN, AS ADOPTED BY ORDINANCE 2004-20 ON SEPTEMBER 24, 2004 AND AMENDED BY ORDINANCE 2006-19 ON OCTOBER 2, 2006, RELATING TO SUB-AREA I (BANK STREET) WITHIN THE BOROUGH OF HIGHTSTOWN

Kevin McManimon, Esq. of McManimon and Scotland, who has participated in the meetings of the Redevelopment Subcommittee, was present at this meeting and was asked by Mayor Patten to review this Ordinance. Mr. McManimon stated that Ordinance 2007-23 was introduced on October 16, and amends certain provisions in the Borough's existing redevelopment plan for the Bank Street area. The public hearing was advertised and held on November 19, but no action could be taken at that time because the Planning Board had not yet reviewed the amendments. The hearing was continued to December 3, and, in order to give the Borough's Economic Development Committee a more complete opportunity to review and comment on the amendments, it was again continued to this meeting. He added that, prior to the introduction of this Ordinance on October 16, a substantially similar ordinance (#2007-22) was defeated. This evening, he said, is the third public hearing on Ordinance 2007-23, and the fourth to discuss the substance contained therein. The Ordinance amends the Borough's existing Redevelopment Plan, which was adopted with Ordinance 2004-20 in September of 2004 and amended by Ordinance 2006-19 in October of 2006.

Mayor Patten opened the public hearing on Ordinance 2007-23.

Eugene Sarafin, 600-628 South Main Street, recommended that Council do nothing at this time. He said that if the ordinance passes this evening, Hightstown is "buying a lawsuit," and suggested that the Borough meet with East Windsor to resolve the PILOT issue and then revisit this. He feels that references to the PILOT should be entirely removed from this ordinance.

Steve Misiura, 352 South Main Street, and Planning Board Chair, spoke regarding the Borough's "vision being lost." That vision, he said, is hard to define, and the original redevelopment ordinance sets forth goals and objectives which have not changed. Those include removing a blighted area, increasing rateables, enhancing recreation and culture, enhancing the view from Routes 33 and 539 into the central business district, establishing a mixed use development. In spite of changes and compromises made, he said, these goals are still being met, and the overall vision remains the same. The difference is in how those goals would be reached. The Borough *has* compromised, he said, and it has been to the developer's benefit, but the Planning Board, he said, feels that, despite the changes, this can still be a successful project that meets the plan's original goals and objectives.

Mr. Misiura reviewed several of the changes that would be made in the plan by this ordinance:

- He said that it would allow a payment by the developer in lieu of constructing a new municipal building, but the amount of that payment is not referenced in the ordinance. It would be specified instead in the Redeveloper's Agreement.
- He noted that the reduction that this ordinance would make in the amount of required non-residential square footage (from 35,000 square feet to 20,000 square feet) is directly attributable to the 15,000 square feet that had previously been included in that non-residential space for the municipal building.

- He noted that a part of that 20,000 square feet would go now to a new building on Bank Street, which is a positive change. It “will add value and fill in a gap in the site plan,” Mr. Misiura said, “and will free up more square footage in the other buildings for residential space.”
- He noted that this ordinance would not increase the number of residential units, or the number of bedrooms per unit. It would make the units larger and provide more amenities.

Mr. Misiura noted that retail on North Main Street was never a requirement of the Borough’s redevelopment plan, and he is not sure what is being debated in that respect. “There were some concept plans presented,” he said, “but as far as I could tell, it was never required in any version of the plan.”

In closing, Mr. Misiura said that Council must decide if we can afford *not* to develop this site. “Is it better to leave it as is?” he asked. “It may be 20 years before anything happens if it stops here.” He added that he does have a concern about the new COAH requirements. The plan assumes that one affordable unit would be required for every eight market units, however the new rules may require one affordable unit for every *five* market units. The plan states that the developer’s obligation would not exceed 14 COAH units, which would mean that either (1) the developer would be limited to building only 70 market rate units; or (2) he would build up to 130 units, provide the 14 COAH units and the Borough would be responsible for the remaining obligation without the mechanism to pay or provide for them. “That is worth discussing,” he said.

Jeffrey Bond, 210 South Main Street, and chair of the Economic Development Committee, read into the record a lengthy memo from the EDC expressing the consensus of its members that the Borough’s original vision for the redevelopment has been lost.² He noted that further opinions from two of the committee members were also included and attached to the memo, but did not read those into the record.

J. P. Gibbons, 602 North Main Street, recommended once again that references to the PILOT be removed from this Ordinance. If that is appropriate, he said, it can be done separately. He said that all agree that the developer will not be able to afford to rehab Borough Hall; however, this should have been an issue to come back under negotiation as a bargaining chip for the Borough. “As the local paper indicated last week,” Mr. Gibbons said, “there is a modus operandi of this particular developer in dealing with communities: Buy a distressed property that you want to develop, present a vision, then get the approvals, sell it, and move on. That wasn’t in each case, but a pattern was established. It is not our job to make it economically beneficial to the owner of the property.” Mr. Gibbons went on to say that to accept the current ordinance as proposed “after the EDC tells you the vision is somewhat lost, after public hearings have been overwhelmingly not in favor of these last changes, flies in the face of what we’re trying to do here in the Borough – make a community for people to enjoy and afford.” With respect to COAH requirements, Mr. Gibbons noted that he had asked previously what would happen if the law changed. He recommended that Council not tie its hands in this regard by including the number of COAH units in the ordinance. He urged Council to stop and take the time to process information and input received in the last month before proceeding.

Nancy Walker- Laudenberger, 632 South Main Street, stated that, as a Planning Board member, “we’ve spent many regular and special meetings to present to you an ordinance we thought would work. I would like you to act as Redevelopment Agency to move that ordinance on and work out the details in negotiations. Move on with the goals and objectives of the ordinance.”

Cristi Palmer, 121 Park Avenue, said that she does not support allowing a monetary contribution by the redeveloper in lieu of constructing Borough Hall, but does support recommendations of the Borough Engineer which are encompassed in the ordinance. She recommended that Council reject this ordinance “due to COAH changes that will restrict things if we do

² That memo is included in its entirety at the end of these December 17, 2007 minutes.

proceed." She asked Council to "step back, re-involve the community and have an open dialogue, not necessarily as part of a Council meeting, but one-on-one and as a group with members of the public that have consistently come out." She asked Council to "please listen to community members as your loudest voice, not to what the developer thinks they need."

Mike Theokas, 142 Mill Run East, stated that words like "vision" are hard for him to understand because they are not tangible. "If you ask 10 people," he said, "you'll get 10 different answers." He praised comments made by Mr. Misiura and urged Council to remove emotion from this and look at the facts. "It's economic at the core," he said. "We can't afford to have a vacant property for a more extended amount of time.... Property taxes are of utmost importance to everybody in the borough." He said that he speaks for all of the businesses in the Borough and that "this project will be a benefit to all residences through property tax relief, and a boon to the downtown businesses which we've worked so hard to beautify. ... It is critical to the economic health of the Borough."

Mike Vanderbeck, 344 Stockton Street, stated that there will be "no victory tonight no matter what happens" and there will be "a lot of work to do either way." However, if the ordinance passes, he said, there is little hope of attaining our original vision. If it fails, there is a possibility of reviving it.

Mr. Sarafin spoke again to ask if the Redevelopment Plan applies to any developer or just to Greystone. Mr. McManimon stated that it applies to anyone who develops that property. "So Council could talk to any developer they thought would be capable?" Mr. Sarafin asked. "We're not locked in? Greystone paid \$300,000 to develop this document." Mr. McManimon replied that the Borough is not "locked in," but has been discussing the redevelopment of that property with Greystone as the designated (conditional) redeveloper. Mr. Sarafin said that he recalled a study which showed that 80 units would not be viable, and that we needed between 140 and 150. "Did we negotiate down to 130?" he asked. He then performed a quick calculation and said that, without a PILOT, the Borough would realize \$142,000 in tax revenue from 130 units, and the rest would go to the county and the schools. "It would be nice to have all this tomorrow," he said, "but there's no market out there for housing." He added that we also face a battle with East Windsor regarding the possible PILOT. "The trap," he said, "is that, whatever you do, you're buying into a lawsuit or something that sits there. Nothing good is coming out of this. We were wrong in the first place." He said that he has a "queasy feeling" about Greystone and John Wolfington, and feels that they are "not the type that will develop the vision we all have. We'll either wait a long time or it will be the new slum in Hightstown."

Council President Sikorski asked Mr. McManimon, "Was your firm not successful in one of the major PILOT cases in Mercer County Superior Court?" Mr. McManimon replied in the affirmative. Council President Sikorski asked Mr. McManimon to confirm that, in order to initiate any PILOT, a separate ordinance would need to be adopted, and that it would need to be a part of the Redeveloper's Agreement. "Yes," Mr. McManimon replied. "There are a number of different ways to structure a PILOT, and you'd have to negotiate whatever that structure would be." Another ordinance would be needed, he said, to approve the specifics. Council President Sikorski asked Mr. McManimon if the Borough could provide that a portion of the additional monies coming in as a result of the PILOT would be paid to the school district in lieu of taxes. "Yes," Mr. McManimon said, noting that this is not a requirement, but the Borough could choose to share those revenues with the school district after assessing the impact of the development. "You can make whatever agreement you wish with the school district," he said.

Mr. Gibbons spoke again to ask Mr. McManimon if there is any legal necessity to include the language regarding the PILOT in this Ordinance, and whether including it does anything either positive or negative for the Borough. Mr. McManimon replied that it is not necessary to the ordinance, and has no effect either way on the Borough. "Keeping it in the plan now," Mr. Gibbons said, "does nothing but threaten lawsuits and confuse the community. This is my key argument. There is so much detail in this that is not necessary to benefit the Borough, so why is it there causing confusion and problems?" He said once again that he has no problem with negotiating a PILOT later with the redeveloper, but he feels it should not be a part of the Plan now, as it has no positive effect and confuses the issue. I recommend that you just eliminate that," he said.

Mayor Patten said that the language in the ordinance simply states that the redeveloper may apply for a PILOT, but does not say that one would be approved. He asked Mr. McManimon what the purpose of having it in the ordinance would be. "I'm not sure," Mr. McManimon replied. "If the plan didn't provide this, it still could be negotiated. Statutes set the process." Mayor Patten said that perhaps the reason this was put into the Plan was to give the public a sense that the Borough could be receiving monies through a PILOT that would be beneficial to it.

Ashley Hutchinson, 15 Hagemount Avenue, stated that she is a member of the Planning Board but was not speaking on their behalf. The Planning Board, she said, "spent an incredible amount of time" on this ordinance, and it represents "a framework that you can fill in." She said, "I hope that each of you takes your responsibility to the Borough's residents seriously. We're in a tax crisis. There is nothing else to do but redevelop and utilize abandoned properties in the Borough." This is a good plan, she said, and is flexible enough to allow negotiation to get the Borough what it wants and the developer to get what they need to make it happen. She noted that the plan allows for fewer than 130 units, that a PILOT can't be approved without another ordinance, and that requirements regarding the municipal building are still in there. "All are negotiable items which you, as Redevelopment Agency, can use to develop this property and make that part of our town beautiful," she said, "... instead of an ugly thing you drive by. When you talk of your vision and your dedication, take that into account. You're right at the door. If you walk away again, it makes you look *so weak*. Clearly, you're not willing to stand up and say what you want. Go to the table before you back off."

Mr. Sarafin spoke once again to say that the lawsuit in Hamilton that Council President Sikorski referenced, and which Mr. McManimon's firm defended, did not involve a regional school district and so has "nothing to do with us." He said that if we negotiated a PILOT where we received \$750,000, it would all go to the Borough because "no one will give that up to the school." He said that it would be "stupidity" to approve this now and think we'd correct things later.

Gail Doran, 201 Hutchinson Street, said that she does not think that the project in its current state is a good idea. "I don't think you are stupid *or weak*," she said. "I just don't agree with what is on the table. I'm getting upset with the tone of the way things are going. It's a hard job sitting up there." She said that while she is opposed to this plan, she thanks Council for the work that they are doing.

Frank Rivera, 110 Broad Street, said that he was impressed by the EDC's commitment to this project and interested in the diversity of reaction to it. The committee's consensus to vote against these amendments to the plan, he said, are a "clear signal that there have been too many concessions over the past four years. At this point, it is time to put on the brakes." He said that he remembers, at the beginning of this, seeing "glossy graphics showing retail on North Main Street and a refurbished Borough Hall on the second floor," even though that may not have been a part of the plan. "We've used the white flag too often with a bully," he said, and referred to the payment in lieu of constructing Borough Hall as a "\$350,000 bribe." He expressed concern about the density of 130 units and the possibility that COAH requirements may change. Approving this ordinance tonight, he said, "may create more problems than it's worth." He asked Council not to "throw a Hail Mary pass" and thanked them for their work so far.

No one else came forward and the hearing was closed.

Ordinance 2007-23 was moved for adoption by Councilmember Quattrone and seconded by Councilmember Schneider. Discussion ensued.

Councilmember Quattrone thanked the EDC for coming forward with the memo that was requested from them, and said that he was surprised by their consensus. He said that he has questioned why something so important continues to end in a tie vote, which seems to split along the lines of seniority. The Mayor did a good job in appointing the subcommittee, he said, which includes two members of each political party, but all are "seniors of the Borough," and perhaps "the juniors didn't get a fair shake ... maybe one of them should have been on the subcommittee." That committee, he said, did an outstanding job, worked very hard, and was dealing with tough people. Mr. Quattrone said that he has been one of the

three to vote for the plan, and would like to have seen letters from all of the Borough's commissions and committees, and even the police department. "I am up in the air with it," he said, "and for turning it down tonight." He said that perhaps making this an age-restricted development could address some of the concerns expressed. He would like to see the "junior" members of Council be involved in discussions with the developer, and feels that we should wait to find out exactly how many COAH units will be required under the new rules. "This is a big decision," he said, "and it shouldn't boil down to one vote to make the biggest difference in Hightstown that I can remember."

Councilmember Schneider stated that it makes sense to allow a contribution in lieu of reconstructing Borough Hall, and the expected outcome of the "current tentative deal" is "definitely a plus on every front" for the Borough. "It is big tax dollars with or without the PILOT," he said, and added that Mr. Sarafin's estimate of \$140,000 per year was low ... by his calculations, the Borough would realize at least \$180,000 per year with no PILOT. That would have a strong impact on our tax rate, he said, and added, "I have always championed saving money and doing something about our taxes. This is an opportunity for increased development to attempt to control increased taxes." He said that he doesn't like the Mill building itself, and he has not been in favor of a new building on Bank Street, which he feels "pushes the parking issue." The original plan, he said, included 80 units and required much more parking. "This current ordinance is a big move in reducing density," he added.

Mr. Schneider went on to note that the Borough's participation in COAH requirements is fully optional. Not to require those units, he said, could reduce the total number of units to 116 or fewer. Regarding the new rules, he said that he is "not okay adding another 12 units and going up to 142." He said that, while the Borough's participation in the past with COAH was "well meaning and socially minded," he feels we should rethink that participation now. "It's too expensive," he said, adding, "All speak as if it is required, but we have a choice. If we don't participate, we run the risk of a developer coming in for another site, say Coca Cola, and they could force a higher density than we want. But we're going along [with COAH] and getting a much higher density than we want. I would like to see this go forward but would prefer to see it go forward without COAH." Without that requirement, he said, the condos could "grow to fill that space," and could be upscale, larger units.

Mr. Schneider noted that "the worst circumstance is what we have now. An empty lot would be preferable. We're used to looking at it, but it's horrible, a detriment to everyone. The tax dollars it could be generating are significant. Gene's calculations are a 10 percent reduction in our tax rate, long-term post-PILOT. This is an acceptable deal. This ordinance is better than what we have today." He said that he would vote yes on this ordinance because it is a move forward, but would also like to see another amendment introduced to remove COAH. "The threat doesn't concern me at all if we don't participate," he said. "We have no locations where someone would be putting in that kind of high-density affordable housing. I'd like to see one additional change – remove COAH completely and ask the developer to give us a new number. And if Borough Hall is fine the way it is, how many more units can we reduce?"

Councilmember Thompson said that his four years on Council "have been sort of defined by this." "We're bad negotiators," he said, "and have positioned ourselves horribly in the negotiations. ... This has been Greystone's vision from the beginning." He referred to the plan as "smoke and mirrors" and said that we have not yet "sat down as a community and defined what our vision is." He said that the Borough needs to have a more inclusive process, and that we should listen to the EDC and to the public. "Re-establish what the vision is," he said, adding that it must be financially viable for the developer. "We need to vote this down and Council needs to embrace the community and establish a vision that has some reality within the market, and work toward it diligently." He added that he doesn't believe in "scare tactics" regarding "20 years of blight."

Councilmember Rosenberg said that he is at the point now where he must say "enough is enough." "We have to be visionary and passionate about this," he said. "I don't feel it will sit for 20 years. This is a watershed moment for us ... have confidence. Don't be scared about not moving forward. It won't be this way forever."

Councilmember Harinxma said that, while she agrees that we need to develop in order to reduce taxes, "we can't be too shortsighted about that. This will be here forever. It's nice to reduce taxes but not if it means we'll regret it down the road."

Council President Sikorski stated that he has listened carefully to comments by the public, and there is no consensus among Council to move forward at this time. The questions raised, he commented, "would get A's in rhetoric." The plan that was first presented by the developer, he said, was a conceptualization, yet some, including some members of that Council, latched onto it and thought that *was* the plan, but "it was a gimmick that most developers use to get into the project." Mr. Sikorski added that he is not sure that all who have severe criticisms of the plan are in agreement about their criticisms. Some are in favor of one of its aspects, but opposed to another, and others are the opposite.

Council President Sikorski asked Mr. McManimon for clarification regarding the new COAH rules. Mr. McManimon said that the new rules are not yet in effect. Mr. Sikorski noted the complexity of this project and said that his vision is to take a blighted, underdeveloped area and change it into a mixed use. He noted that, when Wyckoff's Mill was being contemplated, there was a lot of similar opposition to it, yet it is one of the areas that will be subject to an increase in assessments when the revaluation is performed. "There is a difficulty in communicating regarding negotiations which are complex and take hours," he said. "Some information that is supportive doesn't even come up in discussion, and some is proprietary. The developer is being driven by economic forces – the bank won't loan money for a lot of these components. That is why some of these parts won't work." Mr. Sikorski expressed his frustration and said that "to go back to stage one is not a viable alternative. ... When we look at what we're asked to do tonight, what are the great changes?" The changes in this ordinance, he said, include another option on Borough Hall, the change recommended by the Borough Engineer regarding the vacation of Mechanic Street, which is significant and opposed by Greystone ("How does one interpret that?," Mr. Sikorski asked. "It indicates a concession to the Borough over the developer."), a compromise on the square footage, and a two-story building on Bank Street. "People are discussing all kinds of things that were not contained here," he said. "I feel I am working for the best interest of Hightstown, and I have a vision also ... but it's not Camelot. We have spent a lot of time and weighed these issues."

Council President Sikorski asked Mr. McManimon to comment on the reason for including COAH. "This is an attempt by the Borough," Mr. McManimon said, "to help force the redeveloper to satisfy part of what the Borough's obligations would be as a result of this development." Mr. Sikorski noted that "affordable housing" is sometimes confused with "low income housing," which it is not. It is suitable, he said, for a middle class, first year teacher earning \$40,000 per year. There is a lot of affordable housing in the Borough already, he said. It's just not labeled as such.

Council President Sikorski closed his comments by saying that he is not comfortable proceeding at this time if Council is not in agreement about that, and is willing to postpone action on the ordinance. He made a motion to this effect.

Councilmember Schneider noted that to postpone action would mean that the ordinance would need to be reintroduced in 2008, as it cannot be carried over from one year into the next. He suggested instead that we adopt just those parts of the ordinance for which there is consensus, such as the requirement for shared parking and the option for the Borough not to vacate the stub of Mechanic Street.

Councilmember Thompson vehemently disagreed, and said, "Council needs to vote NO on this ordinance."

Mayor Patten noted the need "to build a greater consensus as to what we want." Regarding public input, he said, "we have been more open than probably any other town in the surrounding area, yet the hearings have not been packed, it's not standing room only." He said that it hurts him when people say we have not been open in this process. He noted that proprietary information is sometimes exchanged in subcommittee meetings. "Consensus is needed," he said. "We must continue this process. If this amendment gets turned down, we still revert back to the ordinance that was in place before the suggested changes."

At this time, the roll was called for the adoption of Ordinance 2007-23.

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

Ordinance DEFEATED, 4-2.

The Mayor called a brief recess at this time. Upon reconvening, the meeting continued with the public hearing and final reading of Ordinance 2007-27.

**PUBLIC HEARING AND FINAL READING: ORDINANCE 2007-27,
AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST TO
CONSTRUCT, CONNECT, OPERATE AND MAINTAIN CABLE TELEVISION AND
COMMUNICATIONS SYSTEM IN THE BOROUGH OF HIGHTSTOWN, NEW JERSEY**

Ms. Gallagher stated that this Ordinance will grant a 15-year renewal of Comcast's cable television system franchise. The franchise fee will be two percent of the gross revenues from CATV subscription fees, or any higher amount that is otherwise allowable by law, whichever is greater. The ordinance has been reviewed and approved by the Board of Public Utilities.

Mayor Patten opened the public hearing on Ordinance 2007-27.

Eugene Sarafin, 600-628 South Main Street, asked how Section 14 of this Ordinance would be enforced. Ms. Gallagher noted that Section 4 of the Ordinance prescribes actions that the Borough may take in the event of non-compliance by Comcast. Mr. Sarafin noted that the franchise fee will actually now be four percent, due to the extent of Verizon's presence in the community. Ms. Gallagher acknowledged this and said that the Borough is aware of it.

J. P. Gibbons, 602 North Main Street, said that Comcast is his internet provider, and he feels that their equipment in the Borough is not state of the art and not very reliable. If renewing, he recommended that we request that Comcast perform a test of their equipment conductivity and reliability. Mr. Gibbons also praised Comcast for their level of customer service, saying "They really care."

No one else came forward and the hearing was closed.

Ordinance 2007-27 was moved for adoption by Council President Sikorski and seconded by Councilmember Quattrone.

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

Ordinance adopted, 6-0.

**ORDINANCE 2007-27 AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST TO
CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS
SYSTEM IN THE BOROUGH OF HIGHTSTOWN, NEW JERSEY**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF HIGHTSTOWN, as follows:

SECTION 1. PURPOSE OF THE ORDINANCE

The municipality hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the municipality, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus and equipment as may be necessary for the construction, operation and maintenance in the Municipality of a cable television and communications system.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

- a. "Town" or "Municipality" is the Borough of Hightstown, County of Mercer, State of New Jersey.
- b. "Company" is the grantee of rights under this Ordinance and is known as Comcast of Central New Jersey.
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Municipality currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS

Public hearings conducted by the municipality, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted pursuant thereto. Said hearings, having been fully open to the public, and the municipality, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Municipality hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE

The non-exclusive Municipal Consent granted herein shall expire 15 years from the date of expiration of the previous Certificate of Approval issued by the Board.

In the event that the Municipality shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Municipality shall have the right to petition the OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Municipality shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE

Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Municipality two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Municipality or any higher amount permitted by the Act or otherwise allowable by law, whichever is greater.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance to the renewal of the franchise shall apply to the entirety of the Municipality and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE

The Company shall be required to proffer service along the public right-of-way to any person's residence or business located in those areas of the Primary Service Area as set forth herein. Any extension of the cable television system beyond the PSA will be made in accordance with the Office of Cable Television's ("OCTV") Line Extension Policy ("LEP"). For purposes of the LEP, the minimum density of homes-per-mile shall be thirty-five (35).

SECTION 8. CONSTRUCTION REQUIREMENTS

Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.

Relocation: If at any time during the period of this consent, the Municipality shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Municipality, shall remove, re-lay or relocate its equipment, at the expense of the Company.

Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.

SECTION 9. CUSTOMER SERVICE

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the municipality upon written request of the Municipality Administrator or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- c. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).
- d. Nothing herein shall impair the right of any subscriber or the Municipality to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under law.

SECTION 10. MUNICIPAL COMPLAINT OFFICER

The Office of Cable Television is hereby designed as the Complaint Officer for the Municipality pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The Municipality shall have the right to request copies of records and reports pertaining to complaints by Municipality customers from the OCTV.

SECTION 11. LOCAL OFFICE

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours, and in no event (excepting emergent circumstances) less than 9:00 A.M. to 5:00 P.M., Monday through Friday.

SECTION 12. PERFORMANCE BONDS

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand (\$25,000.00) dollars. Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 14. COMMITMENTS BY THE COMPANY

- a. The Company shall provide Total Preferred cable television service on one (1) outlet at no cost to each school in the Municipality, public and private, elementary, intermediate and secondary, provided the school is within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges shall be waived on all additional outlets.
- b. The Company shall provide Total Preferred cable television service at no cost on one (1) outlet to each police, fire, emergency management facility and public library in the Municipality, provided the facility is located within 175 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Municipality. Monthly service charges shall be waived on all additional outlets.
- c. A one-time technology grant of \$15,000 paid within 12 months of approval of the franchise by the New Jersey Board of Public Utilities.

SECTION 15. TWO WAY SERVICES AND INTERCONNECTION

In the event that the Municipality determines that it is necessary and feasible for it to contract with the Company for the purpose of providing two-way or interconnection services, the Company shall be required to apply to the BPU for approval to enter into and establish the terms and conditions of such contract. All costs for such application to the BPU shall be borne by the Municipality.

SECTION 16. EMERGENCY USES

The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations.

The Company shall in no way be held liable for any injury suffered by the municipality or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein.

SECTION 17. LIABILITY INSURANCE

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$5,000,000.

SECTION 18. INCORPORATION OF THE APPLICATION

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with applicable State or Federal law.

SECTION 19. COMPETITIVE EQUITY

Should the Municipality grant a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

SECTION 20. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 21. THIRD PARTY BENEFICIARIES

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 22. EFFECTIVE DATE

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

PUBLIC HEARING AND FINAL READING: ORDINANCE 2007-30, AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN WITH RESPECT TO ANIMAL LICENSING FEES

Ms. Gallagher reviewed the provisions of Ordinance 2007-30, which would raise the municipal portion of dog license fees from \$7 to \$10.80, and would raise cat license fees from \$7 and \$10 to \$10 and \$14 for altered and unaltered cats, respectively. She noted that State statute has capped municipal dog license fees at \$7 for many years, but that was recently amended to allow towns to charge up to \$21 for the municipal portion of the fee. Six other towns in Mercer County have already increased their fees. The fees she is recommending would be effective as of January 1, 2008 and would allow expenditures properly chargeable to the animal control trust fund to be paid from that fund rather than subsidized in the Borough's budget, as has been necessary in the past.

Mayor Patten opened the public hearing on Ordinance 2007-30.

Eugene Sarafin, 600-628 South Main Street, had no objection to the Ordinance, as it will raise fees in order to cover the Borough's animal control costs.

No one else came forward and the floor was closed.

The ordinance was moved for adoption by Council President Sikorski and seconded Councilmember Schneider.

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

Ordinance adopted, 6-0.

WHEREAS, receipts from dog and cat licensing fees are deposited into an Animal Control Trust Fund which is used to pay expenses related to animal control; and

WHEREAS, the Borough Administrator has recommended that fees for dog and cat licenses be increased effective January 1, 2008 in order to cover all such expenses; and

WHEREAS, pursuant to recent legislation, the Borough may charge up to \$21.00 for the municipal portion of a dog license fee; and

WHEREAS, there is no statutory regulation regarding cat license fees;

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

Section 1. Section 5-1.2 of the *Revised General Ordinances of the Borough of Hightstown* is hereby amended as follows (additions underlined; deletions in ~~strikeout text~~):

5-1.2 License Required; Fees.

e. Fees. The person applying for a license shall pay a fee of ~~seven (\$7.00)~~ ten dollars and eighty cents (\$10.80) for each dog license, shall also pay one dollar and twenty cents (\$1.20) for the registration tag (Pilot Clinic fee) for each dog and an additional fee of three (\$3.00) dollars for any dog of reproductive age which has not had its reproductive capacity permanently altered through sterilization. Any dog owner claiming to be exempt from the payment of the additional fee of three (\$3.00) dollars shall provide a copy of a veterinarian's certificate, or a notarized statement by the owner, of the animal's neutering. The fees of one dollars and twenty cents (\$1.20) and additional fee of three (\$3.00) dollars, when collected, shall be forwarded to the State Treasurer as provided by law. The same fee shall be charged for the annual renewal of each license and registration tag. If application shall not be made within the time limit set forth hereinabove, there shall also be a late charge per license, as follows. If application is made:

1. During February: Five (\$5.00) dollars.
2. During March: Ten (\$10.00) dollars.
3. After March 31: Fifteen (\$15.00) dollars.

Section 2. Section 5-2.3 of the *Revised General Ordinances of the Borough of Hightstown* is hereby amended as follows (additions underlined; deletions in ~~strikeout text~~):

5-2.3 Licensing Requirements.

h. License Fee Schedule. A license shall be issued after payment of a fee of ~~ten-fourteen (\$14.00)~~ ten dollars for each cat not neutered and ~~seven-ten (\$7.10.00)~~ ten dollars for each neutered cat. Those family groups which presently possess more than two (2) cats, in accordance with subsection 5-2.3b., shall not be required to pay total annual fees in excess of ~~twenty-five thirty (\$25.30.00)~~ thirty (\$30.00) dollars for the licensing of all of the cats, exclusive of any delinquent fees which may apply in accordance with this subsection. Person who fail to obtain a license as required within the time period specified in this subsection will be subject to a delinquent fee per license as follows. If application is made:

- (a) During August: Five (\$5.00) dollars.
- (b) During September: Ten (\$10.00) dollars.
- (c) After September 30: Fifteen (\$15.00) dollars.

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, but the fees listed herein shall not take effect until January 1, 2008.

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 2007-272, RESOLUTION OF COMPLIANCE REGARDING THE 2006 AUDIT

Ms. Gallagher and Mr. Lang reviewed the provisions of this Resolution. Councilmember Quattrone noted that the one comment received in the Borough's audit was with respect to the timeliness of deposits in the police department, and is one that was made in the prior audit as well.

Chief Eufemia and Ms. Gallagher stated that this has been addressed and, although it is likely to appear in the 2007 audit given that 2007 is nearly over at this time, it will not be an issue in future years.

Resolution 2007-272 was moved by Council President Sikorski and seconded by Councilmember Harinxma.

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

Resolution adopted, 6-0.

RESOLUTION 2007-272 RESOLUTION OF COMPLIANCE REGARDING THE 2006 AUDIT

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2006 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of *N.J.S.* 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, at a minimum, the sections of the audit entitled:

**General Comments
Recommendations**

; and

WHEREAS, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

**General Comments
Recommendations**

as evidenced by the group affidavit form of the governing body; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five (45) days after receipt of the annual audit, as per the regulations of the Local Finance Board; and

WHEREAS, all members of the governing body have received and have familiarized themselves with at least the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid, and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52:27BB-52 - A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Borough of Hightstown hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

**RESOLUTION 2007-273, RESOLUTION APPROVING THE 2006 ANNUAL AUDIT CORRECTIVE ACTION PLAN
AND AUTHORIZING THE FILING OF SAID PLAN WITH THE DIVISION OF LOCAL GOVERNMENT
SERVICES**

Following a brief review by Mr. Lang, Resolution 2007-273 was moved by Council President Sikorski and seconded by Councilmember Thompson.

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

Resolution adopted, 6-0.

**RESOLUTION 2007-273 RESOLUTION APPROVING THE 2006 ANNUAL AUDIT CORRECTIVE ACTION PLAN AND
AUTHORIZING THE FILING OF SAID PLAN WITH THE DIVISION OF LOCAL GOVERNMENT
SERVICES**

WHEREAS, the Borough of Hightstown is required, pursuant to the Single Audit Act Amendments of 1996, to prepare a Corrective Action Plan based on the findings and recommendations contained in the Annual Audit for 2006; and

WHEREAS, the Borough is required to submit a Corrective Action Plan to the Division of Local Government Services as part of the annual audit process, and to file a copy of said Plan with the Borough Clerk; and

WHEREAS, the Borough Council has received the 2006 Annual Audit – Corrective Action Plan.

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

1. That the 2006 Annual Audit – Corrective Action Plan, a copy of which is attached hereto and incorporated herein by reference³, is hereby approved.
2. That the proper Borough officials are hereby authorized and directed to file said Corrective Action Plan with the Division of Local Government Services, and to file a copy in the Borough

³ Included at the end of these December 17, 2007 minutes.

RESOLUTIONS REGARDING BOND SALE

Following a review by Mr. Lang, Resolutions 2007-274, 2007-275 and 2007-276 were moved by Council President Sikorski and seconded by Councilmember Schneider.

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

Resolutions adopted, 6-0.

- | | |
|---------------------|---|
| RESOLUTION 2007-274 | RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF \$7,265,000 GENERAL OBLIGATION BONDS, CONSISTING OF \$4,000,000 GENERAL IMPROVEMENT BONDS AND \$3,265,000 WATER/SEWER UTILITY BONDS OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY AND PROVIDING FOR THEIR SALE |
| RESOLUTION 2007-275 | RESOLUTION PROVIDING FOR THE COMBINATION OF CERTAIN ISSUES OF GENERAL IMPROVEMENT BONDS OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY INTO A SINGLE ISSUE OF BONDS AGGREGATING \$4,000,000 IN PRINCIPAL AMOUNT |
| RESOLUTION 2007-276 | RESOLUTION PROVIDING FOR THE COMBINATION OF CERTAIN ISSUES OF WATER/SEWER UTILITY BONDS OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY INTO A SINGLE ISSUE OF BONDS AGGREGATING \$3,265,000 IN PRINCIPAL AMOUNT |

(ALL THREE RESOLUTIONS are included at end of these 12/17/07 minutes)

RESOLUTION 2007-277, RESOLUTION AUTHORIZING THE SALE OF SURPLUS PROPERTY NO LONGER NEEDED FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

Ms. Gallagher explained that this Resolution would authorize the sale on eBay of the Borough's older ambulance, which was recently replaced. The minimum bid would be set at \$5,500. Approval by the DCA is needed before the ambulance may be listed for sale.

Resolution 2007-277 was moved by Council President Sikorski and seconded by Councilmember Quattrone.

Councilmember Quattrone noted that any equipment that the Borough could utilize from the old rig has been removed.

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

Resolution adopted, 6-0.

RESOLUTION 2007-277 RESOLUTION AUTHORIZING THE SALE OF SURPLUS PROPERTY NO LONGER NEEDED FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

WHEREAS, the Borough of Hightstown has determined that certain property is no longer needed for public use; and

WHEREAS, the State of New Jersey permits the sale of surplus property no longer needed for public use through the use of an online auction service, pursuant to the Local Unit Electronic Technology Pilot Program and Study Act, P.L. 2001, c.30.; and

WHEREAS, the Borough owns the following property and desires to sell it online:

1994 Ford E350 Ambulance

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

1. The Borough Clerk/Administrator is hereby authorized to post an offer to sell the items listed herein on an auction website as follows:

Online auction site: EBay
Length of Auction: 10 days
Account: hightstownnj
Auction fees: As per Ebay fee schedule, attached
Method of Payment: Borough Check or, if necessary, personal credit card of Candace Gallagher, Borough Clerk/Administrator
Shipping: n/a
Possession: Upon full payment by cash or certified check
Minimum Bid: \$5,500.00

2. The Borough Clerk/Administrator is hereby directed to take all steps necessary to advertise this sale as required by law.
3. The Borough Clerk/Administrator is hereby authorized to effect the transfer of the herein listed property to the winning bidder upon full payment as detailed herein, without any further action by Council.

CONSENT AGENDA

Resolutions 2007-278 through 2007-282 were moved by Council President Sikorski and seconded by Councilmember Harinxma.

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

Resolutions adopted, 6-0.

RESOLUTION 2007-278 AUTHORIZING REFUND OF TAX OVERPAYMENT

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

Refund to:	Amount of Overpayment:	Block & Lot #	Property Address:
Wells Fargo Home Mortgage X9903-053 – Tom Joosten 2650 Wells Fargo Way Minneapolis, MN 55408	\$281.15	Block 47.01, Lot 26.01	315 Second Avenue

; and

WHEREAS, the Tax Collector has requested permission to refund the overpayment;

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 overpayment set forth herein.

RESOLUTION 2007-279 AUTHORIZING REFUND OF 2008 TAXI LICENSE FEES

WHEREAS, in November 2007, Freddy P. Saquicela and Franklin E. Tenesaca applied and paid the application fees for taxi driver's licenses for the years 2007 and 2008; and

WHEREAS, their applications for 2007 were reviewed by the Hightstown Police Department and found to be not in compliance with the requirements of the *Revised General Ordinances of the Borough of Hightstown*, therefore these licenses were denied; and

WHEREAS, in accordance with the provisions of Section 4-21.4 of the Borough Code, application fees are non-refundable in the event that an application is denied, and the applicants have forfeited the 2007 fees; and

WHEREAS, because it is unlikely that 2008 applications will be approved, the applicants are withdrawing said applications and have requested a refund of the application fees for 2008; and

WHEREAS, the 2008 applications have not yet been processed or reviewed by the Police Department;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Treasurer is hereby authorized to refund the amount of \$50.00 each to Freddy P. Saquicela and Franklin E. Tenesaca, representing a refund of the application fees paid for 2008 taxi driver's licenses as set forth herein.

**RESOLUTION 2007-280 AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL-183 TO
HIGHTSTOWN-EAST WINDSOR LIONS CLUB**

WHEREAS, the Hightstown-East Windsor Lions Club wishes to hold an off-premise 50/50 raffle at the Hightstown Fire House on June 8, 2008; and

WHEREAS, the group has submitted application number RA-183 for this raffle, together with the required fees; and

WHEREAS the group is currently registered with the Legalized Games of Chance Control Commission, holding registration identification number 209-8-12827, which registration expires on December 31, 2009; and

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Raffle License No. RL-183 to the Hightstown-East Windsor Lions Club for their raffle to be held on June 8, 2008.

**RESOLUTION 2007-281 AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL-184 TO
HIGHTSTOWN HIGH SCHOOL MUSIC BOOSTERS ASSOCIATION**

WHEREAS, the Hightstown High School Music Boosters Association wishes to hold an off-premise merchandise raffle at 25 Leshin Lane on May 15, 2008; and

WHEREAS, the group has submitted application number RA-184 for this raffle, together with the required fees; and

WHEREAS the group is currently registered with the Legalized Games of Chance Control Commission, holding registration identification number 209-5-27683, which registration expires on December 31, 2009; and

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Raffle License No. RL-184 to the Hightstown High School Music Boosters Association for their raffle to be held on May 15, 2008.

RESOLUTION 2007-282 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 **\$1,036,932.08** from the following accounts:

Current	\$ 643,652.42
W/S Operating	81,746.88
General Capital	266,505.84
W/S Capital	3,011.00
Animal Control Account	71.63
Grant	269.88
Trust Account	2,555.05
Public Defender	300.00
Lien Trust	36,133.95
Housing Rehab	2,627.93
Escrow – Subdivision & Site Plan	<u>57.50</u>
Total	<u>\$1,036,932.08</u>

UNFINISHED BUSINESS

GARBAGE COLLECTION 2008

Ms. Gallagher stated that the Borough has received some requests for additional garbage carts. Currently, each household receives one 95-gallon cart. She checked with other towns and found that some do provide additional carts for a one-time fee ranging from \$50 to \$85. She noted that, while this does not take into account ongoing additional tipping costs that may result, it is a simpler solution than imposing an annual fee. She recommended that the Borough follow Mr. Bond's recommendation and see how the program actually works before making any changes.

After a brief discussion it was generally agreed that no additional carts would be provided at this time; however, the matter will be revisited at the first meeting in March. In the meantime, residents will be encouraged to enhance their recycling efforts and information in that regard will be made available at Borough Hall.

NEW BUSINESS

REORGANIZATION MEETING AGENDA ITEMS

Ms. Gallagher noted that the January 1 meeting will include Resolutions to establish meeting dates and times, holidays and office hours, and asked the Mayor and Council:

- If they wish to schedule only one meeting in July and August. As that has been done in the past, it could be set forth that way on the Resolution adopted on January 1 if Council wishes.
- If they wish to continue to hold Reorganization Meetings at noon on New Year's Day. She said that she had heard opinions expressed by some members of Council that it may be best to change the date and/or time of this meeting. Since the Jan. 1, 2009 meeting date and time is established on January 1, 2008, she asked Council how they wished to reflect that in the Resolution.
- If they wish to continue to hold meetings on Mondays at 7 p.m.. Again, some had expressed a desire to change the meeting date to Tuesdays.

- If they wished to hold meetings on the eves of the Presidential Primary, Primary and General Elections as in the past.
- If Borough business hours to be established on January 1 should include the summer hours schedule.

After a brief discussion, it was generally agreed that, for the purposes of the January 1 meeting, the status quo would prevail, except that summer hours would be included in the Borough business hour schedule to be adopted.

SCHEDULING OF SPECIAL YEAR-END MEETING

It was discussed and agreed that a special meeting would be held on December 27, 2007 at 5:30 p.m. to take care of various year-end matters, such as payment of bills and transfer of funds.

PUBLIC COMMENT II

Mayor Patten opened the floor once again for public comment.

Phyllis Deal, 305 Stockton Street, said that she would never have enough garbage to fill even the smaller garbage container. She also noted that information is forthcoming regarding making Hightstown a "Guardian City" for animals.

Eugene Sarafin, 600-628 South Main Street, commended Council and said that coming to these meetings "makes one proud to live here. You hear discussion, people tell their views, you have an audience that comes and speaks, you listen." He said that Councilman Quattrone "blew his mind" with his comments about the split between senior and junior members of Council, and not wishing to have a 3 to 3 vote. "It is better to have consensus," he said. "I am proud of my town, that the papers can come here and see democracy in action. We won awards for openness in government ... for being what you are." Mr. Sarafin added that "we'll miss Patrick [Thompson] and said that he appreciates the opinions of all of Council. He wished everyone the best in "whatever holiday you celebrate."

No one else came forward and the floor was closed.

EXECUTIVE SESSION

Ms. Gallagher read aloud Resolution 2007-266, authorizing a closed session for the purpose of discussing personnel and contract negotiations. The Resolution was moved by Council President Sikorski and seconded by Councilmember Quattrone.

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

Resolution adopted, 6-0.

RESOLUTION 2007-266 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 17, 2007 at approximately 10:05 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:

Personnel

Contract Negotiations – Sale of Borough Property; Professional 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 17, 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.

It was moved by Council President Sikorski, seconded by Councilmember Thompson that Ms. Gallagher and labor counsel Richard Shaklee be authorized to negotiate a settlement agreement with an employee in the Public Works department as discussed in closed session. The motion carried unanimously.

A second motion, to be put into the form of a Resolution by the Borough Clerk and numbered as Resolution 2007-285, was then made by Councilmember Thompson, and seconded by Council President Sikorski, that the one bid received on November 27, 2007 for the purchase of Borough-owned property on Academy Street be rejected. That motion also was unanimously approved.

RESOLUTION 2007-285 REJECTING ALL BIDS RECEIVED FOR THE PURCHASE OF BOROUGH-OWNED PROPERTY ON SOUTH ACADEMY STREET

WHEREAS, on August 9, 2007, the Borough Council adopted Ordinance 2007-18, authorizing the sale of Block 40, Lot 28, a surplus Borough property less than the minimum size required for development under the Borough zoning ordinance and without any improvement hereon, by auction among all contiguous lot owners; and

WHEREAS, such auction was conducted on November 27, 2007, in accordance with the provisions of *N.J.S.A.* 40A:12-13, and one bid in the amount of \$15,000.00 was received from Mark Levy on behalf of Michael Fabrikant, owner of an adjacent lot; and

WHEREAS, the Mayor and Council feel that it is in the best interest of the Borough to reject this bid;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the sole bid received on November 27, 2007 for the purchase of Block 40, Lot 28 is hereby REJECTED, and the Borough Clerk is hereby directed to return the bid bond submitted therewith, along with a certified copy of this Resolution.

There being no further business, adjournment was moved by Council President Sikorski, seconded by Councilmember Thompson and unanimously approved. The meeting was adjourned at 10:35 p.m.

Respectfully submitted,

Candace B. Gallagher, RMC
Borough Clerk