

OPEN SESSION

Mayor Robert Patten called the meeting to order at 6:35 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 Bond</i>		✓
<i>Councilmember Harinxma</i>	✓	
<i>Councilmember Quattrone</i>	✓	
<i>Councilmember Rosenberg</i>		<i>Arrived later in meeting</i>
<i>Councilmember Schneider</i>	✓	
<i>Councilmember Sikorski</i>	✓	

Also in attendance: Candace Gallagher, Borough Clerk/Administrator; Frederick Raffetto, Esq., Borough Attorney; and Ken Pacera, Tax Assessor. Tamara Lee, Borough Planner, arrived later in the meeting.

APPROVAL OF AGENDA

The agenda was moved by Council President Sikorski, seconded by Councilmember Harinxma and unanimously approved as submitted.

EXECUTIVE SESSION

Ms. Gallagher read aloud Resolution 2008-285, authorizing a closed session for the purpose of discussing tax appeal litigation. The Resolution was moved by Council President Sikorski and seconded by Councilmember Harinxma.

Roll Call: Councilmembers Harinxma, Quattrone, Schneider and Sikorski voted yes. Councilmembers Bond and Rosenberg were absent.

Resolution adopted, 4-0.

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that this body will hold a meeting on December 15, 2008 at approximately 6:40 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:

Tax Appeal Litigation – Hightstown Development Associates

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 15, 2009 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.

The meeting reconvened into open session at approximately 7:00 p.m.

APPROVAL OF MINUTES

Minutes of the November 13, 2008 Budget meeting were moved by Council President Sikorski, seconded by Councilmember Quattrone and unanimously approved as submitted.

Minutes of the November 17, 2008 closed session were moved by Council President Sikorski, seconded by Councilmember Harinxma and unanimously approved as submitted.

Minutes of the December 1, 2008 open and closed sessions were moved by Council President Sikorski, seconded by Councilmember Schneider and approved by all but Councilmember Quattrone, who abstained.

PUBLIC COMMENT I

Mayor Patten opened the floor for public comment.

Phyllis Deal, 305 Stockton Street, stated that she worked on a Habitat for Humanity home in West Windsor, and it would be an asset to our community to have them build in Hightstown. She noted that constructing a duplex would allow room for off-street parking.

Esther Velasquez, 178 Grant Avenue, thanked Ms. Gallagher, as well as George Chin and Tim Murray for their follow up in getting the hedges trimmed near the Mill property. She also thanked the Hightstown Police Department for checking on her mother while they were away, after no one had been able to reach her, and for calling back the following week to make sure she was alright. Lastly, Ms. Velasquez said that the center of town right now looks "absolutely picturesque."

Janice Mastriano, 15 Leshin Lane, offered a report on cleanups during 2008 by over 7,000 divers around the world. Mayor Patten thanked Ms. Mastriano and the Capital City Dive Club for their efforts in cleaning Peddie Lake.

Jeff Forman, developer of Old Hights Overlook, stated that he has been struggling for years with that townhouse project and asked if the Borough would consider his project for affordable housing. He said that he could offer 13 units in the first phase and more going forward.

Eugene Sarafin, 600-628 South Main Street, spoke of problems at the national level, saying that we have been "screwed beyond description," and he urged Council to "rise up at the local level and say 'enough.'" He added, "The problem is we have all this hope in electing Obama, but then we turn around elect Chris Smith." Mr. Smith is not a friend of labor, he said, "or anyone but the Catholic Church."

No one else came forward and the floor was closed.

Councilmember Rosenberg arrived at the meeting at this time.

ORDINANCES

PUBLIC HEARING AND FINAL READING: ORDINANCE 2008-22, AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN DESIGNATING THE "STOCKTON STREET HISTORIC DISTRICT" AS A LOCAL HISTORIC DISTRICT, AND AMENDING AND SUPPLEMENTING THE OFFICIAL ZONING MAP AND ORDINANCES OF THE BOROUGH OF HIGHTSTOWN ACCORDINGLY

Mr. Raffetto reviewed the provisions of this Ordinance, and noted that it will simply provide a local designation of the Stockton Street Historic District, which has already been designated by the State of New Jersey and the Federal government. He added that, at the last meeting, a question was raised regarding whether to remove portions of three properties which had been subdivided. The Planning Board, he said, considered this and has recommended that the Ordinance be adopted as drafted in order to remain consistent with the boundaries designated at the state and national levels.

Mayor Patten opened the public hearing on Ordinance 2008-22.

Eugene Sarafin, 600-628 South Main Street, expressed support for this ordinance and added that he hopes the Borough will not "create all kinds of restrictions" within the District.

Gail Doren, 201 Hutchinson Street, expressed support for the Ordinance, saying "This is what Hightstown is all about."

No one else came forward and the floor was closed.

Ordinance 2008-22 was moved for adoption by Council President Sikorski and seconded by Councilmember Harinxma.

Council President Sikorski stated that getting to this point "has been a long, arduous process" and pointed out that this Ordinance does not include any restrictions with respect to properties located within the District. "That," he said, "would come up in any subsequent ordinance. This is simply to have the designation so that the official zoning map would indicate that." Mr. Raffetto confirmed this and stated that all owners within the District were notified by regular and certified mail of this public hearing. Mr. Sikorski said that he will vote yes on this Ordinance and he encouraged his fellow Council members to do so as well.

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

Ordinance adopted, 5-0.

AN ORDINANCE OF THE BOROUGH OF HIGHTSTOWN DESIGNATING THE "STOCKTON STREET HISTORIC DISTRICT" AS A LOCAL HISTORIC DISTRICT, AND AMENDING AND SUPPLEMENTING THE OFFICIAL ZONING MAP AND ORDINANCES OF THE BOROUGH OF HIGHTSTOWN ACCORDINGLY

WHEREAS, the Mayor and Borough Council of the Borough of Hightstown are committed to the preservation of the Borough's historic resources, and recognize that this is an important policy goal set forth in the Borough's Master Plan, and a potential tool to promote heritage tourism and generate economic revitalization; and

WHEREAS, the "Stockton Street Historic District" (also referenced as the "District") is an area within the Borough which measures approximately 14.35 acres and includes approximately eighty-four (84) historic resources (including residential dwellings, one large stone church and one small triangular park with a marble monument to the Civil War); and

WHEREAS, the District runs approximately four (4) blocks in length along Stockton Street, west from the intersection of Railroad Avenue and Stockton Street, and ending east of the intersection of Summit Street, and includes that portion of Rogers Avenue from Stockton Street to Outcalt Street which faces north; and

WHEREAS, the District is comprised mostly of residential dwellings dating from just prior to the Civil War (approximately 1830) through the turn of the twentieth century (approximately 1915); and

WHEREAS, in 2005, the District was honored by being listed on both the National and New Jersey State Registers of Historic Places; and

WHEREAS, the United States Department of the Interior, National Register of Historic Places Registration Form and demarcated tax map denoting the District are attached hereto and made a part hereof (copies are on file in the Borough Clerk's Office); and

WHEREAS, the District is significant under the United States Department of the Interior, National Register of Historic Places Criterion C in the area of architecture for its well preserved assemblage of buildings that represent historic architectural styles, including early Federal, high-style Victorian, ecclesiastic, and turn of the century eclectic, and that embody distinctive characteristics and types, periods and methods of construction, including center and side-hall dwellings, churches and two-family buildings; and

WHEREAS, the District represents outwardly linear development that began at the crossroads of Main Street and Stockton Street and expanded westerly along Stockton Street that is visible today with a virtual timeline of building types and styles; and

WHEREAS, the District is also significant under the United States Department of the Interior, National Register of Historic Places Criterion A in the area of transportation for its association with the introduction of rail service in New Jersey, and with John Bull, which provided the first steam-powered passenger and rail service in the State, and which is said to have been the first railroad to connect two major cities, New York and Philadelphia; and

WHEREAS, the District's architectural significance is directly related to the historical element of the District's transportation significance, with architectural details that can only be appreciated by a walking culture; and

WHEREAS, the District represents a virtual timeline of eclectic development spanning nearly a century of the Borough's past, and stands as a living link to memories of a former culture and the words written in textbooks about the past; and

WHEREAS, the Borough is seeking to re-establish the walking culture that existed within the District during the period of significance, prior to prevalent use of the automobile; and

WHEREAS, the Borough has actively sought and received certain grant funding in an effort to bolster preservation efforts with a comprehensive preservation plan that will assure the sustainability of the District's historic resources and provide for public access, education and appreciation of this District; and

WHEREAS, the Mayor and Borough Council wish to publicly recognize the private reinvestment in historic preservation that has been a catalyst for revitalization of the neighborhood associated with the District, as noted in the Hightstown Borough Master Plan; and

WHEREAS, the establishment of historic districts functions to preserve and protect historic resources from generation to generation, foster community pride, preserve environmental beauty, increase the economic value of neighborhoods, improve business communities associated with such districts, and serve as a uniting fabric for the community; and

WHEREAS, the Mayor and Borough Council wish to foster continued preservation and protection of the Borough's historic resources that will serve to enhance the general welfare of the citizens of Hightstown Borough, and will promote Hightstown's heritage to her visitors, telling of her great past and promising future; and

WHEREAS, the Hightstown Historic Preservation Commission shares these concerns and goals, and has recommended that the District be designated as a local historic district pursuant to and in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*; and

WHEREAS, the Hightstown Historic Preservation Commission held a public hearing on March 1, 2005 relating to the potential local historic designation of the District; and

WHEREAS, following the said hearing, the Hightstown Historic Preservation Commission determined that the District possesses attributes that are associated with events and architecture that have made a significant contribution to the culture and history of the Borough of Hightstown, as well as to that of the overall geographic region between the cities of New York and Philadelphia; and

WHEREAS, the Mayor and Borough Council concur with the findings of the Hightstown Historic Preservation Commission, and wish to designate the District as an official local historic district within the Borough of Hightstown pursuant to and in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*; and

WHEREAS, the Mayor and Borough Council wish to amend and supplement the Official Zoning Map and Ordinances of the Borough of Hightstown accordingly.

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

1. That the "Stockton Street Historic District" is hereby designated as an official local historic district within the Borough of Hightstown, County of Mercer and State of New Jersey, pursuant to and in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*
2. That the boundaries of the "Stockton Street Historic District" shall be synonymous with the State of New Jersey and National Register boundaries, as detailed in the attached National Register of Historic Places Registration Form for the District.
3. That the Official Zoning Map and Ordinances of the Borough of Hightstown shall be amended and supplemented accordingly, in order to reflect this historic designation.
4. That the historic designation shall supplement, rather than supersede, the zoning district(s) in which the "Stockton Street Historic District" is located, and the land use development regulations applicable to properties located in the "Stockton Street Historic District" shall be those as required pursuant to the zoning district(s) in which the individual properties are located.
5. That all properties located within the "Stockton Street Historic District" shall be noted as such on the records for those properties as maintained by the Planning and Zoning offices, as well as the offices of the Construction Official, the Tax Assessor and the Borough Clerk.
6. That prior to adoption, this Ordinance shall be forwarded to the Hightstown Borough Planning Board for its review and recommendation in accordance with law. Additionally, all other requirements customarily associated with the adoption of a zoning Ordinance shall be followed.

7. That, at least ten (10) days prior to adoption, a copy of this Ordinance together with a notice as to the time and date scheduled for the public hearing thereon, shall be forwarded by regular and certified mail to all property owners who own lands within the "Stockton Street Historic District." Said notice shall advise all property owners of the pending designation of the "Stockton Street Historic District" as an official local historic district, and that each property owner is being contacted because they own lands within the proposed district. The notice shall be forwarded to each property owner at the address which appears of record in the Tax Collector's Office, to which tax bills are sent.
8. That the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.
9. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.
10. That this Ordinance shall take effect upon final passage and publication in accordance with the law.

PUBLIC HEARING AND FINAL READING: ORDINANCE 2008-23,

AN ORDINANCE TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON (MHL)/RCA ADMINISTRATOR FOR THE PURPOSE OF ADMINISTERING THE BOROUGH OF HIGHTSTOWN'S AFFORDABLE HOUSING PROGRAM AND REGIONAL CONTRIBUTION AGREEMENTS PURSUANT TO THE FAIR HOUSING ACT

Ms. Gallagher reviewed the provisions of this Ordinance, noting that it is a COAH requirement that these positions be formally established. Borough Planner Tamara Lee was present, and noted that Gail Pfister has been working in this capacity through an interlocal agreement with Robbinsville, and has been doing a "great job." Ms. Pfister was also in attendance at this meeting.

Mayor Patten opened the public hearing on Ordinance 2008-23.

Eugene Sarafin, 600-628 South Main Street, stated that the duties set forth in the Ordinance sound like those of a CEO, and asked how the language originated. Ms. Gallagher and Ms. Lee noted that it is based on the model ordinance provided by COAH.

No one else came forward and the floor was closed.

Ordinance 2008-23 was moved for adoption by Council President Sikorski and seconded by Councilmember Harinxma.

Council President Sikorski asked Ms. Lee to comment regarding previous COAH projects that Hightstown has benefited from. She stated that, through a Regional Contribution Agreement with Manalapan, the Borough received over \$800,000 toward the rehabilitation of qualified homes in the Borough. Mr. Sikorski noted that this benefited many in Hightstown who had concerns about roofing, plumbing, etc. and the overall quality of housing in Hightstown has been improved as a result. "We hear the onerous rules and regulations [of COAH]," he said, "and forget that sometimes they are beneficial to the community. We have benefited." He added that the program has made homes more livable for those who couldn't afford to make improvements on their own. Ms. Lee noted that, under the newest COAH regulations, RCA's will no longer be permitted.

Councilmember Schneider asked if these positions will still be required once our obligations under the Regional Contribution Agreement are complete. Ms. Lee stated that, at that time, there will no longer be a need for an RCA Administrator, but we will continue to need an appointed Municipal Housing Liaison (MHL).

Councilmember Quattrone asked if that individual would be working with individuals regarding COAH matters. Ms. Pfister, who is the Borough's appointed MHL, spoke to say, "Yes, I am the 'go to' person for any [affordable] housing related issues" for developers and residents alike.

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

Ordinance adopted, 5-0.

ORDINANCE 2008-23 AN ORDINANCE TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON (MHL)/RCA ADMINISTRATOR FOR THE PURPOSE OF ADMINISTERING THE BOROUGH OF HIGHTSTOWN'S AFFORDABLE HOUSING PROGRAM AND REGIONAL CONTRIBUTION AGREEMENTS PURSUANT TO THE FAIR HOUSING ACT

BE IT ORDAINED by the Mayor and Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, that the *Revised General Ordinances of the Borough of Hightstown* are hereby amended by the addition of new Section 2-25 thereof, to read as follows:

Subsection 2-25. Municipal Housing Liaison (MHL) and RCA Administrator

Section 1. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of the Borough of Hightstown's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MHL/RCA ADMINISTRATOR – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Borough of Hightstown and, as applicable, any RCA it enters into.

ADMINISTRATIVE AGENT – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Borough of Hightstown to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

Section 3. Establishment of MHL/RCA Administrator position and compensation: powers and duties.

A. Establishment of position of MHL/RCA Administrator. There is hereby established the position of MHL/RCA Administrator for the Borough of Hightstown.

B. Subject to the approval of the Council on Affordable Housing (COAH), the MHL/RCA Administrator shall be appointed by the Governing Body and may be a full or part time employee, and may also be subject to a Shared Services Agreement with another municipality pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq.

C. The MHL/RCA Administrator shall be responsible for oversight and administration of the municipality's affordable housing program and the administration of any RCA entered into by the Borough of Hightstown, including the following responsibilities, as applicable, which may not be contracted out:

- (1) Serving as Hightstown's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;

- (2) Establishing an escrow account for the RCA funds and submitting to COAH a signed escrow agreement between the Borough of Hightstown, the bank and COAH for each RCA;
- (3) Monitoring the status of all restricted units in Hightstown's Fair Share Plan and any Project Plan for any RCA;
- (4) Compiling, verifying, and submitting semi-annual reports as required by COAH;
- (5) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
- (6) Attending continuing education opportunities as offered or approved by COAH;
- (7) If applicable, serving as the Administrative Agent for some or all of the restricted units in the Borough of Hightstown as described in F. below and any RCAs entered into by the Borough of Hightstown.

D. Subject to approval by COAH, the Borough of Hightstown may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of the Borough of Hightstown, except for those responsibilities which may not be contracted out pursuant to subsection C above. If the Borough of Hightstown contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the MHL/RCA Administrator shall supervise the contracting Administrative Agent.

E. Compensation shall be fixed by the Governing Body at the time of the appointment of the MHL/RCA Administrator.

F. Administrative powers and duties assigned to the MHL/RCA Administrator or his/her designee shall include the following:

(1) Affirmative Marketing

(a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of [insert name of municipality] and the provisions of N.J.A.C. 5:80-26.15; and

(b) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

(2) Household Certification

(a) Soliciting, scheduling, conducting and following up on interviews with interested households;

(b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

(c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

(d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1, et seq.;

(e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and

(f) Employing the random selection process as provided in the Affirmative Marketing Plan of [insert name of municipality] when referring households for certification to affordable units.

(3) Affordability Controls

(a) Furnishing to attorneys or closing agent's forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

(b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

- (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) Resale and rental
- (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
 - (b) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.
- (5) Processing request from unit owners
- (a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
 - (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
 - (c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- (6) Enforcement
- (a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;
 - (b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - (c) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made;
 - (d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - (e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;
 - (f) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; and
 - (g) Providing reports to COAH as required.
- (7) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

Section 4. Severability.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

Section 5. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

RESOLUTIONS

RESOLUTION 2008-287, RE-PETITIONING THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING FOR SUBSTANTIVE CERTIFICATION OF THE BOROUGH'S AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN

Planner Tamara Lee stated that the Borough must submit an amended Housing Element and Fair Share Plan to COAH by December 31. This is the Plan approved by the Planning Board at their last meeting following a public hearing. Council must endorse the plan before it is submitted to COAH.

Ms. Lee was asked how many affordable units the Borough is obligated under COAH to provide. Ms. Lee stated that, according to COAH, the Borough must create 57 new affordable units; however, the Planning Board feels that is excessive. With input from George Chin regarding the amount of new non-residential space created over the last several years, Ms. Lee has determined that the Borough would be obligated to provide 30 new units for Round 3 plus 20 outstanding from prior rounds, or 50 in total. She reviewed where those units would come from, which would include units created through Habitat for Humanity and at Old Hights Overlook, as well as units on South Academy Street and at the group home. The balance, she said, could be met by doing a "gut rehab" of 23 units at the Hightstown Housing Authority. This would more than meet our obligation, she said.

Ms. Lee went on to say that the FHA has said that the provision of affordable housing does not need to be paid for by taxes. There is money in our affordable housing trust fund which can be used to work with these groups and any shortage could be secured through grants or from the State's affordable housing fund. The Planning Board, she said, feels that this is a good plan that "works with the fabric of Hightstown," and does not involve any huge changes.

Council President Sikorski commended Ms. Lee for a very thorough job. He asked her to comment on the benefits of participating in COAH. Ms. Lee stated that opting out of COAH could put the Borough at risk for a "Builder's Remedy" lawsuit. She explained that if we are not COAH-certified, a developer could go to court and get permission to build whatever he wants. At that point, she said, "whatever credits you've gotten go out the window ... and the builder gets to build all the COAH units that were originally required, *plus the market rate units to support that.*" Since one affordable unit is now required for every five market rate units, that is a lot of market rate units, she said, adding that it would then become economically viable for the developer to tear down entire blocks of existing housing and build whatever they want. The discussion then is between the developer and the court.

Resolution 2008-287 was moved by Council President Sikorski and seconded by Councilmember Rosenberg.

Councilmember Schneider stated that he has voiced his opposition many times to participating in COAH, "partly due to the ludicrous way they're coming up with these numbers." It would seem, he said, that the reason one participates in COAH is to prevent affordable units from being constructed. He added that he objects to its being referred to as an "obligation," when, in fact, participation is voluntary. He also said that he feels that under COAH, some homeowners are subsidizing others who may actually be better off. "My experience is," he said, "that developers don't want COAH units ... and we have no large undeveloped properties." He said that he will vote against this Resolution. Mr. Schneider also commended Ms. Lee and the Planning Board for the way that they dealt with our obligations and handled the numbers, which, he said, was "excellent."

Roll Call: Councilmembers Harinxma, Quattrone, Rosenberg, and Sikorski voted yes. Councilmember Schneider voted no. Councilmember Bond was absent.

Resolution adopted, 4-1.

**RESOLUTION 2008-287 RE-PETITIONING THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING FOR
SUBSTANTIVE CERTIFICATION OF THE BOROUGH'S AMENDED HOUSING ELEMENT
AND FAIR SHARE PLAN**

WHEREAS, the Planning Board of Hightstown Borough, Mercer County, State of New Jersey, adopted an amended Housing Element and Fair Share Plan on December 8, 2008; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the amended Housing Element and Fair Share Plan is attached pursuant to N.J.A.C. 5:96-2.2(a)2¹;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Hightstown, Mercer County, State of New Jersey, hereby endorses the amended Housing Element and Fair Share Plan as adopted by the Hightstown Planning Board; and

BE IT FURTHER RESOLVED that the Governing Body of Hightstown, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3.4, submits this re-petition for substantive certification of the amended Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

BE IT FURTHER RESOLVED that any and all objectors and owners of sites in the Housing Element and Fair Share Plan have received notice of the re-petition; and

BE IT FURTHER RESOLVED that notice of this re-petition for substantive certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven days of issuance of the notification letter from the Executive Director of the Council on Affordable Housing indicating that the submission is complete and that a copy of this resolution, the adopted amended Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Hightstown Borough municipal clerk's office located at 148 North Main Street, Hightstown, during normal business hours for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

¹ On file in the Borough Clerk's office with the original copy of Resolution 2008-287.

NEW BUSINESS

JANUARY 1 REORGANIZATION MEETING ITEMS

Ms. Gallagher stated that she is preparing the Resolutions for the January 1 reorganization meeting, and asked Council how they wished to proceed with respect to certain items typically included in those Resolutions. It was briefly discussed and generally agreed that:

- The 2009 meeting schedule would be established as in years past, with the 2010 reorganization meeting scheduled for January 1 at noon.
- Borough operating hours will be discussed and voted on at the first regular meeting in January rather than at the Reorganization Meeting.
- The Administrator and Chief Financial Officer will be authorized to approve expenditures of up to \$5,000 (Administrator) and \$10,000 (joint approval of Administrator and Chief Financial Officer).

SPECIAL MEETING TO HANDLE END-OF-YEAR ITEMS

It was discussed and agreed that a special meeting would be scheduled for December 30 at 7 p.m. in order to handle end-of-year items.

CONSENT AGENDA

Resolutions 2008-288 through 2008-293 was moved by Council President Sikorski and seconded by Councilmember Rosenberg.

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

Resolutions adopted, 5-0.

RESOLUTION 2008-288 AUTHORIZING PAYMENT NO. 1 – B&H CONTRACTING (WELL #3)

WHEREAS, on August 4, 2008 the Borough Council awarded a contract for water treatment plant improvements (Well House No. 3) to B & H Contracting of Folsom, New Jersey in the amount of Five Hundred Seventy-Five Thousand Three Hundred Dollars (\$575,300.00); and

WHEREAS the contractor has submitted Payment Request No. 1 for work done in the total amount of \$141,962.80; 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 from B & H Contracting of Folsom, New Jersey in the amount of \$141,962.80, as detailed herein, is hereby approved, and the Treasurer is authorized to issue same, subject to receipt of the required certified payrolls.

RESOLUTION 2008-289**AUTHORIZING PAYMENT NO. 4 AND FINAL – S. BROTHERS, INC.
(WESTERLEA AVENUE IMPROVEMENTS)**

WHEREAS, on May 5, 2008 the Borough Council awarded a contract for Westerlea Avenue improvements to S. Brothers, Inc. of South River, New Jersey in the amount of \$234,017.50; and

WHEREAS Change Orders No. 1 and No. 2 to this contract were subsequently approved in the amounts of \$10,996.00 and \$1,692.00 respectively, bringing the total contract price to \$246,705.50; and

WHEREAS the contractor has submitted Payment Request No. 4 and Final for work done in the total amount of \$4,934.11, together with the required closeout documents, including a one-year maintenance guarantee in the amount of \$24,670.55; and

WHEREAS, the Borough Engineer has recommended approval of Payment Request No. 4 and Final, and release of the performance guarantee originally submitted for this project;

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

1. Payment Request No. 4 and Final by S. Brothers, Inc. in the amount of \$4,934.11 is hereby approved, and the Treasurer is authorized to issue same.
2. The Westerlea Avenue Improvements Project is hereby accepted.
3. The Borough Clerk is hereby directed to return to S. Brothers, Inc. the performance bond originally submitted for this project in the amount of \$234,017.50.

RESOLUTION 2008-290**APPOINTING GAIL PFISTER AS RCA ADMINISTRATOR**

WHEREAS, the Borough of Hightstown currently participates in a Regional Contribution Agreement ("RCA") with the Township of Manalapan pursuant to the New Jersey Fair Housing Act, (N.J.S.A. 52:27d-301 et seq.), N.J.A.C. 5:94-1 et seq., N.J.A.C. 5:95-11.1 et seq. and N.J.A.C. 5:80-26.1 et seq.); and

WHEREAS, Hightstown Borough's Project Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et seq.); and

WHEREAS, pursuant to N.J.A.C. 5:80-26.1 et seq., the Borough of Hightstown is required to appoint an RCA Administrator for the administration of Hightstown's RCA housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS, COAH regulations provide that one may serve in a dual capacity as Municipal Housing Liaison (MHL) / RCA Administrator; and

WHEREAS, the Borough of Hightstown has adopted Ordinance 2008-23, establishing the position of Municipal Housing Liaison (MHL) / RCA Administrator for the purpose of administering Hightstown's affordable housing program and Regional Contribution Agreements pursuant to the Fair Housing Act; and

WHEREAS, Gail Pfister was appointed as Municipal Housing Liaison for the Borough of Hightstown on October 6, 2008 in accordance with the terms of an interlocal agreement with Robbinsville Township approved on that date; and

WHEREAS, it is the desire of the Mayor and Council that Ms. Pfister shall serve also as RCA Administrator for the Borough of Hightstown under the same terms;

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Hightstown in the County of Mercer, and the State of New Jersey that, in addition to her duties as Municipal Housing Liaison (MHL), Gail Pfister is hereby appointed as the Administrator of the RCA program, and shall serve as Municipal Housing Liaison (MHL) / RCA Administrator, pursuant to and in accordance with new Section 2-25 of the *Revised General Ordinances of the Borough of Hightstown*; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be provided to:

1. Steve Misiura, Chair, Hightstown Planning Board
2. Tamara Lee, Borough Planner
3. Randall Gottesman, Community Grants, Planning & Housing, Inc. (Administrative Agent)
4. Council on Affordable Housing
5. Mary Caffrey, Robbinsville Township Administrator
6. Gail Pfister, Municipal Housing Liaison (MHL) / RCA Administrator

RESOLUTION 2008-291 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 **\$824,249.4**

from the following accounts:

Current	\$ 232,647.98
W/S Operating	92,217.95
General Capital	319,731.22
W/S Capital	142,094.80
Animal Control	2.00
Trust	2,499.12
Grant	718.86
Housing Trust	3,459.00
Public Defender	150.00
Escrow Subdivision & Site Plan	<u>30,728.53</u>
Total	\$ <u>824,249.46</u>

RESOLUTION 2008-292 AUTHORIZING A TRANSFER OF FUNDS IN THE 2008 BUDGET

WHEREAS, N.J.S.A 40A:4-58 provides that the governing body may authorize a transfer of funds in the budget during the last two months of the fiscal year;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the following transfers in the 2008 budget are hereby authorized:

	<i>From:</i>	<i>To:</i>
CURRENT BUDGET:		
Grant Writing & Administration – Other Expense	\$ 1,600.00	
Municipal Court – Other Expense	1,500.00	
Street & Road Maintenance – Other Expense	1,000.00	
Vehicle Maintenance – Other Expense		\$ 1,000.00
Aid to Fire Department – Other Expense		200.00
Telephone – Other Expense		2,300.00
Recycling Tax (OUTSIDE CAP) – Other Expenses		600.00
TOTAL:	\$ 4,100.00	\$ 4,100.00

WHEREAS the Treasurer has requested permission to cancel the following outstanding checks:

CHECK #:	AMOUNT:	ACCOUNT:	DATED:	PAYABLE TO:
5292	15.00	Trust – Other	12/22/05	Panter & Morgan for Assembly
1101	70.00	Animal Control	10/18/05	T. Blumig Kennels, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Treasurer is hereby authorized to cancel outstanding checks as set forth herein; and

BE IT FURTHER RESOLVED that a refund be issued to any party that claims a check subsequent to its cancellation.

PUBLIC COMMENT II

Mayor Patten opened the floor once again for public comment.

Eugene Sarafin, 600-628 South Main Street, asked Council, during budget discussions, not to “join the crowd and eliminate people.” He suggested that any personnel discussions during budget talks take place in closed session. Mr. Sarafin also noted the importance of visiting other countries. He had just returned from South America and said that their infrastructure is “far superior to ours.” “South America is the future,” he said.

A resident whose name was unclear, residing at 220 Stockton Street, stated that she did not receive any notification regarding the Historic District ordinance, but saw it online as part of the packet. She also congratulated Council for having appointed a Municipal Housing Liaison.

Phyllis Deal, 305 Stockton Street, stated that she, too, did not receive notification of the pending ordinance.

No one else came forward and the floor was closed.

EXECUTIVE SESSION

Ms. Gallagher read aloud **Resolution 2008-286**, authorizing a closed session for the purpose of discussing contract negotiations and the disposition of Borough-owned property. The Resolution was moved by Councilmember Schneider and seconded by Council President Sikorski.

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

Resolution adopted, 4-0.

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that this body will hold a meeting on December 15, 2008 at approximately 7:55 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 – Professional Services
Disposition of Borough-owned property

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 15, 2009 or when the need for confidentiality no longer exists.

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

Upon reconvening into open session, adjournment was moved by Council President Sikorski, seconded by Councilmember Harinxma and unanimously approved. The meeting was adjourned at 8:13 p.m.

Respectfully submitted,

Candace B. Gallagher, RMC
Borough Clerk