

**Meeting Minutes
Hightstown Borough Council
Regular Meeting
April 21, 2014
6:00 pm**

The meeting was called to order by Mayor Kirson at 6:06pm and he read the Open Public Meetings Act statement which stated, "Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the *Trenton Times* and the *Windsor-Hights Herald*, and is posted in the Borough Clerk's office."

The flag salute followed Roll Call.

	PRESENT	ABSENT
<i>Councilmember Bluth</i>	✓	
<i>Vacant</i>		
<i>Councilmember Hansen</i>	✓	
<i>Councilmember Misiura</i>		✓
<i>Councilmember Quattrone</i>	✓	
<i>Councilmember Thibault</i>	✓	
<i>Mayor Kirson</i>	✓	

Also in attendance: Debra Sopronyi, Borough Clerk; Henry Underhill, Borough Administrator; James LeTellier, Police Director; Frederick Raffetto, Borough Attorney; and Larry Shapiro, Esq. of the firm Ansell Grimm and Aaron.

Resolution 2014-87 Authorizing a Meeting Which Excludes the Public

Council member Quattrone moved resolution 2014-87; Council President Bluth seconded.

Roll Call Vote: Council members Bluth, Hansen, Quattrone and Thibault voted yes.

Resolution adopted 4-0.

Resolution 2014-87

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

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 April 21, 2014 at approximately 6:00pm in the First Aid Building located on Bank Street, Hightstown 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 – Police Administrative Asst.
Harassment Investigation

Litigation – Bruckner Southern

Contract Negotiations – Shared Services

April 21, 2014

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: July 21, 2014 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.

James LeTellier, Police Director, was excused from the meeting at this time.

The public meeting was called to order by Mayor Kirson at 7:36 pm and he read the Open Public Meetings Act statement.

The Flag Salute followed Roll Call. Councilmember Misiura had joined the meeting during executive session and was now present; George Lang, CFO, joined the meeting at this time; James LeTellier, Police Director, rejoined the meeting at this time. Attorney Larry Shapiro left the meeting during executive session and was no longer present.

Mayor Kirson requested that resolution 2014-93 authorizing an agreement be added to the agenda and that resolution 2014-90 be pulled from the consent agenda.

Councilmember Misiura moved the agenda as amended for approval, Council President Bluth seconded.

Roll Call Vote: Council members Bluth, Hansen, Misiura, Quattrone, and Thibault voted yes.

Agenda approved as amended 5-0.

Presentation – Re-Development Authority

Councilmember Misiura reviewed that an ad-hoc committee was formed to investigate the options for a re-development committee; members consisted of Councilmember Misiura, Lee Stults, and Keith LePrevost. Councilmember Misiura then turned the presentation over to Keith LePrevost.

Mr. LePrevost then reviewed the definitions and role of a re-development authority. Noting that the committee had referenced state information, had meeting, and conversed via e-mail to complete the report, he reviewed the report.

“The Borough of Hightstown’s Council has for many years acted as the Redevelopment Authority. A redevelopment authority has the task of implementing the redevelopment plan in a designated area. Several attempts have been made over the years to redevelop the areas in the borough that are considered “In need of redevelopment” with limited success.

The Borough of Hightstown’s Council is considering the establishment of an independent redevelopment authority. The goal is to move forward on projects for the betterment of the borough. An ad-hoc sub-committee was established by Council to study this issue consisting of Steven Misiura, member of council, Lee Stults, local architect and Planning Board Member, and A. Keith LePrevost, Executive Director of the Hightstown Housing Authority. The group has met and reviewed the State law that governs Redevelopment Agencies, the pros and cons of various organizational structures, and Mr. LePrevost discussed the options with the Board of Commissioners of the Hightstown Housing Authority. The following are the findings to date:

The following are the roles of the Redevelopment Entity:

- Oversee the implementation of the redevelopment plans.
- Select the redeveloper.
- Ensure the redevelopment project is undertaken in accordance with the redevelopment plan.
- Exercise redevelopment powers and functions in accordance with the redevelopment plan.
- Acquire property.
- Convey property to the redeveloper through sales or lease.
- Provide financial assistance to the redeveloper.
- Recommend redevelopment to the governing body and planning board.

The Following are the roles of the Governing Body:

- Authorize preliminary investigation by resolution.
- Designate by resolution, the redevelopment areas.
- Adopt, by ordinance, the redevelopment plan.
- Designate the redevelopment entity.
- Appoints commissioners to a redevelopment agency.
- Authorizes tax exemptions and abatements as needed.
- Assists redevelopment entity and redeveloper in implementing the redevelopment plan.

The following are the roles of the Planning Board:

- Conducts preliminary investigation to determine if an area is in need of redevelopment.
- Holds public hearings on proposed redevelopment area designations and makes recommendations to the governing body.
- Prepares redevelopment plans and reviews redevelopment plans prepared by the governing body.
- Reviews site plans and subdivision applications in a redevelopment area.
- Makes recommendations on the designation of an area in need of rehabilitation.
- Incorporates redevelopment plans into municipal master plan as part of the master plan reexamination process.

Below are 4 structures for redevelopment:

Governing Body as redevelopment Authority

Advantages:

- Can streamline development plans, for quick approvals
- “Hands on” municipal involvement.
- Eliminates the need for new hiring and office space requirements

Disadvantages:

- Elected leaders may be wearing too many hats and not have the time to focus on the redevelopment.
- Redevelopment process may become politicized.
- Election cycles may cause a high turn-over rate of members.

Independent Redevelopment Agency

Advantages:

- Focuses full administrative efforts on redevelopment.
- Depoliticizes the process.
- Adds specialized professional expertise.
- Increases accountability

Disadvantages:

- Isolates the redevelopment process from the public.
- Requires approval from the State of New Jersey.
- Adds new staff and administrative costs, and requires mandatory State training requirements be met by both Executives and all commissioners.

Housing Authority as the Redevelopment Agency

Advantages:

- Ability to utilize existing Executive, staff and commissioners without additional State required training.
- Coordination between housing and redevelopment activities, especially when coordinating affordable housing requirements of any development.
- Does not require DCA approval.
- Can be operational immediately.
- Housing authorities have established access to Federal and State funding channels.

Disadvantages:

- Existing staff and commissioners may become overloaded with responsibilities.
- Can confuse housing management activities with redevelopment activities.
- Can cause conflicts between housing policy and redevelopment objectives.
- Existing staff and commissioners may not have the expertise for the redevelopment role.

Independent Redevelopment Agency/Housing Authority hybrid

This hybrid model allows for the Housing Authority Executive and staff to carry out the functions of the Redevelopment Authority, while reporting to an independent board of Commissioners. This has the advantages and disadvantages of both the Housing Authority and Independent model. Also, you need to consider the current Housing Authority board of Commissioners, and their concerns.

The Role of the Executive Director:

- The Executive Director shall provide leadership and management of the planning, organizing, staffing, directing and controlling functions of the agency.
- The Executive Director shall interpret, implement, administer policies initiated and approved by the Board of Commissioners.
- The Executive Director shall supervise, lead and motivate all Redevelopment Authority personnel in both maintaining and modifying Agency, Department and municipal goals.
- The Executive Director shall be able to interpret materials and communicate clearly and have knowledge of preparation and administration of operating and redevelopment budgets
- Determine the appropriate course of action related to policies and procedures adopted by the Board. Attendance at regular and special meetings of the Board of Commissioners, Borough Council and Planning Boards.
- Actively seek out opportunities for the board to consider and bring development partners to the commission for consideration.

Conclusions:

1. The Borough Council as the Redevelopment Authority has not been able to accomplish the redevelopment plans due to time constraints, political motivations or lack of expertise.
2. A truly independent redevelopment authority is very expensive to establish, and the ongoing cost (salary, benefits, travel, and office space) is prohibitive.
3. The Housing Authority as the Redevelopment Authority is the most cost effective approach, with staff, offices and supplies in place. Cost could be done on a reimbursement basis, minimizing the overall short term and long term cost to the borough.
 - a. Staff and commissioners are already trained and meet all the State of NJ requirements.
 - b. Housing Authority Commissioners may not have the expertise needed to accomplish the tasks.
 - c. Housing Authority Board has met and are willing to take this on, and will bring in the expertise as needed.
4. Hybrid model.

- a. Selection of a highly skilled commission members is possible, with knowledge of the process and with contacts in the industry.
- b. Use of the Housing Authority Executive and staff on a “fee for service” or other reimbursement method saves money and avoids additional staffing over truly independent Authority.
- c. Will meet resistance from the Housing Authority board.

There was then a question and answer period with Council in which there was discussion regarding the possible benefit of having a re-development authority work with a developer, funding options for purchasing property, re-development areas in Hightstown, the rug mill property status, and the Commissioners and structure of the Housing Authority.

Mayor Kirson thanked the committee for their information and noted that this has given Borough Council has a lot to think about.

Mayor Kirson opened public comment period I and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – commented that it may be wise to appoint the Housing Authority and spend \$850,000 to buy the rug mill property to turn it into Senior Housing.

Keith LePrevost, 213 Greeley Street – commented that the Housing Authority has no intent to extend affordable housing in town; the intent is to do what the Planning Board recommends.

Scott Caster, 12 Clover Lane – commented regarding the inaccuracies published in the Windsor Hights Herald and the lack of minutes on the website.

Walter Sikorski, 326 N. Main Street – commented that the presentation was good and he is thankful for the affordable housing clarification; noted that the state is putting pressure on Governor Christie regarding COAH, and it should be kept in mind since a pilot would lose tax dollars; inquired as to what kind of plan has been developed for the rug mill property.

Lee Stults, 117 Taylor Avenue – encourage Council to focus on this as the rug mill property needs to be developed and recommended that a hybrid authority be established; this is an opportunity and there are several properties in town that should be re-developed.

Mayor Kirson advised that the Engineer has performed several inspections in the Enchantment development and there is over \$600,000 in work yet to be completed. Council did not forget, they are working on it, but it takes time. It is not an easy process.

There being no further comments, Mayor Kirson closed the public comment period.

Mayor Kirson commented that there are always comments made regarding the tax revenue we get from a piece of property, please remember that 28 cents of each dollar goes to the Borough; we are collecting about \$60,000 right now from the rug mill so if we have to deal with a developer and give them tax abatement we would forego about \$18,000. \$39,000 is one penny and one penny is approximately \$23.00 or \$24.00 to each property owner, which is miniscule; so if a developer came in and asked for a year or two to get their financial infrastructure together, and if this is all that had to be done to get the rug mill developed, we would be darn lucky to get the job done.

Ordinance 2014-07 Final Reading and Public Hearing- an Ordinance Amending and Supplementing Chapter 3 Entitled “Police Regulations” Section 3-15, Entitled “Drug Free Zones,” Subsection 3-15.3, Entitled “Map Adopted; Official Records of Municipality,” of the “Revised General Ordinances of the Borough of Hightstown”

Mayor Kirson opened the public hearing on ordinance 2014-07 and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – commented that the Drug Free Zones are stupid and their only purpose is to double sentences.

There being no further comments, Mayor Kirson closed the public hearing.

Councilmember Quattrone moved ordinance 2014-07 for adoption, Council President Bluth seconded.

April 21, 2014

Roll Call Vote: Council members Bluth, Hansen, Misiura, Quattrone, and Thibault voted yes.

Ordinance adopted 5-0.

Ordinance 2014-07

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AN ORDINANCE AMENDING AND REVISING CHAPTER 3, "POLICE REGULATIONS", SECTION 3-15, "DRUG FREE ZONES", SUBSECTION 3-15.3, "MAP ADOPTED; OFFICIAL RECORD OF MUNICIPALITY" OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN"

WHEREAS, the purpose of this Ordinance is to amend and supplement the Drug Free Zone Map as previously adopted by the Borough of Hightstown in 2004.

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

Section 1. Chapter 3, entitled "Police Regulations", Section 3-5, entitled "Drug Free Zones", Sub-section 3-15.3 entitled "Map Adopted; Official Record of Municipality" of the "Revised General Ordinances of the Borough of Hightstown, New Jersey" is hereby amended and supplemented in order to establish the following provisions:

Section 3-15

DRUG FREE ZONES

Subsections:

- 3-15.1 Map Adopted; Official Record of Municipality.**
- 3-15.2 Notification of Change of School Properties.**
- 3-15.3 Map to be Kept on File; Copies to be Provided.**
- 3-15.4 Purpose of Map.**
- 3-15.5 Properties Depicted on Map.**

3-15.1 Map Adopted; Official Record of Municipality.

- a. In accordance with and pursuant to the authority of *N.J.S.A. 2C:35-7* and *N.J.S.A. 2C:35-7.1*, the Drug Free Zone Map prepared for the Borough of Hightstown by Roberts Engineering Group, dated March 2014, is hereby approved and adopted as an official finding and record of the location and areas within the Borough of the following: (1) any property which is used for school purposes and which is owned by or leased to any elementary or secondary school or school board; ~~and of the~~ (2) any areas on or within one thousand (1,000) feet of such school property; (3) any property which comprises a public housing facility which is owned by or leased to a housing authority in accordance with the Local Redevelopment and Housing Law," *N.J.S.A. 40A:12A-1*, et seq., or any area comprising a public park or public building, as all of those terms are defined in *N.J.S.A. 2C:35-7.1*; or (4) any areas in or within five hundred (500) feet of the real property comprising a public housing facility, a public park or a public building, as those terms are defined in *N.J.S.A. 2C:35-7.1*.
- b. The Drug Free Zone Map, as approved and adopted herein, shall constitute an official finding and record as to the location and boundaries of the areas referenced above until such time, if any, that the Map and this Section shall be amended to reflect any additions or deletions with respect to the location and/or boundaries of such areas. (1991 Code § 91-1; Ord. No. 2004-29)

Section 2. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

Section 3. 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 the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Section 4. This Ordinance shall take effect following final passage and publication in accordance with the law.

Ordinance 2014-08 Final Reading and Public Hearing – An Ordinance to Exceed the Municipal Budget Appropriation Limits and to Establish a Cap Bank (N.J.S.A. 40A:4-45.14)

George Lang, CFO, gave an explanation of the ordinance and a recommendation that it be adopted.

Mayor Kirson opened the public hearing on ordinance 2014-08 and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – commented that the Borough should pass this ordinance, however the Assembly Speaker will not control salaries for Police and Fire by instituting a 2% cap and Council should protest.

Mayor Kirson noted that Council did protest by passing a resolution on the matter and that he went to Trenton last week to support the 2% cap, along with numerous Mayors.

There being no further comments, Mayor Kirson closed the public hearing.

Councilmember Quattrone moved ordinance 2014-08 for adoption, Council President Bluth seconded.

Roll Call Vote: Council members Bluth, Hansen, Misiura, and Quattrone voted yes; Councilmember Thibault abstained.

Ordinance adopted 4-0, with one abstention.

Ordinance 2014-08

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

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

WHEREAS, the Local Government Cap Law, *N.J.S. 40A: 4-45.1 et seq.*, provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to .5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, *N.J.S.A. 40A: 4-45.15a* provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Mayor and Council of the Borough of Hightstown in the County of Mercer finds it advisable and necessary to increase its CY 2014 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Mayor and Council hereby determine that a 3.0% increase in the budget for said year, amounting to \$156,434.58 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, the Mayor and Council hereby determine that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Hightstown, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2014 budget year, the final appropriations of the Borough of Hightstown shall, in accordance with this ordinance and *N.J.S.A. 40A: 4-45.14*, be increased by 3.5%, amounting to \$182,507.01, and that the CY 2014 municipal budget for the Borough of Hightstown be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, be filed with said Director within 5 days after such adoption.

Resolution 2014-88 Authorizing the Payment of Bills

Council President Bluth moved resolution 2014-88, Councilmember Quattrone seconded.

There was clarification of payment being made to Goldstein, the Architect; and Councilmember Thibault stated that there are particular payments being made that he does not agree with, but rather than pull them, he will abstain.

Roll Call Vote: Council members Bluth, Hansen, Misiura, and Quattrone voted yes; Councilmember Thibault abstained.

Resolution adopted 4-0, with one abstention.

Resolution 2014-88

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

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, the appropriate Department Head and the Treasurer in the amount of \$1,004,086.17 from the following accounts:

Current		\$864,051.07
W/S Operating		128,710.04
General Capital		7,867.31
Water/Sewer Capital		1,100.00
Grant		0.00
Trust		1,684.00
Housing Trust		0.00
Animal Control		0.00
Law Enforcement Trust		0.00
Housing Rehab Loans		0.00
Unemployment Trust		0.00
Escrow		<u>673.75</u>
Total		<u>\$1,004,086.17</u>

Resolution 2014-93 Authorizing the Execution of a Settlement Agreement with Regard to Real Property Located at 480 Mercer Street

Council President Bluth moved resolution 2014-93, Councilmember Misiura seconded.

Mayor Kirson reviewed the litigation on this property that has been ongoing for over six years and that the agreement permits warehousing and light manufacturing; there has been an agreement as to truck traffic and it is a good deal for Hightstown.

Councilmember Misiura reviewed that the concern had been that the location would be a truck depot and that brought about re-zoning, which brought about the litigation. Trucks previously parked at the location have been removed as part of the settlement agreement.

Councilmember Thibault commented that sub-letting the property was a concern, but it has been eliminated through the settlement agreement; this is good for Hightstown.

Fred Raffetto, Borough Attorney, advised the public that they must file an application with the Planning Board before the settlement takes effect and a public hearing on the application will be held.

Roll Call Vote: Council members Bluth, Hansen, Misiura, and Quattrone voted yes; Councilmember Thibault voted no.

Resolution adopted 4-1.

Resolution 2014-93

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT WITH REGARD TO REAL PROPERTY LOCATED AT 480 MERCER STREET

WHEREAS, Mercer Street Warehouse, LLC and Bruckner Southern, LLC (“Plaintiffs”) are the owners of real property located at Block 48, Lots 26, 27, 32, 33, 34, and 35 in the Borough (the “Property”) which contains an approximate 319,382 sq. ft. +/- multi-section building (the “Building”); and

WHEREAS, Plaintiffs have commenced litigation naming the Borough of Hightstown as defendant (“Borough”) challenging zoning ordinance 2008-17 of the Borough (the “Ordinance”) which changed the zoning regulating the Property in 2008 from April 21, 2014

Industrial to Highway Commercial presently pending under Docket No. MER-L-1506-13, which includes claims previously raised in an action under Docket No. MER-L-3034-08 (the "Borough Action"); and

WHEREAS, subsequent to the adoption of the Ordinance, Plaintiffs applied to the Planning Board of the Borough of Hightstown ("Board") for approval asserting pre-existing non-conforming use status and seeking variances pursuant to N.J.S.A. 40:55D-70(d) for the Property in order to utilize the Building for warehouse and light manufacturing uses (the "Application"); and

WHEREAS, the Board granted, in part, and denied, in part, Plaintiffs' Application, adopting Resolution 2013-12 on June 24, 2013 (the "Resolution"); and

WHEREAS, Plaintiffs have challenged the Resolution in an action presently pending under Docket No. MER-L-1535-13 (the "Board Action"); and

WHEREAS, Plaintiffs have also filed an objection before the State of New Jersey Council on Affordable Housing challenging the Borough's Affordable Housing Plan (the "COAH Action"); and

WHEREAS, the Plaintiffs, Borough and Board have reached an amicable resolution of the issues by and between them including all claims raised or which could have been raised in the Borough Action, Board Action, and COAH Action (collectively the "Actions") as set forth in the Settlement Agreement annexed hereto and made a part hereof; and

WHEREAS, the Borough has determined that it is in the best interests of the health, safety and welfare of the citizens of the Borough to agree to the terms as set forth in the Settlement Agreement and authorize the Mayor to execute same on behalf of the Borough.

NOW THEREFORE be it resolved by the Council of the Borough of Hightstown that the terms of the Settlement Agreement annexed hereto and made a part hereof are agreed to.

BE IT FURTHER RESOLVED that the Mayor shall execute the Settlement Agreement on behalf of the Borough.

BE IT FURTHER RESOLVED that the Borough's professionals shall act accordingly to carry out the terms and intent of the Settlement Agreement.

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

- (a) George Lang, Chief Financial Officer
- (d) Frederick C. Raffetto, Esquire, Borough Attorney

Resolution 2014-90 Amending the Personnel Policy of Hightstown Borough

Council President Bluth had concern with the word minimal regarding employee contributions for health benefits. Mayor Kirson requested that the word minimal be removed from 5-2.

Councilmember Quattrone asked that 5-2 be revised regarding benefit time being used to count toward the 40 hours required to be worked in order to qualify for the overtime rate of pay. There was discussion and it was decided that vacation and personal benefit time will not affect the 40 hours worked in order to receive overtime.

Councilmember Thibault noted that the sick time buy-back has been removed; with the addition 8-13 regarding video surveillance, the public should be advised if they are under surveillance with the use of signs. He will be requesting that a resolution be placed on a future agenda in which the Borough will be required to post the appropriate signs if they are under video surveillance.

Police Director LeTellier expressed concern regarding 8-13 concerning the computer use policy, as the Borough cannot look at the police computers; they are governed by the Attorney General and State Law and this policy should not apply to the Police Department. Henry Underhill, Administrator, noted that they are still employees of the Borough and that the policy should apply. After discussion, it was decided that a phrase will be added to the disclaimer for the policy noting

that the policy would not supersede State law.

Council President Bluth moved resolution 2014-90 as amended, Councilmember Thibault seconded.

Roll Call Vote: Council members Bluth, Hansen, Misiura, Quattrone and Thibault voted yes

Resolution adopted 5-0.

Resolution 2014-90

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AMENDING THE PERSONNEL POLICY MANUAL
OF THE BOROUGH OF HIGHTSTOWN**

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the following sections of the *Personnel Policy Manual of the Borough of Hightstown* is hereby amended as follows (additions underlined, deletions in ~~strikeout text~~):

1-1. Principles constituting personnel policy.

- A. Appointments, promotions and other personnel actions shall be on a merit basis and approved by resolution or ordinance.

2-3. Application.

Applicants for employment shall apply on forms supplied by the Borough Administrator. Such forms shall be designed to obtain pertinent information concerning the applicant's education, training, experience, character and other factors necessary to determine the applicant's fitness and qualification for service to the Borough. Such applications shall include an acknowledgment by the applicants that, by accepting employment with the Borough, they do so with the understanding that they are employees "at-will".

2-5. Grounds for rejection of application.

An applicant for employment may be rejected where said applicant:

- B. Does not possess the required education, experience, aptitude or knowledge for the position sought.
- C. Is unable to perform the essential functions of the position with or without reasonable accommodation.
- D. Is ~~actively~~ using illegal drugs.
- E. Has been convicted of any crime or offense the nature and severity of which renders the applicant unsuitable for the position sought.
- F. Has been dismissed from previous employment for unsatisfactory job performance, absenteeism, insubordination or other misconduct.
- G. Has practiced or attempted to practice any deception or fraud in his application or in furnishing other evidence of eligibility for appointment.
- G. Or for any other reason deemed appropriate by the Borough.

3-1. Probationary periods; right of dismissal.

- A. All employees, including department heads, shall serve a probationary period of ninety (90) calendar days. At the end of the first forty-five-(45)-day period, the Borough Administrator shall make a written evaluation of the employee's performance and shall provide a signed copy of the evaluation to the employee. A probationary employee who successfully completes the 90-day probationary period will be granted status as a permanent employee with all rights and privileges pertaining to that employment or position. An employee will not be considered to have attained permanent employee status due to expiration of the probationary period and failure of the Borough Administrator to evaluate his/her status. Permanent employment status will result only from written authorization by the Borough Administrator at the end of the probationary period. At the discretion of the Borough Administrator, it may be determined that an additional ~~thirty~~ up to ninety (90) calendar days probationary period is required to properly evaluate the employee. During the original or extended probationary period, the Borough may discharge such employee for any reason whatsoever. The Borough shall have no responsibility for the re-employment of probationary employees if they are dismissed during their probationary period.

5-2. Computation of overtime.

Employees may be compensated for overtime work at 1½ times their normal hourly rate when such overtime work has been scheduled in writing by the department head and authorized in writing by the Borough Administrator. In all instances, however, overtime compensation shall commence only after the employee has worked ~~the normally prescribed work week~~ forty (40) hours. Hours worked shall not include sick time used in the pay period.

5-3. Employees exempt from overtime payment.

The following full-time administrative positions do not provide for payment of overtime: Department heads; Borough Clerk; Municipal Court Administrator; Tax Assessor; Treasurer; Tax Collector; Public Works Superintendent; Chief of Police; Water Treatment Plant Superintendent; Waste Water Treatment Plant Superintendent; Construction Code Official; Police Director and Zoning Officer.

5-6. Vacations.

- A. Subject to Paragraph C above, vacations may be taken any time between January 2nd and December 31st. Final scheduling shall be with the approval of the Borough Administrator. At the employee's option, and subject to the approval of the employee's supervisor and the Borough Administrator, up to five (5) days of accrued vacation time may be carried over into the next succeeding year only. Any vacation time accrued during the calendar year less all vacation time taken during the calendar year, up to a maximum of 5 days, shall be paid for by the Borough at the employee's current rate of pay. Vacation time carried over from the previous year shall not be paid for by the Borough, and vacation time used shall be charged first against vacation time accrued during the current calendar year.

Example #1: An employee accrues 10 vacation days during 2004 and has carried over 5 days from 2003. During 2004, he uses a total of 9 vacation days. He would have the option of being paid for, or carrying over, only one (1) day, as the five days carried over from 2003 do not count toward that balance.

Example #2: An employee accrues 10 vacation days during 2004 and has carried over 5 days from 2003. During 2004, he uses 13 of those 15 days. He would not be entitled to payment for the remaining two days, and may not carry those forward into the succeeding year.

An employee who terminates his employment with the Borough, or whose employment is terminated by the Borough, shall be entitled to be paid for vacation time accrued during that calendar year but not yet taken, on a pro-rata basis. However, any such employee shall forfeit his right to such monies if he or she fails to provide two (2) weeks advance written notice to his/her department head of the resignation or is terminated for cause ~~involving monetary loss to the Borough~~.

5-7. Sick leave.

- A. Upon returning to work after four (4) or more consecutive days of absence due to illness, an employee shall present a doctor's certificate to his/her department head indicating the ~~nature of the sickness or injury~~ employee is fit to return to duty and the extent of absence required.
- B. A full-time employee may accumulate a maximum of ninety (90) days of unused sick leave. All unused sick leave is forfeited upon separation from employment or death, except that, upon retirement pursuant to the Public Employees Retirement System, any non-union Borough employee with *30 years or more of service* to the Borough AND who is not subject to any employment contract AND is not terminated from employment shall be entitled to be paid for accumulated unused sick leave up to a maximum of 90 days or \$10,000, whichever is less.
- ~~I. During December of each year, all non-union employees shall have the option of selling back to the Borough five (5) sick days per calendar year, provided the employee has accumulated at least thirty (30) sick days as of December 1st of that year. Employees who are members of a bargaining unit will be entitled to sick time buyback if and as specified by their applicable contract.~~

5-9. Bereavement leave; jury duty.

- C. Bereavement leave. Any employee who suffers a death in his immediate family (spouse, mother, father, stepmother, stepfather, child, brother, sister, mother-in-law, father-in-law or grandparents) shall receive up to a maximum of three consecutive (3) days leave with pay for the purpose of attending to funeral, legal and other matters that may arise during this period. The Borough Administrator may, in his sole discretion, grant an employee one (1) leave day for the death of any other member of the employee's family. The granting of this day shall not be discriminatorily applied, and shall be for the day of the funeral only. An employee, with the approval of the department head and the Borough Administrator, may take additional time off for bereavement leave for a death in the employee's immediate family or for any other member of the employee's family, by utilizing his accrued time off (i.e., vacation days or sick leave).

5-13. Leave without pay.

- ~~A. Federal Family and Medical Leave Act of 1993 and the New Jersey Family Leave Act.~~
~~The Borough shall comply with the provisions of the Federal Family and Medical Leave Act of 1993 and the New Jersey Family Leave Act.~~
- ~~B. Other leave not covered by the Federal Family and Medical Leave Act of 1993 or the New Jersey Family Leave Act.~~
 - ~~1. Leave without pay for personal reasons not addressed in the Federal Family and Medical Leave Act of 1993 or the New Jersey Family Leave Act may be granted to full-time employees. Normally it shall be granted only after the employee has exhausted compensable time off to which he may be entitled, as appropriate under the circumstances.~~
 - ~~2. Requests for leave without pay must be initiated in writing by the employee, containing the starting date, approximate date of return and reasons for such requests. Dual approval shall be required by the department and the Borough Administrator.~~
 - ~~3. Such leave requests, except for military leave in accordance with Federal law, shall not be approved for a period longer than thirty (30) days. Such leave requests shall be evaluated based on the requirements of the Borough and the stated reasons for the requested leave. Requests for extension shall also be evaluated in accordance with the above. Under no circumstances shall an employee be permitted such leave for a combined total period of more than ninety (90) calendar days. Further, any employee on such leave shall not be permitted to work for compensation in any form for him or herself or for any~~

~~third party during such leave; in the event an employee violates this provision, he or she shall be conclusively deemed to have voluntarily resigned his or her employment.~~

4. ~~During such leave, employees shall not be entitled to receive any benefits at the expense of the Borough, nor shall time spent on such leave apply for seniority accrual or time spent in the service of the Borough.~~

A. Family and Medical Leave Act Policy:

Employees of the Borough may be eligible for an unpaid family and medical leave under the federal Family and Medical Leave Act ("FMLA"). Employees also may be eligible for leave to care for a family member as defined in the law and/or medical leave pursuant to the New Jersey Family Leave Act ("FLA"). In order to be eligible for such leave, employees must have: one (1) year of service with the Municipality; and, at least 1,000 hours of work (for New Jersey leave) and 1,250 hours of work (for Federal leave) during the previous twelve (12) months and is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of the worksite (for Federal leave). Eligible employees may receive up to twelve (12) weeks of leave per year (FMLA) or twelve (12) weeks every twenty-four (24) months (FLA). A year or twenty-four months shall be calculated based on a rolling backward period.

During the leave period, the employee's health benefits will be continued on the same conditions as coverage would have been provided had the employee been employed continuously during the entire leave. The employee will not continue to accrue vacation, sick or personal days for the period of the leave. The employee will receive seniority credit for the time that the employee has been on leave under this section. At the conclusion of the leave period, an eligible employee is entitled to reinstatement to the position the employee previously held or to an equivalent one with the same terms and benefits that existed prior to the exercise of leave.

Upon written notice, eligible employees are entitled to a family or medical leave for up to twelve weeks to care for a newly born or adopted child or a seriously ill immediate family member, including civil union partner, or for the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position. Eligible employees who take leave under this policy must use all accrued available vacation and personal days during the leave. The use of accrued time will not extend the leave period. After exhausting accrued time, the employee will no longer be paid for the remainder of the leave.

The period of leave must be supported by a medical certification form filled out and signed by the employee's or immediate family members treating physician. An extension past twelve weeks can be requested, but medical verification of the need must be submitted prior to the expiration of the leave. Any extension of time does not afford the employee protection under the FMLA or FLA. The Borough reserves the right to deny any request for extended leave. Additional information concerning the Family Leave Policy and eligibility requirements are available from the Borough Administrator.

Employees may also be eligible for an unpaid leave for up to twenty-six (26) workweeks in a year to care for a family member on active duty in the military or a covered veteran (a "covered veteran" is an individual who was discharged or released under conditions other than a dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran) with a serious injury or illness incurred in the line of duty on active duty for which the service member is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list.

Employees may also be eligible for twelve (12) weeks in a year for a qualifying exigency. A qualified exigency occurs when a military member is called to covered active duty (requires deployment to a foreign country) and a close member of his/her family must attend official ceremonies or family support or assistance meetings, there is a short-notice deployment, to attend to childcare matters, attend to financial and/or legal matters, or counseling.

A “serious injury or illness” means an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating.

A serious injury or illness also means an injury or illness that was incurred by the covered veteran in the line of duty on active duty in the Armed Forces or that existed before the veteran’s active duty and was aggravated by service in the line of duty on active duty, and that is either:

1. a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member’s office, grade, rank, or rating; or

2. a physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the need for military caregiver leave is related to that condition; or

3. a physical or mental condition that substantially impairs the veteran’s ability to work because of a disability or disabilities related to military service, or would do so absent treatment; or

4. an injury that is the basis for the veteran’s enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Any one of these definitions meets the FMLA’s definition of a serious injury or illness for a covered veteran regardless of whether the injury or illness manifested before or after the individual became a veteran.

Upon employer’s request, an employee must provide a copy of the covered military member’s active duty orders to support request for qualifying exigency leave. In addition, upon an employer’s request, certification for qualifying exigency leave must be supported by a certification containing the following information:

- statement or description of appropriate facts regarding the qualifying exigency for which leave is needed;
- approximate date on which the qualifying exigency commenced or will commence;
- beginning and end dates for leave to be taken for a single continuous period of time;
- an estimate of the frequency and duration of the qualifying exigency if leave is needed on a reduced scheduled basis or intermittently; and
- if the qualifying exigency requires meeting with a third party, the contact information for the third party and description of the purpose of the meeting.

Eligible employees may also take leave to care for a military member’s parent who is incapable of self-care when the care is necessitated by the member’s covered active duty. Such care may include arranging for alternative care, providing care on an immediate basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility.

Employees who request qualifying exigency leave to spend time with a military member on Rest & Recuperation may take up to a maximum of 15 calendar days. Upon an employer’s request, an employee must provide a copy of the military member’s Rest and Recuperation leave orders, or other documentation issued by the military setting forth the dates of the military member’s leave.

B. Family Temporary Disability.

Family Temporary Disability (“FTD”) is provided by the State of New Jersey. FTD payments for up to six (6) weeks in a twelve (12) month period are available for eligible employees who are caring for a seriously ill immediate family member who is incapable of self-care or care of a newborn or adopted child. To be eligible, the employee must have worked at least 20 weeks at minimum wage within the last 52 weeks or earned 1000 times the minimum wage. The weekly benefit is 2/3 of weekly compensation up to a maximum of \$524 per week (this amount is subject to change by law). FTD will run concurrently with FMLA and/or FLA leaves and there is a one week waiting period. Employees may also be required to use accrued sick, vacation or personal leave for up to two weeks.

Employees taking paid family leave in connection with a family member’s serious health condition may take leave intermittently or consecutively. Intermittent leave is not available for the care of a newborn or adopted child.

Intermittent leave may be taken in increments necessary to address the circumstances that precipitated the need for leave. An employee seeking intermittent paid family leave is required to provide the Borough with 15 days notice unless an emergency or other unforeseen circumstance precludes prior notice. The employee seeking intermittent leave shall make a reasonable attempt to schedule leave in a non-disruptive manner. Employees requesting such leave shall provide the Borough with a regular schedule of days for intermittent leave.

C. Leave of Absence.

1. Leave without pay for personal reasons not addressed in the Federal Family and Medical Leave Act of 1993 or the New Jersey Family Leave Act may be granted to full-time employees at the Borough's sole discretion. Normally it shall be granted only after the employee has exhausted compensable time off to which he may be entitled, as appropriate under the circumstances.
2. Requests for leave without pay must be initiated in writing by the employee, containing the starting date, approximate date of return and reasons for such requests. ~~Dual approval shall be required by the department and the Borough Administrator.~~
3. Such leave requests, except for military leave in accordance with Federal law, shall not be approved for a period longer than thirty (30) days. Such leave requests shall be evaluated based on the requirements of the Borough and the stated reasons for the requested leave. Requests for extension shall also be evaluated in accordance with the above. Under no circumstances shall an employee be permitted such leave for a combined total period of more than ninety (90) calendar days. Further, any employee on such leave shall not be permitted to work for compensation in any form for him or herself or for any third party during such leave; in the event an employee violates this provision, he or she shall be conclusively deemed to have voluntarily resigned his or her employment.
4. During such leave, employees shall not be entitled to receive any benefits at the expense of the Borough, nor shall time spent on such leave apply for seniority accrual or time spent in the service of the Borough.

5-14. Outside employment or business activities.

Employees shall not accept outside employment or engage in outside business activities without the written annual approval (prior to December 31 each year) of the Council (for department heads) or the Borough Administrator (for all other employees). Applications for outside employment shall be submitted in writing to the Council or the Borough Administrator, as applicable. No application for permission to accept outside employment shall be granted unless there is reasonable probability that it will not interfere with the employee's performance or compromise his position with the Borough by reason of a conflict of interest or if, in the case of a full-time employee of the Borough, such outside employment exceeds twenty (20) hours per week. Special exceptions to the 20-hour-per-week limitation may be made for any employee who can demonstrate to the Borough Council, upon recommendation the Borough Administrator, that such employment will not interfere with the employee's performance or compromise his Borough position by reason of a conflict of interest. If at any time the Borough Administrator determines that the employee is not performing his or her Borough duties to his expectations, the Borough Administrator and/or the Borough Council may rescind its approval.

5-15. Retirement plan.

- D. ~~Full-time~~ Employees may be covered by the Public Employees' Retirement System or, if policemen, by the Police and Firemen's Retirement System.

5-17. Life insurance.

- E. All full-time employees shall be provided with twenty thousand dollars (\$20,000.00) of life insurance under the Borough group insurance policy after obtaining permanent employee status.

5-18. The Borough participates in the New Jersey State Disability Insurance Program

Accidental death or dismemberment.

A. ~~If, as a result of an accident which occurs while insured under the Borough group insurance and within ninety (90) days of the accident, an employee suffers any of the losses shown below, benefits shall be paid as indicated:~~

<u>For Loss Of:</u>	<u>Benefit Paid</u>
Life \$5,000.00	
One (1) hand	2,500.00
One (1) foot	2,500.00
The sight of one (1) eye	2,500.00
More than one of the above	5,000.00
through any single accident	

B. ~~If the accident results in death, payment shall be made to the beneficiary designated by the employee. All other payments shall be made to the employee.~~

5-20 Health Insurance.

The Borough shall provide full-time permanent employees and their families with hospital and medical insurance. At present, various options under the New Jersey State Health Benefits Plan are offered, but plans are subject to change from year to year. A ~~minimal~~ contribution toward insurance as set forth in P.L. 2011, Ch. 78 ~~(to be determined by the Borough Administrator)~~ shall ~~will~~ be deducted from the employee's paycheck.

Payment in lieu of Health Insurance

Payment in lieu of health insurance may be granted to employees, but shall not exceed \$5,000.00, or ~~2550%~~ 25% of the savings to ~~what~~ the Borough ~~would otherwise pay~~ for the insurance coverage which the employee waived, whichever is less. This procedure shall be administered in accordance with N.J.S.A. 40A:10-17.1, and shall be subject to continuation, modification or termination ~~on an annual calendar year basis~~, as determined by the State of New Jersey Council, upon recommendation of the Borough Administrator.

The payment in lieu of health insurance will be added to the employee's base salary but will not be computed in any formulas for percentage salary increases.

5-21 Workers Comp Payments

Unless explicitly provided for in a bargaining agreement, the Borough of Hightstown will only pay, either directly or through its Workers' Compensation insurer, those benefits that are specifically provided for under the Workers' Compensation Act and will not supplement these benefits with additional benefits pursuant to NJSA 11A:6-8.

5-22 Longevity.

~~Each non-union employee shall, in addition to his or her regular wages and benefits, be paid longevity increments based upon years of service with the Salary Ordinance in effect at that time.~~

Supplemental Longevity Pay for regular full-time employees except police shall be as follows:

After five (5) years of service\$650.00
After ten (10) years of service\$1,000.00
After fifteen (15) years of service\$1,350.00
After twenty (20) years of service\$1,700.00

After twenty-five (25) years of service\$2,100.00

Any non-union employee hired after May 1, 2014 shall not be eligible for longevity.

6-5. Dismissal and suspension.

- A. A permanent employee may be dismissed or suspended with or without pay from the service of the Borough ~~for cause~~ by the Borough Administrator upon recommendation of a department head based or upon the Borough Administrator's own determination. At-Will employees may be terminated for any or no reason; however, below are some of the reasons that an employee may be terminated. This list is illustrative, not exhaustive. The causes sufficient for dismissal or suspension shall include, but are not limited to, the following:
- B. The following procedures shall govern in cases where dismissal or suspension is recommended or implemented pursuant to Section 6-5(A).
1. When any disciplinary action is taken, the employee will be served with a written notice from the Borough Administrator citing the charges against him/her and signed by the person making such charges and by the Borough Administrator with notice that he may, within ~~ten (10)~~ five (5) days of receipt of said notice, request in writing that a hearing be held upon such charges. The request shall be made to the Borough Administrator. The Borough Administrator may, in his discretion, impose discipline immediately, pending the hearing, or delay imposition of discipline until completion of the hearing. There shall be no hearing on disciplinary action taken pursuant to Section 6-6.

6-8 Open Public Meetings Act Procedure concerning Personnel Matters:

Discussions by the Borough Council or any body of the Borough concerning appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective officer or employee shall be in closed session unless the individual requests in writing that the discussion be held in open session. Such request must be granted. Prior to the discussion by the Borough Council or any body of the Borough concerning such matters, the Clerk shall notify the affected person(s), within a reasonable period of time, of the meeting date, time and place, the matters to be discussed and the person's right to request that the discussion occur in open session. In the event more than one person is affected by the discussion and one of the affected persons does not request that the discussion be in open session, then the discussion shall be in closed session. If the individual(s) does not request that the discussion be held in open session, the Borough Council or other body of the Borough may at its sole discretion invite the affected individual(s) to attend the applicable portion of the closed session.

8-9. Mileage reimbursement.

Any employee who uses his/her private vehicle for Borough business pursuant to prior direction or authorization of the Borough Administrator or department head, shall receive a per-mile mileage reimbursement in an amount equal to the current business standard mileage rate as issued by the Internal Revenue Service for the current year. Claims for mileage reimbursement shall be made on forms provided by the Borough Administrator or his/her designee.

Requests for reimbursement will be submitted via a requisition on no less than a quarterly basis.

8-10. New Jersey Conscientious Employee Protection Act.

- B. Employees are hereby advised that the protection afforded to employees under CEPA is subject to a notice requirement to the employer. That is, an employee who intends to report alleged wrongdoing to a public body must in normal circumstances advise ~~a supervisor~~ the Borough Administrator in writing and afford the ~~supervisor~~ Borough a reasonable opportunity to correct the complained of activity, policy, or practice before a disclosure to a public body is made. ~~If the employee is reasonably certain that the activity, policy or practice is known to one or more supervisors of the Borough, then the employee must notify the Borough Administrator in writing as opposed to the supervisor.~~

8-12 Early Closing and Delayed Opening Policy:

In the event of unsafe conditions, the Mayor may authorize Supervisors to close operations earlier than the normal working hours. If conditions exist prior to scheduled openings, the Mayor shall notify Supervisors of a delayed opening and a new opening time. Each Department will have a calling system in place. If the employee chooses not to report to work, a full vacation day or compensating time will be charged. If the employee does not have vacation or compensating time, the day shall be without pay. Sick time will only be charged for a legitimate illness. If work is called off for the day, no time will be charged for the day. This provision does not apply to (the Department of Public Works,) (Police,) (Fire,) (Water,) (Sanitation,) (Emergency Services) (public safety dispatchers) (or) any personnel who may be required to assist in an emergency.

8-13 Video Surveillance

The Borough of Hightstown may install video surveillance camera systems within public buildings and throughout public areas within the Borough of Hightstown primarily as visual deterrents of criminal behavior and for the protection of employees and municipal assets. In implementing these video camera systems, the Borough of Hightstown will ensure compliance with federal, state and local laws governing such usage.

The Borough of Hightstown video surveillance camera systems are a significant tool to which the employees of the Borough of Hightstown will avail themselves in order to complete the goals and objectives of the Borough of Hightstown. Employees are only permitted to use the video surveillance camera systems for a legitimate purpose and with proper authorization. The Borough of Hightstown designee will be responsible for authorization of users. The improper use of these systems can result in discipline up to and including termination.

No employee is permitted to view, continually watch, search, copy or otherwise use one of the Borough of Hightstown video surveillance camera systems or tamper with access, archive, alter, add to, or make copies of any data that has been recorded and stored within any of these systems without (1) a specific legitimate purpose and (2) permission for the designee of the Borough of Hightstown.

The Borough of Hightstown shall designate a person to be responsible for the maintenance and administration of the video surveillance camera system. Such designee will be responsible for maintaining a user access log detailing the date and name of individuals who view/access a stored recording.

Any employee who becomes aware of any unauthorized disclosure of a video record in a contravention of this policy and/or a potential privacy breach has the responsibility to ensure that Borough Administrator is immediately informed of such breach.

8-14 Use of Vehicles Policy:

Unless an employee receives permission from the Borough Administrator municipal owned vehicles shall be used only on official business and all passengers must be on municipal business.

Vehicles may be taken home only with the advance approval of the Borough Administrator. When an employee takes home a Municipality vehicle, it is to be used only for official Municipality business; any other use is not permitted. Any violation of this policy constitutes cause for disciplinary action.

11-2. Drug-free workplace policy.

- A. Borough employees are required to report to work in appropriate mental and physical condition. Reporting to work, or working, under the influence of a controlled substance (without a physician's prescription) is prohibited. In some instances, reporting to work under the influence of a physician's prescription may also be inappropriate and prohibited.

- B. The criminal use, manufacture or distribution of a controlled substance, on any Borough work site, is prohibited. A "work site" is defined as any place an employee works on Borough-funded activities.
- C. Borough employees are required to report any drug-related criminal conviction in accordance with the law. A written report of conviction must be made to the Borough Administrator within five (5) days of the conviction.
- D. Borough employee must inform the Business Administrator if they are prescribed a controlled substance.
- E. All Borough employees are subject to a conditional offer, reasonable suspicion and post accident drug testing.

12-5. Education & Treatment.

- A. Alcoholism and drug addiction are treatable. Accordingly, as part of an Employee Assistance Program ("EAP"), ~~the~~ the Borough will assist employees in overcoming drug and alcohol abuse and dependence through referrals to appropriate agencies and treatment programs. The Borough will also provide a confidential telephone number that employees may use in seeking such assistance.

12-10. Administration of Drug and Alcohol Testing.

Drug and alcohol testing shall be administered by a third-party testing service designated by the Borough. The testing service shall comply with all applicable regulations regarding test administration, methods, protocols, communications, notices, and confidentiality.

The name and address of the testing service is:

~~Joseph J. Reinhart & Associates, Inc.
800 North Kings Highway, Suite 506
Cherry Hill, New Jersey 08034-1516~~

~~The name and address of the medical review officer responsible for interpreting and communicating test results is:~~

14-1 Personal use of Borough equipment; Privacy policy.

Borough property, including computers, electronic mail and voice mail, should only be used for conducting municipal business.

Personal use of Borough computers is prohibited and the Borough may, at any time, monitor the use of said equipment. Employees should not expect any privacy with respect to any information placed in or on the Borough's computers, computer equipment or voice mail system.

Although the Borough may provide certain codes and/or passwords to restrict access to computers, voice mail and electronic mail in order to protect these systems against external parties or entities obtaining unauthorized access, employees are advised that these systems are intended for business use, and all computer information, voice mail and electronic mail messages are to be considered as Borough records.

The Borough of Hightstown must also be able to respond to proper requests resulting from legal proceedings that may call for electronically-stored evidence. Therefore, the Borough of Hightstown retains the right and the ability to enter into any of these systems and to inspect and review any and all data recorded in those systems. Because the Borough reserves the right to obtain access to all voice mail and electronic mail messages left on or transmitted over these systems, employees should not assume that such messages are private and confidential or that the Borough or its designated representatives will not have a need to access and review this information. Individuals using the Borough's

equipment should also have no expectation that any information stored on their computer – whether the information is contained on a computer hard drive, computer disks or any other manner – will be private.

The Borough reserves the right to, ~~but does not~~ regularly monitor voice mail or electronic mail messages. The Borough will, ~~however~~, inspect the contents of computers, voice mail or electronic mail in the course of an investigation triggered by indications of unacceptable behavior or as necessary to locate needed information that is not more readily available by some other less intrusive means.

The contents of computers, voice mail and electronic mail, properly obtained for some legitimate business purpose, are considered property of the Borough of Hightstown, and may be disclosed by the Borough if necessary to law enforcement or other third parties without prior consent of the sender or the receiver.

The Borough Administrator will review any request for access to the contents of an individual's computer, voice mail or electronic mail prior to access being made without the individual's consent.

Notwithstanding the Borough's right to retrieve and read any electronic mail messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any e-mail messages that are not sent to them, and must not attempt to gain access to another employee's messages without the latter's permission. Any exception to this policy must receive prior approval from the Borough Administrator.

14-5 Communication Media Policy:

The Borough of Hightstown Communication Media are the property of the Borough of Hightstown and, as such, are to be used for legitimate business purposes only. For purposes of this Communication Media Policy, "Communication Media" includes all electronic media forms provided by the Borough of Hightstown, such as cell phones, smart phones, computers, electronic tablets, access to the internet, voicemail, email, and fax.

All data stored on and/or transmitted through Communication Media is the property of the Borough of Hightstown. For purposes of this policy, "Data" includes "electronically-stored files, programs, tables, data bases, audio and video objects, spreadsheets, reports and printed or microfiche materials which serve a Borough of Hightstown business purpose, regardless of who creates, processes or maintains the data, or whether the data is processed manually or through any of the Borough of Hightstown mainframe, midrange or workstations; servers, routers, gateways, bridges, hubs, switches and other hardware components of the Borough of Hightstown local or wide-area networks."

The Borough of Hightstown respects the individual privacy of its employees. However, employee communications transmitted by the Borough of Hightstown Communication Media are not private to the individual. **All Communication Media and all communications and stored information transmitted, received, or contained in or through such media may be monitored by the Borough of Hightstown. The Borough of Hightstown reserves the absolute right to access, review, audit and disclose all matters entered into, sent over, placed in storage in the Borough of Hightstown Communication Media.** By using the Borough of Hightstown equipment and/or Communication Media, employees consent to have such use monitored at any time, with or without notice, by Borough of Hightstown personnel. The existence of passwords does not restrict or eliminate the Borough of Hightstown ability or right to access electronic communications. However, the Borough of Hightstown cannot require the employee to provide its password to his/her personal account.

All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act (NJSA 47:1A-1). Employees of the Borough of Hightstown are required to use the assigned municipal email account for ALL Borough of Hightstown business and correspondence. The use of private email accounts for ANY Borough of Hightstown business or during business hours is strictly prohibited.

Employees can only use the Borough of Hightstown Communication Media for legitimate business purposes. Employees may not use Borough of Hightstown Communication Media in any way that is defamatory, obscene, or harassing or in violation of any Borough of Hightstown rules or policy. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances.

All employees, who have been granted access to electronically-stored data, must use a logon ID assigned by Borough of Hightstown. Certain data, or applications that process data, may require additional security measures as determined by the Borough of Hightstown. Employees must not share their passwords; and each employee is responsible for all activity that occurs in connection with their passwords.

All employees may access only data for which the Borough of Hightstown has given permission. All employees must take appropriate actions to ensure that Borough of Hightstown data is protected from unauthorized access, use or distribution consistent with these policies. Employees may not access or retrieve any information technology resource and store information other than where authorized.

Employees must not disable anti-virus and other implemented security software for any reason, in order to minimize the risk of introducing computer viruses into the Borough of Hightstown computing environment.

Employees may not install **or Modify** ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the Borough of Hightstown. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the Borough of Hightstown, or licensed to the Borough of Hightstown. Employees shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized.

The Borough of Hightstown encourages employees to share information with co-workers and with those outside the Borough of Hightstown for the purpose of gathering information, generating new ideas and learning from the work of others to the extent such sharing is permitted by the Borough of Hightstown. Social media provide inexpensive, informal and timely ways to participate in an exchange of ideas and information. However, information posted on a website is available to the public; therefore, employees must adhere to the following guidelines for their participation in social media. Employees may engage in social media activity during work time through the use of the Borough of Hightstown Communication Media, provided that it is directly related to their work and it is in compliance with this policy.

The Borough of Hightstown encourages employees to share information with co-workers and with those outside the Borough of Hightstown for the purpose of gathering information, generating new ideas and learning from the work of others to the extent such sharing is permitted by the Borough of Hightstown. Social media provide inexpensive, informal and timely ways to participate in an exchange of ideas and information. However, information posted on a website is available to the public; therefore, employees must adhere to the following guidelines for their participation in social media. Employees may engage in social media activity during work time through the use of the Borough of Hightstown Communication Media, provided that it is directly related to their work and it is in compliance with this policy.

Employees must not reveal or publicize confidential Borough of Hightstown information. Confidential proprietary or sensitive information may be disseminated only to individuals with a need and a right to know, and where there is sufficient assurance that appropriate security of such information will be maintained. Such information includes, but is not limited to the transmittal of personnel information such as medical records or related information. In law enforcement operations, confidential, proprietary or sensitive information also includes criminal history information, confidential informant identification, and intelligence and tactical operations files.

Employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence taken with the Borough of Hightstown Communication Media to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission of the Borough Administrator. Except in "emergency situations," Employees are prohibited from taking digital images or photographs with media equipment not owned by the Borough of Hightstown. For purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes and the employee does not have access to the (Borough of Hightstown Communication Media. If such situation occurs, employee agrees that any images belong to the Borough of Hightstown and agree to release the image to the Borough of Hightstown and ensure its permanent deletion from media device upon direction from the Borough of Hightstown.

No media advertisement, electronic bulletin board posting, or any other posting accessible via the Internet about the Borough of Hightstown or on behalf of the Borough of Hightstown, whether through the use of the Borough of Hightstown Communication Media or otherwise, may be issued unless it has first been approved by the Borough

Administrator. Under no circumstances may information of a confidential, sensitive or otherwise proprietary nature be placed or posted on the Internet or otherwise disclosed to anyone outside the Borough of Hightstown.

Because (authorized) postings placed on the Internet through use of the Borough of Hightstown Communication Media will display on the Borough of Hightstown return address, any information posted on the Internet must reflect and adhere to all of the Borough of Hightstown standards and policies.

All users are personally accountable for messages that they originate or forward using the Borough of Hightstown Communication Media. Misrepresenting, obscuring, suppressing, or replacing a user's identity on any Communication Media is prohibited. "Spoofing" (constructing electronic communications so that it appears to be from someone else) is prohibited.

Employees must respect the laws regarding copyrights, trademarks, rights of public Borough of Hightstown and other third-party rights. Any use of the Borough of Hightstown name, logos, service marks or trademarks outside the course of the employee's employment, without the express consent of the Borough of Hightstown, is strictly prohibited. To minimize the risk of a copyright violation, employees should provide references to the source(s) of information used and cite copyrighted works identified in online communications.

To the extent that employees use social media outside of their employment and in so doing employees identify themselves as Borough of Hightstown employees, or if they discuss matters related to the Borough of Hightstown on a social media site, employees must add a disclaimer on the front page, stating that it does not express the views of the Borough of Hightstown, and the employee is expressing only their personal views. For example: "The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer." Place the disclaimer in a prominent position and repeat it for each posting that is expressing an opinion related to the Borough of Hightstown or the Borough of Hightstown business. Employees must keep in mind that, if they post information on a social media site that is in violation of Borough of Hightstown policy and/or federal, state or local laws, the disclaimer will not shield them from disciplinary action.

Nothing in these policies is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment. Borough of Hightstown employees have the right to engage in or refrain from such activities.

Section 15

Domestic Violence Leave

15-1 Introduction

The New Jersey Security and Financial Entitlement Act, also known as the "NJ SAFE Act" provides protection for employees and their family members who have been the victim of domestic violence or sexual assault. Employees are entitled to twenty (20) days of unpaid protected leave from work to:

- Seek medical attention for physical or psychological injuries;
- Obtain services from a victim services organization, pursue psychological or other counseling;
- Participate in safety planning for temporary or permanent relocation;
- Seek legal assistance to ensure health and safety of the employee or the employee's relative; or
- Attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

To be eligible for the leave, an employee must meet the following criteria:

- The employee or their child, parent, spouse or domestic partner must be a victim of domestic violence or a sexually violent offense;
- The employee must have worked for the employer for at least twelve months and for at least 1,000 hours during the twelve (12) month period immediately preceding the requested leave; and
- The twenty (20) day leave must be taken within one (1) year of the qualifying event.

15-2 Purpose

Employees may take leave on an intermittent basis but such leave cannot be shorter than one (1) full day. To the extent the leave is foreseeable, employees must provide advance notice. In addition, employee seeking leave must provide proof that they qualify for the leave. Such proof may include restraining order, letter from a prosecutor, proof of conviction, medical documentation or a certification from an agency or professional involved in assisting the employee.

In certain circumstances, the basis for the leave may also qualify under the federal Family and Medical Leave Act and/or the New Jersey Family Leave act. If so, the Borough of Hightstown will treat the leave concurrently with the leave under those statutes. Employees may be required to use accrued paid vacation leave, personal time or sick leave concurrently.

The Borough of Hightstown shall protect the privacy of employees who seek leave by holding the request for leave, the leave itself or the failure to return to work "in the strictest confidence."

The Borough of Hightstown shall not retaliate, harass or discriminate against any employee exercising his/her right to take the leave provided by this policy.

BE IT FURTHER RESOLVED that each employee of the Borough shall be issued a copy of the revised personnel policy, and proof of same shall be placed in each employee personnel file.

Consent Agenda - Resolutions 2014-89, 2014-91, and 2014-92

Councilmember Quattrone moved resolutions 2014-89, 2014-91, and 2014-92 for approval, Council President Bluth seconded.

Roll Call Vote: Council members Bluth, Hansen, Misiura, and Quattrone voted yes; Councilmember Thibault abstained.

Resolutions adopted, 4-0, with one abstention.

Resolution 2014-89

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS PRIOR TO ADOPTION OF THE 2014 BUDGET

WHEREAS, an emergent condition has arisen with respect to inadequate appropriation balances remaining in some line items of the 2014 temporary budget; and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of emergency appropriations for the purposes above mentioned; and

WHEREAS, it is the desire of the Mayor and Council to create emergency temporary appropriations as set forth on Schedule "A," attached; and

WHEREAS, the total emergency temporary appropriations in resolutions adopted in the year 2014 pursuant to the provisions of N.J.S.A. 40A:4-20 (Chapter 96, P.L. 1951, as amended), including this resolution, total:

	<i>THIS RESOLUTION</i>	<i>PREVIOUS TOTAL</i>	<i>CUMULATIVE TOTAL</i>
Current	4,250.00	978,277.00	982,527.00
Capital Outlay – Current	0.00	0.00	0.00
Debt Service - Current	0.00	0.00	0.00
Water/Sewer	0.00	405,413.00	405,413.00
Capital Outlay – W/S	0.00	0.00	0.00
Debt Service - W/S	0.00	0.00	0.00
TOTAL	4,250.00	1,383,690.00	1,387,940.00

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Hightstown (not less than two-thirds of all the members of thereof affirmatively concurring) that, in accordance with N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation is hereby made for each item listed on the schedules that are attached hereto and made a part hereof;
2. Each emergency appropriation listed will be provided for in the 2014 budget under the same title as written herein;
3. One certified copy of this resolution will be filed with the Director of Local Government Services, and a copy provided to the Treasurer.

Resolution 2014-91

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

APPOINTING A HOUSING INSPECTOR

WHEREAS, There is a need to hire a Housing Inspector to assist with property maintenance issues; and,

WHEREAS, Mr. George Chin, Construction Official, has requested that Karen Cassel be appointed a Housing Inspector for the Borough of Hightstown; and

WHEREAS, Karen Cassel is already employed by Hightstown Borough and would not receive additional compensation for this position; and,

WHEREAS, the Borough Council finds it in the best interest of the health, safety and welfare of the residents to appoint Karen Cassel as Housing Inspector.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the designation of Karen Cassel is hereby ratified and confirmed as Housing Inspector, without additional compensation.

Resolution 2014-92

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AMENDING RESOLUTION 2014-79

WHEREAS, the Borough Council adopted resolution 2014-79 on April 7, 2014; and,

WHEREAS, Resolution 2014-79 awarded a contract for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant to Custom Environmental Technology, Inc. in the amount of \$67,809.00; and

WHEREAS, the Borough Engineer has found that there was an error in the amount of the contract as originally awarded; and,

April 21, 2014

WHEREAS, it is necessary to amend the amount of the awarded contract to be \$64,809.00.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the amount of the contract for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant to Custom Environmental Technology, Inc. as awarded in resolution 2014-79 is hereby amended to be in the amount of \$64,809.00.

Council Vacancy

Mayor Kirson reviewed that the Democratic Party has brought forward three names to be considered to take Councilmember Gail Doran's seat until the November election; the vacancy for the unexpired term will be on the general election ballot. He inquired of Council as to whether an interview of the three candidates should take place at the next meeting (May 5th) or if a special meeting should be held to perform the process and swear in the new Councilmember so they can actively participate in the next meeting.

After discussion it was decided that a special meeting will be held on Monday, April 28th at 7pm to interview the candidates, and hopefully swear a new Councilmember into office. The Borough Clerk was directed to take the proper procedures to find a location for and notice the meeting.

Borough Hall – FEMA

Mayor Kirson reviewed that a meeting had been held with FEMA in the past week and he, Mr. Underhill and Carmela Roberts were present; FEMA has now given an entire new scenario in order for the Borough to apply for funds.

Mr. Underhill noted that the Borough was considering application under the 51% rule but critical facilities, such as the Police Department, would have to be elevated over the 500 year flood zone; Borough Hall can be flood-proofed. In order to obtain FEMA funds, the facility would have to stay where then present facility is located. Damages, code upgrades and mitigation costs can be taken into account; and takes into account the market value, of the building only, at the time of flood.

Mayor Kirson noted that the Borough must show that repairs would equal 100% of the cost to re-build the facility; and this formula must be used on the same footprint and size of the damaged facility.

Mr. Underhill noted that if the location of the facility is to change, there is no sense in going through the expense of an exercise with the professionals. He went on to note that the FEMA Representative stated that there is still work going on eight years after Katrina, so we are not alone in taking considerable time to get through the process.

There was discussion and Council requested written notes from the meeting and a definition of "footprint".

Ordinance 2012-13

Councilmember Thibault asked for an update on the time and attendance system that was bonded in this ordinance.

Mr. Underhill gave an update on the time and attendance software system costs, noting that funds from the ordinance were used by the Police Department to pay for software and training, but that is being reversed.

Police Director LeTellier stated that the expenses paid from the bond were for an expansion of the POSS System, which is used by the Police; integrating the information into the Edmunds finance system used by the Borough. The Police are up and running, the next step is to bring Administration aboard the system.

Mr. Underhill noted that the system is expensive and \$10,000 must be paid for the Edmunds upgrade, in addition to an annual maintenance fee; he is unsure if it is necessary.

There was discussion regarding cost versus value and the ability to control time of the employees. Council requested that Mr. Underhill provide an evaluation on the matter.

Code Enforcement

Councilmember Thibault inquired as to why reports on Code Enforcement are no longer being given; and for a breakdown between residential and commercial rentals units.

Councilmember Hansen noted that the Borough is moving in the right direction with the ordinances recently adopted and the hiring of a Code Enforcement Officer.

Councilmember Thibault stated that the image of the Borough must change.

There was discussion and Mr. Underhill advised that the Borough is hiring a Code Enforcement Officer this week and moving forward with enforcement.

9-1-1 Software

Police Director LeTellier reminded Council that the KML proprietary software must be updated at a cost of \$50,000 over the next three years, for the 9-1-1 dispatch system. The present system runs on Windows XP and if the system crashes dispatch is done. The approval must be done now.

Mr. Underhill noted that we are waiting for adoption of the budget before any decision is made.

There was discussion and it was decided that the budget must be adopted prior to a decision on the upgrade being made.

Mayor Kirson opened the public comment period II and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – commented that Councilmember Thibault should not refer to Hightstown as having a bad image; there should be enforcement on the maintenance of vacant properties; there is no need to buy a 9-1-1 system if we can share dispatching with East Windsor; a re-development authority is not necessary, Council knows what needs to be done and they should be creative.

Scott Caster, 12 Clover Lane – thanked Councilmember Thibault for being diligent regarding Code Enforcement and noted that fire inspections need to be conducted and current.

Lee Stults, 17 Taylor Avenue – commented that in a town this size, the Planning Board sets a vision, the Council adopts it, and an authority is needed to see it through. The rug mill is deteriorating and it would be a big loss to the Borough. We need to act now and a separate group should handle development.

There being no further comments, Mayor Kirson closed the public comment period.

Mayor/Council/Administrative Comments and Committee Reports

Councilmember Hansen – noted that the re-development plan is the reason not to re-build in the flood zone; we have a good vision and hopefully can move forward and improve the image of Hightstown. This is all part of getting Hightstown on track; she is very enthusiastic about the staff and Council, and where Hightstown is going.

Councilmember Thibault – noted that he attended the Historic Preservation talk about leveraging the history of the Borough; and also the Breakfast with the Bunny breakfast and it was successful, volunteers spent many hours fundraising so they can do what they love. Volunteerism is great in Hightstown.

Councilmember Quattrone – noted that Breakfast with the Bunny breakfast was great, he volunteers every year. He is excited about the Inspection Department and the rental registrations being enforced. Public Works is getting the town ready for Spring. The Memorial Day Parade planning is well under way and they are looking for Grand Marshalls. Funds have been received for

food at the VFW following the parade and organization applications for participation are coming in. This was a good meeting and he thanked the Mayor for his work with FEMA.

Council President Bluth – noted that the minutes are not on the website; Parks and Rec will have their summer concert series in the park this summer.

Mayor Kirson – Commented that there is interest in development of the rug mill out there, he has been contacted by various developers; it is a complicated matter with the bank involved; he was down in Trenton to support the 2% arbitration cap as mentioned earlier and it is a shame that our legislators in Trenton aren't doing us a favor because this year we are negotiating our union contracts and this law that was in place and expired allowed any negotiations that go into arbitration to have a 2% cap and this could greatly damage this little Borough.

Councilmember Misiura moved to adjourn at 10:06 pm, Councilmember Hansen seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC
Borough Clerk