

**Meeting Minutes
Hightstown Borough Council
Regular Meeting
April 7, 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>Councilmember Doran</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; and Frederick Raffetto, Borough Attorney.

Resolution 2014-78 Authorizing a Meeting Which Excludes the Public

Council President Bluth moved resolution 2014-78; Councilmember Misiura seconded.

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

Resolution adopted 5-0.

Resolution 2014-78

*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 7, 2014 at approximately 6:30pm 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.
Grievances
Information Technology Stipend

Contract Negotiations – Shared Services

Stated as precisely as presently possible the following is the time when and the circumstances under which the discussion conducted at said meeting can be disclosed to the public: July 7, 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.

The public meeting was called to order by Mayor Kirson at 7:35 pm and he read the Open Public Meetings Act statement.

The Flag Salute followed Roll Call. Carmela Roberts, Borough Engineer, and George Lang, CFO, joined the meeting at this time; James LeTellier, Police Director, rejoined the meeting at this time.

Mayor Kirson announced that Councilmember Doran is not present at this meeting, and that she has submitted a resignation as Borough Councilmember due to personal reasons.

Mayor Kirson requested that the discussion regarding the Cultural Arts Commission be moved up on the agenda to follow the presentations, and noted that ordinance 2014-04 is a first reading and introduction, not final reading and public hearing as listed on the agenda.

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

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

Agenda approved as amended 5-0.

Council President Bluth moved the March 4, 2014 executive session minutes for approval, Councilmember Quattrone seconded.

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

Minutes approved 4-0, with one abstention.

Council President Bluth moved the March 15, 2014 budget session minutes for approval, Councilmember Quattrone seconded.

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

Minutes approved 5-0.

Councilmember Quattrone moved the March 17, 2014 open session minutes for approval, Councilmember Misiura seconded.

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

Minutes approved 5-0.

Council President Bluth moved the March 17, 2014 executive session minutes for approval, Councilmember Misiura seconded.

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

Minutes approved 4-0, with one abstention.

Americana Diner

Councilmember Quattrone recused himself from discussion on this matter and left the meeting.

Mr. Mark Shane, Esq. and Mr. Katsifis, owner of the Americana Diner, reviewed the plan for the Americana expansion as presented to East Windsor. Mr. Shane noted that East Windsor is having an issue with the extensions in the lease as presently written; each extension is at the discretion of the Borough because it could cause parking issues if Hightstown decides not to extend the lease during any of the extension periods. Mr. Katsifis requested that the verbiage in the lease be revised to read either for a straight 30 year period without extensions, or that the extensions be at the option of the Americana.

The Borough Attorney read paragraph 17 of the lease which contains the extensions, noting that the lease was originally a bid with a ten year term with ten year extensions and that this would limit Council's changes to the lease. There was further discussion and Council advised that they will discuss the matter during executive session at the next meeting.

Mercer Council on Alcoholism and Substance Abuse – Ordinance 2014-04

Barbara Strickman of the Mercer Council on Alcoholism and Substance Abuse and Detective Sherman from Hopewell Township presented the importance of ordinance 2014-04. Ms. Strickman noted that alcohol is the number one drug for those who are underage, and in New Jersey, over one half of the municipalities have an ordinance similar to this one. She continued that this ordinance does not change the authority of the Police as they must be invited to enter a residence. Any violation, under this ordinance, would be an ordinance violation, not an arrest.

Detective Sherman then gave examples of how this ordinance has been a success in Hopewell since enacted in 2007, noting that the "good Samaritan or lifeline" exemption for two to three people to call for help if an underage drinker overindulges and needs medical assistance; they cannot be found in violation if they help the victim and call for assistance, while the other underage drinkers who are in attendance can. He commented that penalties can range from fines to loss of their driver license and it has served as deterrence to underage drinking because it results in consequences for their actions. He continued that educating youth is the first priority and the ordinance does not supersede the U. S. Constitution and does not violate anyone's rights.

Jill Swanson, Hightstown Health Officer, advised that the verbiage in the ordinance is directly from the State of New Jersey, and if Council chooses, counseling can be added.

There was discussion with Council regarding the "good Samaritan or lifeline" exemption; this being a state versus municipal decision; and circumstantial actions by the Police Department. Mayor Kirson then opened the discussion to the public and the definition of legal age; pre-rape intervention on private property; police abilities to enter private property from a complaint; first responder confidentiality and responsibility; instances of probable cause to enter private property; and the message conveyed if this ordinance is adopted, were discussed.

Mayor Kirson thanked Ms. Strickman, Detective Sherman, and Ms. Swanson for their presentation and the information; Council will be making a decision on this ordinance later in the meeting.

Cultural Arts Commission

Rick Pratt presented the ordinance to Council and advised that it has evolved from discussion held at the Planning Board and Downtown Hightstown. It is believed that bringing art to Hightstown would benefit the town as well as business owners. There is the possibility of exhibiting art and sculptures, as well as holding various activities surrounding the exhibits. Mr. Pratt noted that he has spoken to several residents and they support the ordinance; and he has found people willing to serve on it.

Anne Marie Miller, Executive Director of Art Pride New Jersey, noted that municipal leadership will provide funding and that art supports sustainability; arts can be an economic driver by partnering.

Councilmember Misiura noted that discussion began on the Planning Board with the Master Plan Re-Evaluation and the arts can become a great focal point in making Hightstown a destination for artists and art followers.

David Miller, prior Executive Director for the Grounds for Sculpture noted that a commission would serve as a connection to government. Councilmember Thibault expressed concern regarding this being a government commission as government can hinder the group's ability to be active and successful.

Frank Rivera, resident, noted that where Artists go, money follows; he gave examples of art studio success in Hightstown.

There was discussion regarding funding and the need for Public Works support with the projects. Mayor Kirson thanked the presenters and noted that the Borough Attorney will review the ordinance and bring it back to Council for action in the near future.

Resolution 2014-79 Awarding a Contract for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant — Custom Environmental Technology, Inc.

Councilmember Quattrone moved resolution 2014-79; Councilmember Hansen seconded.

The Borough Engineer explained the testing process taken with the “equal” offered in the lowest bid, noting that it is not an “equal”; therefore, the bid should be awarded to the second lowest bidder, Custom Environmental Technology, Inc.

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

Resolution adopted 5-0.

Resolution 2014-79

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

**AWARDING A CONTRACT FOR ZETA LYTE 2685 CH LINEAR CATIONIC EMULSION
POLYMER WITH CROSS LINKED CATIONIC EMULSION FLOCCULANT – CUSTOM
ENVIRONMENTAL TECHNOLOGY, INC.**

WHEREAS, two (2) bids were received on February 25, 2014 for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant “or Equal” for the Advanced Wastewater Treatment Plant (AWWTP) in Hightstown Borough; and

WHEREAS, the bid submitted by George S. Coyne Chemical Co., Inc. of Croydon, Pennsylvania was for the “equal” product that has been tested by the Superintendent of the AWWTP and the polymer was not adequate to be considered an equivalent; and

WHEREAS, Custom Environmental Technology, Inc. of Collegeville, Pennsylvania submitted a bid for the exact product specified; and

WHEREAS, the bids have been reviewed by the Borough Engineer and it is the Engineer's recommendation that a one year contract for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant be awarded to Custom Environmental Technology, Inc. of Collegeville, Pennsylvania at a per unit price of \$11.37 per gallon with a total contract price of \$67,809.00; and

WHEREAS, said contract shall be effective April 7, 2014; and

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

WHEREAS, funds will be made available in the 2014 budget for said expenditure;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the contract for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant be awarded to Custom Environmental Technology, Inc. of Collegeville, Pennsylvania effective April 7, 2014.

NJDOT Grants

Carmela Roberts, Borough Engineer explained the grants that are currently available, noting one could possibly be used for the Greenway Walking Bridge, and the other for sidewalks.

Ms. Roberts suggested applying for the Safe Routes to School grant applies to sidewalks surrounding elementary schools and Hightstown could apply to get sidewalks on Stockton Street, and possibly at the intersection of Dutch Neck and Joseph Street. Applications are due May 15, 2014 and the Engineering cost for the application is \$3,000.00 each. They are federal grants and require a lot of work to apply.

Darek Hahn, on behalf of the Bridge Committee, noted that there is concern with holding off with the bid process while the grant application is being prepared and submitted; this would add at least six months to the process.

There was discussion and Mayor Kirson called for a vote of Council to authorize the Engineer to apply for the two grants. Councilmember Misiura moved that the Borough Engineer be authorized to apply for the grants noted for the purposes discussed, Councilmember Thibault seconded.

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

Motion adopted 5-0. The Borough Engineer is authorized to prepare the applications for these grants.

Mr. Darek Hahn added that he wants the residents to know that the funds they donated will be going toward the bridge, not for site work and other needs that go with the project.

Professional Hazard Mitigation Proposals

Mr. Underhill, Borough Administrator, noted that he has spoken with the FEMA representative and suggested that he meet with him prior to Council making a decision as to whether to spend more money to see if the Borough qualifies for the 51% rule, to clear up points regarding critical facilities, flood proofing, and insurance. He will come back at a future meeting with the information.

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

Jeff Bond, 210 S. Main Street – commented that it is a sad day when the Borough must settle with a Councilmember.

Walter Sikorski, 326 N. Main Street – commented on Bridgegate, taxpayer bills, the settlement with Councilmember Thibault, and holding the Borough accountable for employee actions.

Eugene Sarafin, 628 S. Main Street – commented that he would like to see Councilmember Thibault resign.

Pat Duncan, 158 Grant Avenue – commented that \$200,000 is not enough when the person responsible is not punished, just the taxpayers are.

Keith LePrevost, 213 Greeley Street – commented that there were approximately 25 volunteers who participated in the Environmental Commission's town clean up last weekend and over 270 pounds of trash and recycling was collected; he gave a special thank you to Public Works for their support. He continued that a tree was planted and the greenway was improved, and contacts were made with Peddie and the public schools. He also noted that they are presently working on the vehicle inventory and fuel use report. He thanked Council for the Animal Companion resolution that is on the agenda and noted that he is still waiting to find out what happened when the police did not respond to their office when needed in the middle of the night

April 7, 2014

Tory Watkins, 68 Meadow Drive – commented that ordinance 2014-04 is a misguided ordinance and is not a way to give kids, who do foolish things, treatment.

Lynne Woods, 315 Park Avenue – noted that when she was a member of Council, Detective Miller was promoted because he had been disciplined by the Police Department; commented that she is a teacher and knows that underage drinking is a problem. She then advised that there is a workshop at the high school from 7 – 9 pm regarding current drug trends.

Eric Millman, 5 Norton Avenue – reminded Council that the roads in Enchantment are not yet complete.

Skye Gilmartin, 41 Powell Court – commented that the Board of Health unanimously approved ordinance 2014-04 and that the Borough would lose the lifeline benefit of the ordinance if it is not adopted. She advised that the First Aid is sponsoring Breakfast with the Bunny at the Firehouse next Sunday, please support the volunteer organizations.

Don Fross, 37 Norton Street – commented that the residents in Enchantment are very frustrated because they don't know what is going on with the negotiations between the Borough and the Developer; there needs to be communication.

Anthony Pellegrini, 5 Barton Drive – commented that the Borough needs to take an interest in the Enchantment development; they need roads and street lights.

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.

BUDGET 2014

Henry Underhill advised Council that tonight's budget discussion is a fact finding session for capital needs of the various departments.

Police Department

Police Director LeTellier advised that the Police Department capital needs consist of: new handguns (with trade-in savings); new driver's seats in the older police vehicles; side panel strobe lights for safety; and an e-mail system for a stand-alone e-mail system (as required). This total is approximately \$7,100.00. He added that storage for the incoming microfilm is also needed.

Mr. Underhill noted that the need for the e-mail system is part of the requirements for security in police records. There was discussion regarding placing these items in the budget and/or as fully funded. Mr. Lang stated that he could work it out.

Public Works

Ken Lewis, DPW Superintendent, advised that Public Works is in need of radios; a riding mower (24 years old); dump truck (last replaced in 1998); and a pick-up truck (last replaced in 1996). He noted that cost can be offset by funds left in previous bonds. He went on to explain that the automated trash truck is being repaired again and that the purchase of an additional automated truck should be considered.

Mr. Underhill invited Council to see the vehicles presently being used, noting that the department does a good job of keeping things running far past their useful life and this equipment really now needs to be replaced. There was discussion regarding repair costs and the possibility of sharing equipment with other municipalities.

Roads and Infrastructure

Carmela Roberts, Borough Engineer, noted that Ward Street, which deteriorated quickly from the weather this past winter, really needs to be repaired. She then continued that the first three streets on her list have funding and funding applications have been filed for the second three roads. She continued that several roads are over 20 years old and need improvement. She recommended funding the roads that have an immediate need.

There was discussion regarding putting a program together for the maintenance/repair of roads and infrastructure. Ken Lewis noted that a mill and pave program should be established to save money in the long term. Councilmember Misiura requested that a detailed list consisting of utilities, curbs, sidewalks, street, etc. be submitted to Council.

Advance Wastewater Treatment Plant

Bill Searing, AWWTP Superintendent, reviewed his 2015 capital needs including: UV disinfection unit (\$500,000); anaerobic digester (\$400,000); insulation of the anaerobic digester (\$18,445); Primary clarifier sweep (\$18,000); Secondary recirculation clarifiers (\$72,000); replacement of doors and frames (\$15,000); and an emergency three-phase generator for two pump stations – trailer mounted (\$25,000 ea.). He also noted that his submission for funding includes several items which were recommended in 2014, but were not funded or completed.

There was discussion regarding emergency generator grant availability. Mr. Underhill invited Council to contact he or Mr. Searing, and get a tour of the plant.

Ordinance 2014-04 First Reading and Introduction - An Ordinance Amending and Supplementing Chapter 3 Entitled “Police Regulations” of the “Revised General Ordinances of the Borough of Hightstown”

Councilmember Thibault moved ordinance 2014-04 for introduction. Mayor Kirson called for a second, and there was none.

Councilmember Thibault commented that it is very cowardly of Council not to second the ordinance so there could be further discussion regarding the ordinance.

There being no second on the introduction of ordinance 2014-04, Mayor Kirson declared the ordinance dead.

Ordinance 2014-04

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3 ENTITLED “POLICE REGULATIONS” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN”

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

SECTION 1. Amending Chapter 3 of the Revised General Ordinances of the Borough of Hightstown, creating a section entitled “Alcoholic Beverages; Possession and Consumption by Underage Persons”, is hereby created, to read as follows:

1. Consumption on Private Property

A. Definitions

Guardian shall mean a person who has qualified as a guardian of the underage person pursuant to a testamentary or court appointment.

Relative shall mean the underage person's grandparent, aunt or uncle, sibling or any other person related by blood or affinity.

2. Consumption of Alcoholic Beverages by Underage Person on Private Property Prohibited

It is Unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property.

3. Violations and Penalties

A. Any person found guilty of violating the terms of this section shall be subject to a fine of two hundred fifty (\$250.00) dollars for a first offense and a fine of three hundred fifty (\$350.00) dollars for any subsequent offense. In addition, the court may, upon a finding of guilt, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privileges of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years. If the defendant at the time of the imposition of the sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the Division of Motor Vehicles along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

B. The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. The defendant shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of the written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.

C. If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this section. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

4. Exceptions

A. This section shall not prohibit an underage person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.

B. This section shall not prohibit the possession of alcoholic beverages by any underage person while actually engaged in the performance of employment by a person who was licensed under Title 33 of the revised statutes or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; however, this ordinance shall not be construed to preclude the imposition of a penalty under this Section, N.J.S.A 33:1-81, or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

5. Underage Possession or Consumption; Exemption from Prosecution

A. An underage person and one or two other persons, if applicable, shall be immune from prosecution under this Chapter prohibiting any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage on private property if:

- (1) one of the underage persons called 9-1-1 and reported that another underage person was in need of medical assistance due to alcohol consumption:
- (2) the underage person who called 9-1-1 and, if applicable, one or two other persons acting in concert with the underage person who called 9-1-1 provided each of their names to the 9-1-1 operator,
- (3) the underage person was the first person to make the 9-1-1 report, and
- (4) the underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 9-1-1 call remained on the scene with the person under the legal age in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

B. The underage person who received medical assistance as provided in subsection A. of this section shall also be immune from prosecution under this Chapter prohibiting the possession or consumption of an alcoholic beverage on private property.

SECTION 2. This ordinance shall take effect after second reading and publication as required by law.

Ordinance 2014-07 First Reading and Introduction - 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"

Councilmember Quattrone moved ordinance 2014-07 for introduction, Councilmember Misiura seconded.

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

Ordinance introduced 5-0; public hearing to be held April 21, 2014.

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

April 7, 2014

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

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

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

Ordinance introduced 5-0; public hearing to be held April 21, 2014.

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 April 7, 2014

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 2014-80 Authorizing the Payment of Bills

Councilmember Quattrone moved resolution 2014-80, Councilmember Hansen seconded.

There was clarification of payments being made and the process for the payment of bills.

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

Resolution adopted 5-0.

Resolution 2014-80

*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 \$894,432.99 from the following accounts:

Current		\$828,665.22
W/S Operating		51,197.34
General Capital		3,191.50
Water/Sewer Capital		3,764.63
Grant		650.00
Trust		2,955.01
Housing Trust		0.00
Animal Control		366.00
Law Enforcement Trust		0.00
Housing Rehab Loans		0.00
Unemployment Trust		0.00
Escrow		<u>3,643.29</u>
Total		<u>\$894,432.99</u>

Resolution 2014-81 Authorizing a Mutual Aid Agreement with Ewing Township for Mutual Aid Fire Protection Services

Councilmember Quattrone moved resolution 2014-81, Council President Bluth seconded.

Borough Clerk Sopronyi explained that in the past mutual aid was verbal however Ewing Township has decided to put it into a written agreement.

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

Resolution adopted 5-0.

Resolution 2014-81

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

**AUTHORIZING A MUTUAL AID AGREEMENT WITH EWING TOWNSHIP FOR MUTUAL
AID FIRE PROTECTION SERVICES**

WHEREAS, the Borough Council agrees with Ewing Township that situations may arise when additional fire protection services may be needed by the Borough, Township and neighboring municipalities; and

WHEREAS, in past years such agreement to provide Mutual Aid has always been verbal and understood; and

WHEREAS, Ewing Township is requesting that said Mutual Aid for fire protection services be confirmed by written agreement; and

WHEREAS, the Borough Attorney and Hightstown Engine Company #1 Fire Chief have reviewed the Mutual Aid agreement as presented by Ewing Township and find the agreement acceptable to the Borough; and

April 7, 2014

WHEREAS, pursuant to N.J.A.C. 5:75A-2.2, Hightstown Borough is desirous of entering into a Mutual Aid agreement with Ewing Township for fire protection services.

BE IT RESOLVED by the Hightstown Borough Council that the Mayor and Clerk are hereby authorized to execute the necessary documents to effectuate a Mutual Aid agreement with Ewing Township for fire protection services.

Resolution 2014-82 Authorizing a Settlement in the Litigation of Robert Thibault vs. The Borough of Hightstown

Councilmember Thibault recused himself from discussion and vote on this resolution; he then departed the dais to sit in the audience.

Councilmember Misiura moved resolution 2014-82, Councilmember Hansen seconded.

Council President Bluth noted that a yes vote on this resolution does not mean she approves of the amount.

Councilmember Misiura noted that the JIF was in the driver's seat in this lawsuit.

Councilmember Quattrone commented that Jeff Bond had said it all.

Councilmember Hansen commented that she hopes this is the last time she sees a Councilmember sue the Borough.

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

Resolution adopted 4-0.

Councilmember Thibault returned to the dais at this time.

Resolution 2014-82

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

**PROVIDING THE CONSENT OF THE BOROUGH OF HIGHTSTOWN
TO A SETTLEMENT OF THE LITIGATION MATTER KNOWN AS
"ROBERT THIBAULT vs. BOROUGH OF HIGHTSTOWN, et als."**

WHEREAS, there is currently pending before the Superior Court of New Jersey, Law Division, Mercer County, certain litigation known as "Robert Thibault vs. Borough of Hightstown, Borough of Hightstown Police Department and Detective Benjamin Miller," bearing Docket No. MER-L-2039-11; and

WHEREAS, the interests of the Borough of Hightstown and the Hightstown Borough Police Department (collectively, the "Borough Defendants") are being represented through the Mid-Jersey Joint Insurance Fund (the "JIF"); and,

WHEREAS, following the completion of discovery, and pursuant to settlement discussions which have occurred with legal representatives of Robert Thibault (the "Plaintiff"), the JIF has determined that it would be in the best interests of the JIF, as well as that of the Borough Defendants, to settle this matter; and

WHEREAS, pursuant to the proposed settlement, the Plaintiff shall be paid the sum of Two Hundred Thousand (\$200,000.00) Dollars, with the Borough contributing a portion of that sum in accordance with the By-Laws of the JIF and the terms and
April 7, 2014

conditions of the Borough's policy with the JIF; and

WHEREAS, the terms and conditions of the proposed settlement were presented in more detail to the Hightstown Borough Council on March 17, 2014 by the attorney appointed by the JIF to represent the interests of the Borough Defendants (Gregory J. Sullivan, Esq. of the firm of Hartsough Kenny Chase & Sullivan); and

WHEREAS, the proposed settlement does not constitute an admission of any liability whatsoever by the Borough Defendants, and is being considered solely in order to avoid future uncertainty and further expense which may be associated with litigating this matter to conclusion; and

WHEREAS, the proposed settlement incorporates a release of any and all claims by the Plaintiff against the Borough Defendants and provides for the execution of a Stipulation of Dismissal With Prejudice by the parties (see attached documents, which are incorporated herein by reference); and

WHEREAS, the Borough Council believes that it is in the best interests of the Borough to resolve this case in accordance with the terms and conditions set forth above, as presented by the JIF.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Hightstown that it hereby provides its consent to the settlement of the above litigation matter by the JIF in accordance with the terms and conditions set forth above and in the attached documents.

BE IT FURTHER RESOLVED, that the appropriate Borough representatives be and are hereby authorized to sign any and all documents necessary to effectuate this settlement, so long as said documents are in a form satisfactory to the Borough's Attorneys.

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
- (e) Gregory J. Sullivan, Esquire

Consent Agenda - Resolutions 2014-83, 2014-84, 2014-85, and 2014-86

Council President Bluth moved resolutions 2014-83, 2014-84, 2014-85, and 2014-86 for approval, Councilmember Quattrone seconded.

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

Resolutions adopted, 5-0.

Resolution 2014-83

*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	400,570.00	577,707.00	978,277.00
Capital Outlay – Current	0.00	0.00	0.00
Debt Service - Current	0.00	0.00	0.00
Water/Sewer	115,413.00	290,000.00	405,413.00
Capital Outlay – W/S	0.00	0.00	0.00
Debt Service - W/S	0.00	0.00	0.00
TOTAL	515,983.00	867,707.00	1,383,690.00

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 2014-84

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

**MUNICIPAL SUPPORT FOR RESPONSIBLE PET OWNERSHIP
PROGRAMS IN THE COMMUNITY**

WHEREAS, Hightstown Borough recognizes that cats and dogs are an integral and valuable part of all communities, and contribute to the well-being of humans, whether as companions, service animals, or therapy pets; and

WHEREAS, Hightstown Borough understands that municipalities have an important role in ensuring the well-being of animals while balancing the needs of pet owners and non-pet owners; and

WHEREAS, legislators and municipal officials report that the number of calls from citizens about animal related issues rival any other issue(s); and

WHEREAS, there are approximately 2.2 million owned dogs and 2.5 million owned cats in New Jersey; and

WHEREAS, New Jersey was the first state in the nation to develop an innovative state-wide spay/neuter program and all proceeds from the sale of Animal Friendly License Plates are used to reimburse participating veterinarians for spaying and neutering surgeries; and

WHEREAS, State responsibility for promoting responsible pet care and ensuring that pets do not suffer due to abuse, neglect, or lack of proper care in kennels, pet shops, shelters, and pounds (animal facilities) is vested in the Office of Animal Welfare within the New Jersey Department of Health and Senior Services; and

WHEREAS, The New Jersey Society to Prevent Cruelty to Animals (NJSPCA) and municipal Animal Cruelty Investigators (ACIs) are responsible for investigating and acting as officers for the detection, apprehension, and arrest of offenders against the animal cruelty laws; and

WHEREAS, New Jersey mandates training requirements for animal control officers and Animal Cruelty Investigators; and

WHEREAS, New Jersey impounds over 100,000 animals per year in animal shelters and impoundment facilities; and

WHEREAS, approximately 37% of the animals that enter New Jersey's impoundment facilities are euthanized, at a rate of around 3000 every month; and

WHEREAS, free-roaming unvaccinated cats and dogs present a potential health threat to humans through the spread of such zoonotic diseases as rabies, leptospirosis, toxoplasmosis, roundworms, animal bites, and environmental contamination from animal feces; and

WHEREAS, stray and unwanted pets place an enormous financial burden on municipalities and non-profit humane agencies organized to care for these animals; and

WHEREAS, it is more humane and cost-effective to reduce the number of unwanted animals than it is to impound and euthanize unwanted or unclaimed dogs and cats; and

WHEREAS, all dogs are required to be licensed in the municipality where they are housed and the Majority of municipalities also require licensure of cats. (Current shot against rabies is a pre-requisite to licensure); and

WHEREAS, all municipalities are required to canvass their residents to locate unlicensed dogs.

NOW, THEREFORE BE IT RESOLVED by the Borough Council the Borough of Hightstown, to take the following steps with regard to our municipal responsibilities with the intent of making the Borough of Hightstown a truly sustainable community.

It is our intent to do our utmost, within the bounds of our jurisdiction, to ensure that companion animals are treated humanely, respectfully, and responsibly through public education and through exercise of powers vested within New Jersey municipalities as follows:

Authority of municipalities:

Pursuant to New Jersey Statutes, all municipalities must appoint a certified animal control officer who shall be responsible for animal control within the jurisdiction of the municipality, including providing emergency veterinary care for injured stray animals and coverage outside of normal working homes; The municipality in which an animal facility is located is responsible for issuing the license for that facility to operate; and

The NJ Vicious Dog Law establishes a state-wide standard for municipalities to effectively address situations of vicious or potentially dangerous dogs, regardless of breed; and

The Animal Population Control Program provides for low-cost spaying and neutering for pet owners adopting dogs and cats from New Jersey shelters, pounds, and animal adoption referral agencies and pet owner's participating in one of several Public Assistance Programs.

The Municipality pledges to:

- Enforce all animal and rabies control statutes and regulations, including the requirement to pick up and impound all stray dogs and cats, excepting stray and feral cats in managed TNR programs.
- Work to improve the enforcement of animal cruelty statutes.
- Educate our community, including school children, about their responsibilities towards the pet animals they

chose to keep.

- Institute, as appropriate, cat licensing ordinances and increase the percentage of licensed dogs and cats through ease of licensing and licensing enforcement measures.
- Identify and work to implement best practices to prevent unwanted breeding through effective animal control, availability of low-cost pet spaying and neutering services, public education, and pet-friendly rental and senior housing.
- Identify alternatives to euthanasia of adoptable companion animals, including utilizing foster homes, adoption networks and providing remedial behavior training services to existing and future owners.
- Assist in identifying resources to improve the conditions and increase the capacity of animal shelters and impoundment facilities and animal control services.

Resolution 2014-85

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

**GRANTING PERMISSION TO SUNESYS, LLC TO INSTALL COMMUNICATIONS
FACILITIES ALONG, UNDER AND OVER THE PUBLIC RIGHT-OF-WAY IN
ORDER TO PROVIDE COMMUNICATIONS TO THE PUBLIC**

WHEREAS, the purpose of this resolution is to authorize Sunesys, LLC to install communications lines within conduit or on existing poles in the public right-of-way in order to provide communications services to the public.

WHEREAS, Sunesys, LLC intends to install its facilities on or in existing telephone, electric or cable conduit and poles in the public Rights-of-Way through agreement with other utility companies or to construct underground conduit space where necessary; and

WHEREAS, the new facilities of Sunesys, LLC may require certain modifications, reallocations, adjustments and additions due to future work by the Municipality; and

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

that:

1. The Use Agreement shall be effective as of the Effective Date and shall extend for an initial term of twenty(20) years commencing on the Effective Date, unless it is earlier terminated by either party in accordance with the provisions herein. Upon the expiration of the initial term or a prior extension term, this Use Agreement shall automatically be extended for up to three (3) additional terms of ten (10) years each upon the terms and conditions set forth herein, unless either party hereto shall give written notice to the other party of its intent not to renew this Use Agreement at least twelve (12) months prior to the expiration of the initial term or then effective extension term.
2. Any and all rights expressly granted to Sunesys under the Use Agreement, which shall be exercised at Sunesys' sole cost and expense, shall be subject to the prior and continuing right of the Municipality under the applicable Laws to use any and all parts of the Municipal Rights-of-Way exclusively or concurrently with any other Person or Persons and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the Municipal Rights-of-Way. Nothing in this Use Agreement shall be deemed to grant, convey, create, or vest in Sunesys a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Use Agreement must be subject to prior review and approval by the Municipality in accordance with all applicable existing laws.

3. Subject to obtaining the permission of the owner(s) of the affected property, on notice to the Municipality, the Municipality hereby authorizes and permits Sunesys to enter upon the Municipal Rights-of-Way and to attach, install, operate, remove, relocate, repair, and/or maintain the facilities of Sunesys as long as the facilities do not unreasonably impair any future improvements or interfere with the intended use of the Municipal Rights-of-Way.
 - a. Sunesys, in the performance and exercise of its rights and obligations under the Use Agreement shall not interfere in any manner with the existence and operation of any and all public and private Rights-of-Way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliners, cable television, and other telecommunications, utility, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as permitted by applicable Law of the Use Agreement.
 - b. Sunesys agrees to comply with all applicable laws and regulations in the exercise and performance of its rights and obligations under the Use Agreement.
 - c. If the attachment, installation, operation, maintenance, or location of Sunesys' Facilities in the Municipal Rights-of-Way shall require any permits, Sunesys shall, if required under applicable Municipal ordinances, apply the appropriate permits and pay any permit fees.
 - d. "As-Built Drawings" shall be furnished by Sunesys upon completion of installation, showing exact locations of Sunesys' Facilities in the Municipal Rights-of-Way.
 - e. In payment for the estimated time, review analysis, and other cost and services rendered by the Municipality in connection with its management of the public rights-of-way, as authorized by N.J.S.A.54:30A-124, Sunesys agrees to pay the following:
 - i. \$,1500.00 for submission of initial occupancy application as required by the Municipality's Engineer or Attorney.
 - ii. \$1,500.00 for submission of any subsequent modified or expanded occupancy application as required by the Municipality's Engineer or Attorney.
4. Sunesys, by execution of the Use Agreement, certifies its willingness to cooperate with the Municipality and its agents for the proper coordination of all work in connection with any planned or future Municipal improvements. Sunesys' Facilities shall be relocated, adjusted, or supported as required for any future improvements constructed on behalf of the Municipality in the Municipal Rights-of-Way by Sunesys as no cost to the Municipality. If Sunesys fails to relocate its facilities requested by the Municipality in a reasonable time under the circumstances, the Municipality shall be entitled to relocate Sunesys' Facilities at Sunesys' sole cost and expense, without further notice to Sunesys.
5. Whenever the installation, removal, repair, or relocation of Sunesys' Facilities is required or permitted under the Use Agreement, and such installation, removal, repair, or relocation shall cause the Municipal Rights-of-Way to be damaged, Sunesys, at its sole cost and expense, shall promptly repair and return the Municipal Rights-of-Way to a condition as good or better than prior to the work.
6. Each party shall indemnify and hold harmless the other party, its officers, directors, employees and agents, and its successors and assigns from and against any claims, liabilities, losses, damages, fines, penalties, and costs (including reasonable attorneys fees), whether foreseen or unforeseen, which the indemnified parties suffer or incur because of: (i) any Hazardous Discharge resulting from acts or omissions of the indemnifying party or its predecessor in interest; (ii) acts or omissions of the indemnifying party, its agents or representatives in connection with any cleanup required by law or (iii) failure of indemnifying party to comply with environmental, safety and health laws.
7. Except for death or bodily harm to any person and tangible property damage as provided above, in no event shall either party be liable to the other party for any special, consequential or indirect damages (including by way of illustration, lost revenues and lost profits) arising out of the Use Agreement or any obligation arising there under, whether in action for or arising out of breach of contract, tort or otherwise.
8. The Municipality shall be liable only for the cost of repairs of damages to Sunesys' Facilities arising from the negligence or willful misconduct of the Municipality, its agents, or employees.
9. Notwithstanding anything to the contrary in the Use Agreement, each party shall ensure that any and all activities it performs pursuant to the Use Agreement shall comply with all applicable federal, state, and local laws and regulations. Without limiting the generality of the foregoing, each party shall comply with all applicable provisions of i) workmen's

compensation laws, ii) unemployment compensation laws, iii) the Federal Social Security Law, iv) the Fair Labor Standards Act, and v) all laws, regulations, rules, guidelines, policies, orders, permits, and approvals of any governmental authority relating to environmental matters and/or occupational safety.

10. Sunesys shall both obtain and maintain insurance issued by one or more reputable insurance carriers licensed to insure property in New Jersey and shall be rated at least A:X in A.M. Best and Company's Insurance Guide, which protects the Parties and each of them from and against all claims, demands, causes of action, judgments, costs, including attorneys' fees, expenses and liabilities of insurable kind and nature which may arise or result directly or indirectly from or by reason of such loss, injury or damage that in any way arises from or is related to the Use Agreement or activities undertaken pursuant to the Use Agreement.
11. Prior to commencement of any work pursuant to the Use Agreement, Sunesys shall file with the Municipality the required original certificates of insurance with endorsements, not less than ten (10) days before any work is commenced and renewals not less than ten (10) days before expiration date of the certificate. The insurance certificate shall clearly state all of the following:
 - a. The policy number; name of insurance company; name and address of agent or authorized representative; name, address, and telephone number of insured; project name and address; policy expiration date; and specific coverage amounts.
 - b. The Municipality shall receive notice prior to cancellation in accordance with policy provisions.
 - c. That Sunesys insurance is primary as respects any other valid or collectible insurance that the Municipality may possess, including any self-insured retentions the Municipality may have; and any other insurance the Municipality does possess shall be considered excess insurance only and shall not be required to contribute with this insurance.
12. Sunesys shall obtain and maintain at all times during the term of the Use Agreement statutory workers' compensation and employer's liability insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00) and shall furnish the Municipality with a certificate showing proof of such coverage.
13. Any deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the Municipality. "Cross Liability", "severability of interest", or "separation of insured" clauses shall be made a part of the commercial general liability and commercial automobile liability policies.
14. Except for payment of the license fee and other amounts, neither party shall have any liability for its delays or its failure of performance due to: fire, explosion, pest damage, power failures, strikes or labor disputes, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, or other causes beyond its control, whether or not similar to the foregoing.
15. Either party may terminate the Use Agreement upon forty-five (45) days prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured within the forty-five (45) day of receipt of written notice of default (or, if such default is not curable within forty-five (45) days, if the defaulting party fails to commence such cure within forty-five (45) days thereafter diligently to prosecute such cure to completion), provided that the grace period for any monetary default shall be ten (10) days from receipt of notice. Except as expressly provided herein, the rights granted under this Use Agreement are irrevocable during the term of this Use Agreement.
16. The Use Agreement shall not be assigned by Sunesys without the express written consent of the Municipality, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the transfer of the rights and obligations of Sunesys hereunder to a parent, subsidiary, successor, or financially viable affiliate shall not be deemed as an assignment for the purposes of this Use Agreement.
17. Sunesys understands that the Use Agreement does not provide Sunesys the exclusive use of the Municipal Rights-of-Way and that the Municipality has the right to permit other telecommunication service providers to install equipment or devices in Municipal Rights-of-Way.
18. The Use Agreement may not be amended except pursuant to a written instrument signed by both parties.
19. If any one or more of the Provisions of the Use Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such Provision(s) shall be deemed severable from the remaining

Provisions of the Use Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Use Agreement.

20. The Use Agreement shall be governed and construed by and in accordance with the laws of the State of New Jersey, without reference to its conflict of law principles. If suit is brought by a party to the Use Agreement, the parties agree that trial of such shall be vested exclusively in the state courts of New Jersey in the county in which the Municipality is located, or the United States District Court for the District of New Jersey.

Resolution 2014-86

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

AUTHORIZING THE ISSUANCE OF AN AUCTION LICENSE – EMPIRE ANTIQUES

WHEREAS, an application for a license to hold an auction on Saturday, May 3, 2014 at 278 Monmouth Street in the Borough of Hightstown has been submitted by Empire Antiques, together with the required fee; and

WHEREAS, the application has been reviewed and approved by the Police Director; and

WHEREAS, it is the desire of the Mayor and Council that a license be issued to Empire Antiques for this event.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized to issue a license to Empire Antiques for their auction to be held on Saturday, May 3, 2014 at 278 Monmouth Street.

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

Scott Caster, 12 Clover Lane – thanked Council for their discussion, but noted that there should have been discussion regarding ordinance 2014-04 and then a vote.

Eugene Sarafin, 628 S. Main Street – commented that the position of the public on ordinance 2014-04 is because they remember the good old days; a committee is needed to investigate the utilities, the residents can't afford them and we should hook up to East Windsor for Hightstown's future.

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

Mayor/Council/Administrative Comments and Committee Reports

Councilmember Misiura – noted that he can't second an ordinance he does not support and he had concerns; this ordinance should be established at the state level and he resents Councilmember Thibault's cowardly comment. Parents should be doing the enforcement in this matter.

Councilmember Quattrone – noted that he is annoyed with the Enchantment situation. He commented that Councilmember Thibault's comment was uncalled for, the state will not put the law in place but wants the municipalities to. Education is the way to solve the problem and he suggested supplying information to the various supporting groups and schools. He then suggested that the Engineer ride around and look at the streets and infrastructure because Council needs to be serious about the capital budget requests. He commented that the Arts Commission is a good idea.

Councilmember Hansen – noted that this was a good meeting; she does not think Gail Doran would resign without a good reason and her prayers are with her; there is too much risk in the ordinance regarding violations of privacy and issues with enforcement; she has been on Council for 100 days and finds it very interesting.

Councilmember Quattrone – commented that the Memorial Day Parade meetings have begun and they are looking for suggestions for a Parade Marshall.

Council President Bluth moved to adjourn at 10:58 pm, Councilmember Quattrone seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC
Borough Clerk