

**Meeting Minutes
Hightstown Borough Council
Workshop Meeting
February 1, 2016
6:45 p.m.**

The meeting was called to order by Mayor Quattrone at 6:46 pm 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."

Roll Call

	PRESENT	ABSENT
<i>Councilmember Bluth</i>	✓	
<i>Councilmember Hansen</i>	✓	
<i>Councilmember Kurs</i>		✓
<i>Councilmember Misiura</i>	✓	
<i>Councilmember Montferrat</i>	✓	
<i>Councilmember Stults</i>	✓	
<i>Mayor Quattrone</i>	✓	

Also in attendance: Debra Sopronyi, Borough Clerk; Henry Underhill, Borough Administrator; Fred Raffetto, Borough Attorney and Tamara Lee, Borough Planner.

EXECUTIVE SESSION

Resolution 2016-37 Authorizing a Meeting Which Excludes the Public

Council President Hansen moved Resolution 2016-37; Councilmember Stults seconded.

Roll Call Vote: Council members Bluth, Hansen, Misiura, Montferrat and Stults voted yes.

Resolution adopted 5-0.

Resolution 2016-37

*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 February 1, 2016 at 6:45 p.m. in the First Aid Building located at 168 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:

Litigation – Affordable Housing (COAH)
Contract Negotiations – RBG Hightstown LLC (The Mills at Hightstown)

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: May 1, 2016, 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.

Mayor Quattrone called the public meeting to order at 7:40 p.m. and again read the Open Public Meetings Statement.

The Flag Salute followed roll call.

Tamara Lee, Borough Planner departed during Executive Session and was no longer present. Councilmember Kurs had arrived during executive session and was now present. George Lang, CFO, arrived at this time and is now present.

APPROVAL OF AGENDA

Councilmember Bluth requested that Resolution 2016-44 be pulled from the consent agenda and voted on separately.

Councilmember Kurs moved the agenda for approval as amended; Councilmember Montferrat seconded.

Roll Call Vote: Councilmembers Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Agenda approved at amended 6-0.

APPROVAL OF MINUTES

Councilmember Stults moved the January 1, 2016 reorganization meeting minutes for approval, Council President Hansen seconded.

Roll Call Vote: Councilmembers Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Minutes approved 6-0.

Council President Hansen moved the January 19, 2016 open session minutes for approval; Councilmember Stults seconded.

Roll Call Vote: Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Minutes approved 6-0.

Councilmember Misiura moved the January 19, 2016 executive session minutes for approval; Council President Hansen seconded.

Roll Call Vote: Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Minutes approved 6-0.

Resolution 2016-37 Authorizing the Borough of Hightstown to Hire One Full-Time Regular Police Officer

Councilmember Kurs moved resolution 2016-37, Council President Hansen seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Resolution adopted 6-0.

PUBLIC COMMENT

Eugene Sarafin, 628 South Main Street – Advised that Walter Sikorski had a massive stroke and is hospitalized; he will need rehab but should recover. Commented that he is glad Council is doing a developers agreement.

Doug Mair, 536 S. Main Street – noted he was sorry to hear about Walter; he referenced resolution 16-13 and that it says nothing about the first public comment period being for agenda items only. He then called a point of order and inquired of the Borough Attorney. The Borough Attorney advised that the resolution can be amended, but the process is in compliance with law. Mr. Mair then referenced ordinance 2016-03 and said he found the fact that Council is replacing the Director with a Chief disturbing and feels that a Chief should be selected from an outside pool, not from existing personnel.

Lynne Woods, 315 Park Avenue – commented that Council President Hansen should control her facial expressions; ordinance 2016-03 should have had public discussion to see what the public wants; inquired if the appointment of a Chief will come from within the department; the present lieutenant is under investigation and has already cost the Borough a lot of money with false accusations against an officer, the Council should wait until the investigation is over before appointing anyone to Chief.

Scott Caster, 12 Clover Lane – commented that he wishes the same for the mill project as Council, he applauds Council and is happy to see it moving forward; he is only against the stuff Council is not doing like integrating with downtown.

Frank Rivera, 110 Broad Street - congratulated Council on the concept plan for the rug mill property and listed his likes and dislikes with the plan.

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

ORDINANCES

2016-02 First Reading and Introduction – An Ordinance Amending and Supplementing Chapter 26, Entitled “Land Use”, Section 10, Entitled “Mandatory Developer Fees”, of the “Revised General Ordinances of the Borough of Hightstown, New Jersey”

Councilmember Kurs moved Ordinance 2016-02 for introduction; Councilmember Stults seconded.

The Borough Attorney reviewed the history and purpose of this ordinance.

Roll Call Vote: Councilmembers Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Ordinance introduced 6-0. Public Hearing scheduled for February 16, 2016.

ORDINANCE 2016-02

BOROUGH OF HIGHTSTOWN COUNTY OF MERCER STATE OF NEW JERSEY

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 26, ENTITLED “LAND USE”, SECTION 10, ENTITLED “MANDATORY DEVELOPER FEES”, OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”

WHEREAS, the Borough Planner has made certain recommendations for revisions to Chapter 26, “Land Use”, Section 10, entitled “Mandatory Development Fees” of the Borough Revised General Ordinances of the Borough of Hightstown; and

WHEREAS, the Borough Council has reviewed and concurs with these recommendations.

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

Section 1. Chapter 26 “Land Use”, Section 10, entitled “Mandatory Developer Fees” is hereby amended as follows (underline for additions, strikethroughs for deletions):

Proposed Development Fee Ordinance

26-10 MANDATORY DEVELOPMENT FEES

26-10-1 Purpose.

In the case of Holmdel Builder’s Association vs. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and the State Constitution subject to the Council on Affordable Housing’s (COAH’s) adoption of appropriate rules and/or approval from New Jersey Superior Court. The purpose of this Ordinance is to establish standards for the collection, maintenance and expenditure of development fees pursuant to applicable affordable housing rules. Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low and moderate income housing. This Ordinance shall be interpreted within the framework of current affordable housing rules on development fees.

26-10-2 Definitions.

The following terms shall have the meanings indicated:

- a. “COAH” means the New Jersey Council on Affordable Housing.
- b. “Development fees” means money paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in current affordable housing rules.
- c. “Equalized assessed value” means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.
- d. “Judgment of Compliance” means a judgment issued by the Superior Court approving a municipality’s housing element and fair share plan in accordance with the provisions of the Fair Housing Act and the rules and criteria as set forth herein. A grant of substantive certification shall be valid for a period of ten years or as otherwise may be determined by the Superior Court in accordance with the terms and conditions therein.

26-10-3 Residential Development Fees.

a. Within all districts of the Borough of Hightstown, developers shall pay a development fee of one and one-half percent (1.5%) of the equalized assessed value of the residential development with an assessed value less than \$150,000 and one percent (1.0%) of the equalized assessed value of the residential development with an assessed value equal to or greater than \$150,000, provided no increased density is permitted. Notwithstanding the aforementioned, developers shall pay a development fee of one and one-half percent (1.5%) of the equalized assessed value for all rental apartments.

b. If a “d” variance is granted pursuant to N.J.S.A. 40:55d-70d, then the additional residential units realized (above
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that which is permitted by right under the existing zoning) will incur a bonus development fee of six percent (6%) rather than the development fee of one and one-half percent (1.5%).

26-10-4 Non-Residential Development Fees.

a. Developers within the Borough of Hightstown shall pay a fee of two and one-half percent (2.5%) of the equalized assessed value for nonresidential development in the Borough of Hightstown, including but not limited to service uses, contractors, schools, churches. Developers shall pay a fee of two percent (2.0%) of the equalized assessed value for retail and office use development, except in those incidents where they provide and maintain outdoor eating or other similar public gathering space; such retail and office uses shall pay a fee of one and one-half percent (1.5%).

b. If a “d” variance is granted pursuant to N.J.S.A. 40:55D-70d, then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of six percent (6%) rather than the development fee of two and one-half percent (2.5%).

26-10-5 Exemptions.

a. Developers of low and moderate income units shall be exempt from paying development fees.

b. Developers that have received preliminary or final Approval(s) prior to the effective date of this Ordinance shall be exempt from paying a development fee unless the developer seeks a substantial change in the approval.

c. Developers who demolish and replace or renovate and re-occupy abandoned housing units shall be exempt from paying development fees, provided the number of housing units on the property does not increase.

d. Home improvements or expansions shall be exempt from development fees, provided the improvements or expansions do not create any new housing units.

e. There shall be no fee for improvements to non-residential uses when the improvements do not increase the intensity of the existing use. For instance, there shall be no fee for façade or signage improvements.

f. Development projects that are the subject of redevelopment agreements, in which case development fee obligations will be negotiated as part of the redevelopment agreement.

26-10-6 Collection of Fees.

a. Developers shall pay fifty percent (50%) of the calculated development fee to the Borough of Hightstown at the time of issuance of a building permit. At the time of issuance of a Certificate of Occupancy, developers shall pay the remaining portion of the fee that is owed to the Borough.

26-10-7 Housing Trust Fund.

There is hereby created an interest bearing housing trust fund for the purpose of receiving development fees from all residential and nonresidential developers. All development fees paid by developers pursuant to this Ordinance shall be deposited into this fund. No money shall be expended from the housing trust fund unless the expenditure conforms to an approved spending plan.

26-10-8 Use of Funds.

a. Money deposited in the housing trust fund may be used for any activity identified in the Borough's approved housing plan for addressing the Borough of Hightstown's low and moderate income housing obligation. Such activities may include, but are not necessarily limited to: housing rehabilitation, new construction, the purchase of land for low and moderate income housing, extensions and/or improvements of roads and infrastructure to low and moderate income housing sites, assistance designed to render units for more affordable to low and moderate income households and administrative costs necessary to implement the Borough of Hightstown's housing element. The expenditure of all money shall conform to an approved spending plan.

b. At least thirty percent (30%) of the revenues collected shall be devoted to render units more affordable. Examples of such activities include, but are not limited to: down payment and closing cost assistance, low interest loans and rental assistance.

c. No more than twenty percent (20%) of the revenues collected each year shall be expended on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities include: personnel, consultant services, space costs, consumable supplies and rental or purchase of equipment directly associated with plan development or plan implementation.

d. Development fee revenues shall not be expended to reimburse the Borough of Hightstown for housing activities that preceded a first or second round substantive certification.

26-10-9 Expiration of Ordinance.

This Ordinance shall expire if:

a. the Borough of Hightstown's petition for substantive certification is dismissed or denied;

b. the Borough of Hightstown's substantive certification or this Ordinance are revoked;

SECTION 3 Severability

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph or other wording in this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

SECTION 4 Effective Date

This Ordinance shall take effect upon compliance with procedures prescribed by law, including NJSA 40:55D-97 of the Municipal Land Use Law (Submission of plan and ordinances to County Planning Board for approval).

Elizabeth Garcia, Esq., Borough Labor Counsel, arrived at this time.

2016-03 First Reading and Introduction – An Ordinance Replacing Chapter 2, Entitled “Administration”, Section 19, Entitled “Police Department”, and Amending Chapter 4, Entitled “General Licensing”, Section 21, Entitled “Taxicab Licensing”, and Chapter 7, Entitled “Traffic”, Section 16, Entitled “Taxicab Regulations” of the “Revised General Ordinances of the Borough of Hightstown, New Jersey”

Councilmember Kurs moved Ordinance 2016-03 for introduction; Councilmember Bluth seconded.

Mr. Underhill explained that the title of the ordinance has been corrected as read aloud by the Mayor; and noted the minor corrections to paragraph 2-19 on the Council's copy of the ordinance. The Borough Attorney reviewed the changes being made by this ordinance noting that it brings back the title of Police Chief to the Borough.

There was Council discussion with Labor Counsel regarding the possibility of retaining both titles, Police Director and Police Chief, in the ordinance. Ms. Garcia noted that she does not recommend retaining both titles as it would cause procedural confusion because of the differences in the authority of the two titles.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Ordinance introduced 6-0. Public Hearing scheduled for February 16, 2016.

ORDINANCE 2016-03

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

AN ORDINANCE REPLACING CHAPTER 2, ENTITLED “ADMINISTRATION”, SECTION 19, ENTITLED “POLICE DEPARTMENT”, AND AMENDING CHAPTER 4, ENTITLED “GENERAL LICENSING”, SECTION 21, ENTITLED “TAXICAB LICENSING”, AND CHAPTER 7, ENTITLED “TRAFFIC”, SECTION 16 ENTITLED “TAXICAB REGULATIONS”, OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”

WHEREAS, the Mayor and Council of Borough of Hightstown recently examined the needs of the Borough and its Police Department and determined to re-establish the title of Chief of Police; and

WHEREAS, the Mayor and Council believe that the Police Department will be better served with a Chief of Police instead of a Director of Police as a Director of Police is not permitted to be involved in matters involving police powers as a civilian Director; and

WHEREAS, the Mayor and Council wish to designate the Borough Administrator as the Appropriate Authority per N.J.S.A. 40A:14-118

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Borough Council of the Borough of Hightstown, County of Mercer, State of New Jersey that Chapter 2, Chapter 4 and Chapter 7 of the Borough be and are amended and supplemented as follows:

SECTION 1: Chapter 2, Section 19 of the Borough Code shall be replaced in its entirety as follows:

2-19.1 Establishment; Composition; Chain of Command.

a. Establishment. The Borough Council, as the governing body of the Borough of Hightstown, hereby creates and establishes, pursuant to N.J.S.A. 40A:14-118, as an executive and enforcement function of municipal government, a police force which shall be known as the Police Department of the Borough of Hightstown (referred to herein as the “Police Department”). The Police Department shall be governed by the applicable laws of the State of New Jersey, this section of the Hightstown Borough Code, other applicable ordinances of the Borough, and rules and regulations adopted pursuant thereto.

b. Composition. Under the supervision of the Chief of Police, the composition of the Police Department shall be as follows: a maximum of one lieutenant, a maximum of three sergeants, a maximum of ten patrol officers, and any civilian personnel as deemed appropriate by the Borough Council. In addition to the regular members of the Police Department, the Borough may employ up to Ten (10) Class One special law enforcement officers and Class Two special law enforcement officers in an amount not to exceed 25% of sworn officers, pursuant to N.J.S.A. 40A:14-146.8, et seq., and Subsection 2-19.16 below.

c. Chain of Command. All necessary orders and directives for the management and regulation of the Police Department shall be given through the chain of command. The chain of command shall be as follows:

1. The Borough Administrator as the Appropriate Authority, pursuant to N.J.S.A. 40A:14-118;
2. The Chief of Police;
3. The lieutenant, if one is then serving;
4. The sergeant(s);
5. The patrol officers; and
6. The special law enforcement officers, if necessary.

Subsection 2-19.2 Appropriate Authority.

The Borough Administrator shall serve as the Appropriate Authority pursuant to N.J.S.A. 40A:14-118. Notwithstanding any other provision of this section or any police rules and regulations, and the Appropriate Authority, shall in addition to the other duties permitted by N.J.S.A. 40A:14-118, conduct hearings in connection with minor discipline of police officers in accordance with subsection 2-19.13.

Subsection 2-19.3 Police Commissioner.

The Mayor shall, as soon as possible after the organization of the Council each year in January, name one (1) of the members of Council as Police Department Liaison, who shall also be known as the Police Commissioner. The Police Commissioner shall act as liaison between the Borough Council and the Police Department, with the assistance of the Borough Administrator, as needed. In the event of any vacancy in the office of Police Commissioner, which the Mayor has not filled within thirty (30) days, the Borough Council shall have the authority, by majority vote, to designate a Council Member to serve as Police Commissioner for the duration of that calendar year.

Subsection 2-19.4 Chief of Police.

a. Duties and Responsibilities. The Chief of Police shall be the executive head of the Department, and shall have complete authority regarding the day-to-day operations of the Police Department. The Chief shall consult and cooperate with the Borough Administrator, as Appropriate Authority. The operations for which the Chief shall be responsible shall include but not be limited to the following:

1. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel.
2. Have, exercise and discharge the functions, powers and duties of the force.
3. Prescribe the duties and assignments of all subordinates and other personnel in the Department.
4. Delegate such of his authority as the Chief may deem necessary for the efficient operation of the force to be exercised under his direction and supervision.
5. Report monthly to the Borough Council in such form as shall be prescribed by the Council on the operation of the force during the preceding month, and make such other reports as may be requested by the Council or on its behalf by the Borough Administrator or Police Commissioner.

b. Officer in Charge. In the temporary absence or disability of the Chief of Police, the Chief shall appoint on a temporary basis one of the senior officers of the Department who will act in place of the Chief under the title of "Acting Chief," this title to be used only for the duration of the temporary appointment. The Chief shall notify the Borough Administrator in writing of any such temporary appointment.

c. Department Equipment. The Chief of Police shall recommend to the Borough Administrator from time to time the purchase of new equipment or the repair or rearrangement of such old equipment as will improve the Department. The Chief shall have full charge and control of all apparatus of the Department and its assignment and use and shall be held responsible for its care, cleanliness and safe keeping.

d. Qualifications of the Chief of Police. Selection and elevation of the individual to be appointed Chief of Police shall be based upon the following criteria, and the requirements of New Jersey law:

1. Demonstrated possession of a thorough knowledge of the principles and practices of modern police and emergency management administration, modern police science and crime prevention and the ability to command the respect of officers and support staff and to plan, assign, direct, supervise and evaluate their performance.
2. Ten (10) years of police experience as a member of a Police Department or force, including supervisory experience.
3. Education, including a high school diploma or accredited equivalent. Post-secondary courses and degrees are desirable and will be considered in the selection process. Attendance at and completion of a police training course and successful physical and psychological tests are mandatory.
4. Residence within the State of New Jersey and within a radius of fifteen (15) miles of the Borough Police Headquarters.
5. Receipt of a satisfactory grade on any qualifying examination for the office of Chief as may be selected by the Borough Council.

Subsection 2-19.5 Duties of Department.

a. The Chief of Police shall take all appropriate and necessary steps to make sure that the Police Department shall:

1. Preserve the public peace, protect life and property and prevent crime; detect and arrest offenders against the penal laws and ordinances effective within the Borough; suppress riots, mobs and insurrections; disperse unlawful or dangerous assemblages; and preserve order at all elections, public meetings and assemblages.
2. Administer and enforce laws and ordinances to regulate, direct, control and restrict movement of vehicular and pedestrian traffic and the use of the streets by vehicles and persons, protect the safety and facilitate the convenience of motorists and pedestrians and make and enforce rules and regulations not inconsistent with the ordinances and resolutions of the Borough for such purposes.
3. Remove or cause to be removed all nuisances in the public streets, parks and other public places of the Borough, inspect and observe all places of public amusement or assemblage and all places of business requiring any State or municipal license or permit and report thereon to the appropriate department.
4. Provide proper police attendance and protection at fires and emergencies.
5. Provide for the attendance of its members in court as necessary for the prosecution and trial of persons charged with crimes and offenses and cooperate fully with the law enforcement and prosecuting authorities of Federal, State and County governments.
6. Operate training programs to maintain and improve police efficiency of the members of the Department.

b. All police officers and employees shall, at all times, while holding office or appointment under the authority of this section, whether on or off duty, abide by the Constitutions of the United States and of the State of New Jersey.

c. All police officers and employees shall, at all times, while holding office or appointment under the authority of

this section, whether on or off duty, show abiding respect for government by complying with all laws, statutes, codes, ordinances, rules and regulations, including those of the State of New Jersey and the Borough of Hightstown.

d. All police officers shall, at all times, while holding office or appointment under the authority of this section, whether on or off duty, conduct themselves as police officers in accord with the oath of office.

Subsection 2-19.6 Rules and Regulations of Department.

a. The Borough Council shall have the power, by resolution, to adopt such rules and regulations for the government and discipline of the Police Department as are not inconsistent with New Jersey law or this section. The Chief of Police shall have the power to adopt such additional rules, regulations, procedures and orders as shall be deemed necessary by him to promote the efficiency of the Department. Any such rule, regulation, procedure or order of the Chief of Police shall be sent immediately to the Borough Administrator and to the Borough Council, and they may be modified or annulled by resolution or motion of the Borough Council.

b. Such rules, regulations, procedures and orders shall be binding upon each member and civilian employee of the Police Department, and copies shall be made available by the Chief of Police for each such members and employees.

c. Within five (5) days after the promulgation of any rule, regulation, procedure or order, same shall be posted by the Police Chief or designee in the Police Department and a copy shall be made available to each member of the Department and to each civilian employee of the Department, all of whom shall acknowledge receipt of same on a form supplied by the Chief.

d. In the event of any inconsistency between this Section 2-19 and the rules, regulations, procedures or orders, the provisions of this section shall control. In the case of inconsistency with any applicable collective bargaining agreement, the provisions of such agreement shall control.

Subsection 2-19.7 Decrease for reasons of economy and/or efficiency.

The Borough Council may decrease the force for reasons of economy and/or efficiency. In accordance with N.J.S.A. 40A:14-143, the Council, if it shall deem necessary for reasons of economy and/or efficiency decrease the number of members and officers of the Police Department or force or grades or ranks. In case of demotion from the higher ranks, the officers or members to be so demoted shall be in inverse order of their appointment. Any member or officer who is demoted by reason of such decrease shall be placed on a special employment list, and in the case of subsequent promotion or hiring, a person demoted shall be reinstated to the original rank, if it exists, and in case of termination of service a new appointment, prior consideration shall be given to the persons on said special employment list.

Subsection 2-19.8 Application; Appointments and Qualification; Probationary Period.

a. Application. Any applicant for the position of police officer of any rank, other than Chief of Police, shall make written application therefor on forms supplied by the Borough, to the Borough Administrator, and at the same time shall submit such proofs as shall be required with respect to the qualifications as set forth in said application. Every such application shall be signed and sworn by the applicant. No applicant shall be appointed to any position with the Police Department until after the applicant is fingerprinted and said fingerprints are filed and investigated with the New Jersey State Police and the Federal Bureau of Investigation. No applicant shall be appointed until after there has been a thorough background and character investigation of the candidate that will also determine the candidate's fitness for the position. Every person who shall have made due application to be appointed a police officer shall undergo a physical examination by a physician hereinbefore specified after the initial application and interview process. The report of such physical examination shall be delivered to the Borough Administrator, who shall submit said report together with the interview committee's recommendation, to the Borough Council prior to its consideration of the making or any such appointment; provided, however, that no person shall be appointed a police officer unless such person shall have undergone a physical examination by a physician, and the report of such

examination shall show that the applicant possesses the required physical qualification.

b. Procedure for Evaluation and Appointment of Patrolman. Applications shall be reviewed by the Borough Administrator and Police Chief, and selected candidates shall be interviewed by the Police Committee consisting of the Borough Administrator, Police Chief, Mayor, and Police Commissioner, with the Police Commissioner serving as the Chair, and making recommendations to the Borough Council. The Borough Administrator and Police Chief reserve the option of mandating applicants to pass a written examination prior to the interview process, whereby the top written scoring applicants are interviewed. Said Police Committee shall then recommend a name or names to the Council which may determine to conduct interviews itself prior to confirming employment. In either case, no member of the Police Department shall be appointed prior to consideration by the Council and formal appointment by resolution of the Council.

c. Probationary Appointment. No person shall be appointed as a member of the Borough Police Department prior to demonstrating an aptitude for police employment in the Borough of Hightstown for a period of one (1) year, during which time said person shall be known as a probationary police officer. During the probationary period, the appointment as a police officer shall be subject to revocation at any time for any cause and without any hearing. The probationary period may be extended by the Borough Council to a maximum of an additional six (6) months if necessary in order for an officer to successfully complete a police training course as prescribed by law.

For purposes of this subsection, the probationary period for any police officer shall be for a period of one (1) year following the candidate's graduation from a police academy, or if the candidate has prior police experience, said probationary period shall be for one (1) year from the date of employment or from the date of the successful last. No person shall be appointed or promoted to a command or supervisory position above patrolman or patrolwoman unless he or she shall have demonstrated an aptitude for such position. Candidates for and members of the Police Department shall have all other qualifications prescribed by law.

Probationary employees will be evaluated on a monthly basis throughout the entire period of their probation in an effort to determine their suitability for continued employment. Probationary employees will be advised of their progress and counseled when necessary in an effort to correct any deficient performance or behavior.

Upon the completion of the probationary period, the Chief of Police shall recommend the officer for permanent appointment or dismissal by the Borough Council. If the officer is made permanent, the officer shall be subject to the provisions of New Jersey law with respect to discipline and removal. Such recommendation shall be set forth in a written report along with the Chief's observations and findings leading to such recommendation. These recommendations shall be submitted to the Appropriate Authority no later than 10 days prior to the end of the probationary employee's period of probation. Nothing herein shall prohibit the Chief of Police from submitting such recommendation at any time during the employee's probationary prior when such employee demonstrates that he/she does not possess the qualities and abilities to competently perform the duties of Borough police officer. Prior to achieving permanent status, probationary members shall not be considered as regular or permanent members of the Department.

The Borough Council may terminate a probationary employee at any time during or at the end of the probationary period, or affirm the retention of the candidate as a permanent member of the police force.

Subsection 2-19.9 Uniforms to be Furnished.

Police uniforms shall be furnished to all regular or permanent members of the Borough Police Department and shall, at all times, be and remain the property of the Borough. Upon separation from service for any reason whatsoever, all uniforms and other equipment and accessories furnished by the Borough shall be promptly returned to the Police Chief.

Subsection 2-19.10 Qualifications for Police Officers.

No person shall be appointed as a regular or permanent member of the Police Department unless that person is qualified in accordance with the requirements of N.J.S.A. 40A:14-122 and the age requirements set forth in N.J.S.A. 40A:14-127 et seq. In particular, no person shall be eligible or qualified to be appointed as a regular or permanent police officer unless, at the time of his/her appointment:

- a. She/he shall be a citizen of the United States and resident of the State of New Jersey.
- b. She/he shall not be less than eighteen (18) years of age and shall be sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System of New Jersey as to her/his eligibility for membership in the retirement system. Age shall not be considered in the promotion of any officer to a higher rank.
- c. She/he shall demonstrate the ability to read and write the English language intelligently.
- d. She/he is of good moral character and shall not have been convicted of a crime or disorderly persons offense that, in the judgment of the Borough Council, would be prejudicial to the morale or the reputation of the Police Department.
- e. She/he must successfully pass the required physical fitness examination, drug and alcohol screening, psychological examination administered by a physician or laboratory of the Borough's choosing and be a successful graduate of a certified police academy as she/he may be assigned by the Borough. Any drug screening, psychological or medical examination or physical fitness examination shall be conducted after a conditional offer of employment or promotion has been made by the Borough.
- f. She/he is a holder of a valid New Jersey driver's license.
- g. She/he has a minimum of an associate's degree.

Subsection 2-19.11 Residency Requirements.

- a. Findings of Fact. The Borough Council specifically finds that requiring all regular or permanent police officers to be residents of the Borough would seriously impede its ability to establish and maintain competent personnel for its police Department and would be in violation of N.J.S.A. 40A:14-122.1.
- b. Preference in promotions shall be given to residents in accordance with N.J.S.A. 40A:14-122.6, but also shall be based on merit and fairness.
- c. Residency in State. Every regular or permanent member of the Police Department shall be a resident of the State of New Jersey in accordance with N.J.S.A. 40A:14-122.8.

Subsection 2-19.12 Chief of Police; Qualifications; Promotion

Candidates for the position of Chief of Police shall participate in a promotional procedure administered by the reviewing committee. The reviewing committee, which shall be made up of the Administrator, Police Commissioner, and Mayor, his/her designees and the current Chief of Police (unless there has been no chief or the Chief is involved in pending discipline or litigation with the Borough) shall consider the following: the candidates' knowledge of criminal law and procedure, police science and police administration, leadership and management ability, general knowledge of Borough's local government and N.J.S.A. 40A:14-118, the candidates' poise, alertness, ability to communicate clearly and effectively, ability to effect good working and public relations and moral character. To be considered for the position of Chief of Police, the candidates must be serving as Borough Lieutenant or Sergeant.

Subsection 2-19.13 Promotions to the Rank of Sergeant and/or Lieutenant.

- a. The Borough Council desires to promote the most qualified candidates to positions of higher rank. This subsection establishes the eligibility requirements and the process for promotion to all higher ranks. The promotion process shall be on the basis of merit, experience, education, demonstrated ability and competitive examinations. In accordance with N.J.S.A. 40A:14-129, promotion of any officer shall be made from the membership of the Department. No person shall be eligible for promotion unless he or she shall have served as a full-time police officer in the Hightstown Borough Police Department for a period of three years (N.J.S.A. 40A:14-130).
 - b. Upon receiving instructions from the Borough Council, the Chief of Police shall announce the promotional process to members of the Department at least 45 days before a written test is to be given and at least 15 days before a written submission is to be submitted. The announcement shall be posted in common areas of the Department accessible to all members. The announcement shall contain, at a minimum, the rank to be filled, the dates of the exams, source materials or reading lists from which exam questions will be taken or topics from which questions will be formulated. Candidates who qualify shall notify, in writing, the Chief of Police of his or her interest in taking the examination by submitting a letter of interest no later than 10 calendar days after the promotion announcement. Failure to do so shall render the officer ineligible to participate in the process.
 - c. Where two or more candidates are ranked equally pursuant to the promotional procedure set forth herein, preference shall be given to the candidate with the most seniority in service pursuant to N.J.S.A. 40A:14-129, or a resident over a nonresident pursuant to N.J.S.A. 40A:14-122.6.
 - d. The Borough Council shall appoint the reviewing committee for departmental promotions, which shall, at a minimum, consist of the Chief of Police, Administrator, Police Commissioner, and Mayor.
 - e. Promotion Testing Procedures. The promotion testing procedure shall consist of a written examination (and/or narrative) and an oral examination in which all candidates will be given the same questions, a review of the candidates' service record, education, merit and experience.
1. Written Examination. The written test shall be supplied by a professional testing company, professional law enforcement organization or such other written examination approved by the Chief of Police. The top five (5) scoring candidates shall then proceed to the Oral Examination.
 2. Oral Examination.
 - a. Candidates shall be notified, in writing, of their successful or unsuccessful completion of the written portion of the exam by the Chief of Police or his/her designee.
 - b. The oral examination shall take place after the receipt of the written examination scores.
 - c. The Oral Examination with the Chief of Police shall focus on leadership and management skills, knowledge of Borough's form of government, knowledge of the Police Department Ordinance, familiarity with municipal budget process and knowledge of N.J.S.A. 40A:14-118. The Reviewing Committee shall grade each candidate on a one-hundred-point scale. The Chief of Police and/or his designee (excluding Chief interviews) shall be present at this step
 - d. The top three (3) scoring candidates of the written and oral examination shall then proceed to the record review portion of the examination.
 3. Record Review.
 - a. The Reviewing Committee shall examine the length and merit of candidate's service. The examination process shall give specific weight to performance evaluations, experience, military service, demonstrated leadership ability, education and disciplinary history.

f. The review committee shall rank each candidate based on the total score. The list shall include the candidates' names and the final scores of the top three candidates who are eligible for the promotion. The Borough Council shall then appoint from the top three to fill promotional position.

g. Eligibility for testing. All candidates for promotion must have served three years with the Borough as full time police officers by the date the written test in order to be eligible to participate in the promotional process.

i. Probationary Period for Promoted Officers.

- a. All officers promoted to a higher rank will serve a six-month probationary period during which time the officer will be evaluated on a monthly basis to ensure the officer has the requisite skill set to perform the duties of position to which he/she has been promoted.
- b. The Chief of Police shall make a recommendation to the Borough Council concerning the suitability for transition from probationary status to regular status for each newly promoted officer. Such recommendation shall be set forth in a written report along with the Chief's observations and findings leading to such recommendation. These recommendations shall be submitted to the Appropriate Authority and the Borough Council no later than 10 days prior to the end of the probationary period. Nothing herein shall prohibit the Chief of Police from submitting such recommendation at any time during an officer's probationary period when such officer demonstrates that he/she does not possess the qualities and abilities to competently perform the duties of the position to which the officer has been promoted.

Subsection 2-19.14 Oath Required.

Each member of the Police Department shall, before entering upon the performance of official duties, take and subscribe an oath to bear true faith and allegiance to the government established in this Borough and this State, to support the constitutions of the United States of America and the State of New Jersey and to faithfully, impartially and justly discharge and perform all the duties of office, which oath or affirmation shall be filed with the Clerk.

Subsection 2-19.15 Procedure for Implementation of Disciplinary Hearings.

a. The Chief of Police is responsible for issuing major or minor discipline. The Chief of Police shall serve or cause to be served upon the member of the Police Department a signed copy of the complaint and/or charges against the members, along with a written notice that a disciplinary hearing shall be scheduled no sooner than ten (10) days nor later than thirty (30) days after the notice is personally served upon him or her; the Appropriate Authority or an appointed hearing officer, and the member, themselves or through their representatives, if any, may agree to reasonable postponements

b. Minor discipline, which is any discipline that is five days or less, including reprimands, may be heard and determined before and by the Appropriate Authority, or through the grievance procedures. Major discipline, which is any discipline that is over five days shall be heard and determined before and by the Appropriate Authority, or an appointed a third party hearing officer, at the time and place set forth in the notice.

c. A written copy of the recommendation of the Appropriate Authority or the hearing officer, whichever applicable, shall be served upon the member of the Police Department and the Borough Council as soon as possible, but in no event later than twenty-one (21) days after the hearing. The Borough Council shall review the recommendation and record established during a hearing, and may accept, amend or reject said recommendation. The Mayor shall participate in the decision, and shall vote to break a tie, if necessary.

d. The Mayor and Council shall use Chapter 8 of the Police Rules and Regulations as a nonbinding guideline in the conduct of the hearings authorized herein.

e. All disciplinary actions shall be subject to the requirements and time frames set forth in N.J.S.A. 40A:14-147, et seq.

Subsection 2-19.16 Reimbursement for Legal Costs.

Where the Borough Council determines that the provisions of N.J.S.A. 40A:14-155 require that the Borough provide a means of defense or reimburse a police officer for legal costs, the hourly rate for which the Borough shall be responsible shall not exceed the hourly rate charged by the Borough Attorney for litigation matters. All statements for professional services submitted by attorneys representing police officers under this section shall be subject to review by the Borough Attorney and review and approval by the Borough Administrator.

Subsection 2-19.17 Term of Service.

The term of service of any regular or permanent member of the Police Department shall be to the age of sixty-five (65) and shall be calculated as beginning on the date of formal appointment by the Borough Council. If the minutes or records of the Borough Council do not disclose such date, the payroll or other records of the Borough shall be used to determine it. At the age of sixty-five (65) the officer shall be retired by resolution of the Borough Council and his or her services as a police officer shall be at an end; provided, however, that the Borough Council may, in its discretion, continue any officer temporarily in case of emergency, or as the needs and interest of the Borough may require, provided said officer remains qualified for said employment.

2-19.18 Special Law Enforcement Officers

a. Definitions. Whenever any words and phrases are used in this Section, the meanings respectively ascribed to them in N.J.S.A. 40A:14-146.9 shall be deemed to apply to such words and phrases used herein.

b. Position Established. There is hereby established the position of special law enforcement officer (also referenced as “special police officer”) in and for the Borough of Hightstown.

c. Determination of Eligibility. Before any special law enforcement officer is appointed, the Chief of Police shall ascertain the eligibility and qualifications of the applicant and report these determinations, in writing, to the Mayor and Council.

d. Appointment. Special law enforcement officers may be appointed for terms not to exceed one (1) year, and the appointments may be revoked by the Mayor and Council for cause, after adequate hearing, unless the appointment is for four (4) months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the Borough, and their powers and duties shall cease at the expiration of the term for which appointed.

e. Qualifications.

1. No person may be appointed as a special law enforcement officer unless the person:

- (a) Is at least eighteen (18) years of age;
- (b) Is a resident of the State of New Jersey during the term of appointment;
- (c) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;
- (d) Is sound in body and of good health;
- (e) Is of good moral character;

(f) Has not been convicted of any offense involving dishonesty or which would make him or her unfit to perform the duties of his or her office; and

(g) Has successfully undergone the same psychological testing that is required of all full-time police officers in the Borough or, with regard to a special law enforcement officer hired for a seasonal period which required psychological testing of its full-time police officers, has successfully undergone a program of psychological testing approved by the Police Training Commission (the "Police Training Commission" or the "Commission") established in the New Jersey Department of Law and Public Safety, pursuant to N.J.S.A. 52:17B-70.

2. Every applicant for the position of special law enforcement officer shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.

3. No person shall be appointed to serve as a special law enforcement officer if that person serves as a special law enforcement officer in another municipality; nor shall any permanent, regularly appointed full-time police officer of any other municipality in the State of New Jersey be appointed as a special law enforcement officer. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of any municipality in the State of New Jersey or supervision of the Police Department of a municipality in the State of New Jersey shall be appointed as a special law enforcement officer.

4. Any person who at any time prior to this appointment had served as a duly qualified, fully trained, full-time officer in any municipality in the State of New Jersey, and who is separated from that prior service in good standing, shall be eligible to serve as a special law enforcement officer consistent with the guidelines promulgated by the Police Training Commission. If the Police Training Commission waives the training requirements which are required by statute, the Mayor and Council, if it chooses, may appoint such person as a special law enforcement officer.

f. Training Course and Certification Requirements. No person may commence his or her duties as a special law enforcement officer unless he or she has successfully completed the training course and certification requirements of N.J.S.A. 40A:14-146.11, unless such training requirements have been waived by the Police Training Commission

g. Classification of Officers. There are hereby established two (2) classifications of special law enforcement officers as follows:

1. Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties. Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited, and no Class One officer shall be assigned any duties which may require the carrying or use of a firearm.

2. Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the Police Training Commission.

h. Uniforms. Every special law enforcement officer prior to the commencement of his or her duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the Borough of Hightstown. The uniform shall also include an insignia issued by the Police Training Commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification issued by the Commission. All special law enforcement officers prior to the commencement of duties shall be in uniform properly displaying the appropriate insignia.

i. Return of Equipment and Uniform Upon Termination. Whenever a special law enforcement officer's appointment is revoked or a special law enforcement officer is not reappointed upon the expiration of the term, the special law enforcement officer shall return to the officer in charge of the station house all Borough of Hightstown issued uniforms, badges and equipment within fifteen (15) days of the revocation or expiration of the term.

j. Firearms. The special law enforcement officers shall carry and return firearms pursuant to the guidelines established in N.J.S.A. 40A:146.14(b). The special law enforcement officers shall carry and return firearms pursuant to the guidelines established in 40A:146.14(b).

k. Conduct of Officers. Special law enforcement officers shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the Borough, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

l. Performance of Duties.

1. A special law enforcement officer shall be under the supervision and direction of the Chief of Police and shall perform his or her duties only in the Borough unless in fresh pursuit of any person pursuant to Chapter 156 of Title 2A of the New Jersey Statutes.

2. The Chief of Police may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the Borough, including, but not limited to, the carrying of firearms and the power to arrest subject to rules and regulations; any such authorization shall not be inconsistent with the certification requirements of Subsection 2-19.16f above.

m. Hours of Employment. The provisions of N.J.S.A. 40A:14-146.16(a) and (c) regarding the maximum hours of employment of special law enforcement officers are hereby incorporated as if stated in full herein.

n. Limitation of use of officers. Special law enforcement officers may be employed only to assist the Borough's law enforcement unit but may not be employed to replace or substitute for full-time regular police officers or in any way to diminish the number of full-time officers employed by the Borough.

o. Number of Positions Designated.

1. There are hereby created ten (10) positions as special law enforcement officers designated as Class One members.

2. There are hereby created positions as special law enforcement officers designated as Class Two members that do not exceed 25% of the total sworn officers on the force.

Subsection 2-19.19 Engagement of Services of Off Duty Police Officers.

a. Purpose. To establish a policy regarding the hiring and use of off-duty Hightstown Borough police officers by any entity or person other than the Borough of Hightstown.

1. Members of the police Department shall be permitted to accept police related employment only during off-duty hours, only if authorized in writing in advance by the Chief of Police, and only at such time as will not interfere with the efficient performance of regularly-scheduled or emergency duty for the Borough.

2. Any person or entity wishing to employ off-duty police officers shall first obtain the approval, in advance and in writing, of the Chief of Police, which approval shall be granted if, in the opinion of the Chief, such employment would not be inconsistent with the efficient functioning and good reputation of the Police Department, and would not reasonably endanger or threaten the safety of the officer or officers who

are to perform the work, and would not impair the reputation of the Borough of Hightstown, the Hightstown Police Department or its officers.

b. Insurance requirement.

1. No party or employer shall employ any off-duty Borough Police officer in order to perform the services of security guard, traffic control officer or plain clothes surveillance officer without having first filed with the Borough Clerk a certificate of comprehensive general liability insurance in the amount of not less than \$1,000,000.00 combined single limits for any one occurrence with respect to injuries and damages suffered or caused by Borough police officers while in the employ of the party or employer. The insurance certificate shall list the Borough, the Borough Police Department and municipal officials, representatives and employees as additional insureds.

2. No certificate of insurance required by this section shall be deemed filed with the Borough Clerk unless it has first been approved by the Borough's municipal attorney.

3. Any and all policies of insurance evidenced by any certificate filed hereunder shall be maintained by the party or employer in full force and effect at all times while any Borough police officer is employed by such party or employer. Upon the change or renewal of any such policy of insurance, the party or employer shall forthwith file with the Borough Clerk a new and current certificate of insurance in compliance with the foregoing provisions.

4. In the event of an emergency, which results in the person or entity being precluded from complying with the requirements of this subsection, the Police Chief shall have the authority to waive said insurance prerequisite prior to approving the use of off-duty officers for certain Police-related employment; however, proof of insurance must be provided within forty-eight (48) hours.

c. Hold harmless. In addition to the aforesaid requirements, the party or employer shall indemnify and hold harmless the Borough, the Borough Police Department and all Borough officials, representatives and employees, from and against any claim, liability, damage or expense that may arise out of or relate to the actions of:

1. Any Borough police officers employed by the party or employer, including any claims concerning the alleged negligence of the Borough's police officers; and

2. The party or employer, its employees, officers and representatives.

d. Escrow accounts.

1. Except as provided herein below, any party or employer requesting the services of an off-duty Borough police officer shall estimate the number of hours such law enforcement services will be required, which estimate shall be approved in writing by the Chief, and shall establish an escrow account with the Chief Financial Officer of the Borough by depositing an amount sufficient to cover the rates of compensation and administrative fees set forth in subsection (f) herein below for the total estimated hours of service.

2. All deposits to the escrow account just described in subsection (1) shall be documented, and no cash will be accepted for this purpose. No officer or employee of the Police Department shall accept any payment in any form from any party or entity other than the Borough, and unless that payment will have been formally and permanently documented by the Chief Financial Officer of the Borough. No party or entity shall give or channel any form of payment or gratuity to any Borough officer, employee, or representative in connection with the services of off-duty officers, but shall use the escrow account described in subsection (1).

3. Prior to posting any request for services of off-duty police officers, the Police Chief shall verify that the balance in the escrow account of the party or employer requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services.
 4. The Police Chief shall not post a request for services from any party or employer unless all fees and compensation required in the manner described above have been deposited with the Chief Financial Officer of the Borough. No officer shall provide any such services for more hours than are specified in the request for services. No officer shall arrange with any party or employer privately, or without the written authorization of the Police Chief, to provide such services.
 5. In the event the funds in such an escrow account should become depleted, services of off-duty police officers shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.
 6. The party or person requesting such services shall be responsible for ensuring that the sufficient funds remain in the escrow account in order to avoid any interruption of services.
 7. In the event of an emergency, which results in the person or entity being precluded from timely complying with the requirements of this subsection, the Police Chief shall have the authority to waive the escrow account prerequisite and approve the use of off-duty officers for certain police-related employment. This waiver shall be limited to the escrow account/prepayment aspect of this subsection. The person or entity requesting the law enforcement services shall remain fully responsible for paying for same. In the event the person or entity requesting the off-duty police services fails to submit payment within 30 days of the approval of the use of the off-duty police officers, the Borough shall not be responsible for paying the subject officers for their off-duty services.
 8. Every officer shall have the right to turn down without any penalty any request that she or he work as a private duty or off-duty officer. No officer shall be required to work as an off-duty officer for any party or entity.
 9. The Police Chief shall keep in view the needs of the Borough for shift coverage in determining whether to approve or to deny any request for off-duty officer services by any party or entity.
- e. Requests for services, and posting of authorizations. All requests to the Borough for services of off-duty police officers for a period of one week or longer shall be forwarded to the Police Chief for posting at least ten days before such services are required. The Police Chief may relax this time restriction in the event of an emergency. Requests for services of off-duty officers for periods less than a week may be reviewed by the Police Chief on a case-by-case basis, but with denial warranted where the needs of the Police Department, including need to have officers available for additional shifts or for overtime service, are obvious. All of the authorizations issued by the Police Chief for services of off-duty officers shall be posted so that the information is available to all officers, and shall be provided in advance to the Police Commissioner. Any Police officers, when so employed, shall be treated as an employee of the Borough provided, however, that wages earned for outside employment shall not be applied toward the pension benefits of police officers so employed, nor shall hours worked for outside employment be considered in any way as compensable overtime.
- f. Rates of compensation; administrative fees; payment for services. Rates of compensation for contracting the services of off-duty Borough Police officers shall be as follows:
1. For all non-traffic assignments, for the first eight hours, the rate shall be \$70.00 per hour for each officer, of which \$15.00 per each hour shall be a administrative fee retained by the Borough.

2. For all traffic assignments, including construction project assignments, for the first eight hours, the rate shall be \$80.00 per hour for each officer, of which \$15.00 per each hour shall be an administrative fee retained by the Borough.

3. After eight hours, the hourly rate for each officer shall increase by \$10, without an increase in the administrative fee.

4. No administrative fee shall be assessed to any Board of Education, schools, or government units or agencies.

5. Any variance from the above rate schedule shall be authorized only after it shall first have been submitted to, reviewed and approved by the Borough Council by resolution.

g. Use of marked police vehicles. In the event that a party or employer employs any off-duty Borough police officer pursuant to this section, in addition to any compensation to be paid to the Borough pursuant to the requirements herein, there shall also be a \$15.00 per hour per vehicle fee for the use of marked or unmarked police vehicles.

h. Penalty. Any person or entity who employs off-duty Borough police officers in order to perform the above services without first having complied with the requirements of this section shall be subject to the fines set forth section 1-5 of the Borough Code for each day that the party or entity employs any Borough police officer, unless a waiver of said requirements shall have been granted, in writing and in advance, by the Police Chief. Any officer or employee of the Hightstown Police Department who provides off-duty services in a manner other than as specified in this section shall be subject to prosecution for violation of the Borough Code, and also for disciplinary process and penalties, including administrative penalties up to and including dismissal, in addition to the penalties set forth in section 1-5 of the Borough Code.

i. Cancellation policy. Any private employer who determines to cancel the services of police officers, after entering into a contract, shall be required to provide notice to the police officers not less than eight hours before the scheduled start time of the assignment. If a contractor fails to provide such notice, the officer shall be entitled to two hours' payment for said assignment, with the administrative fee to be paid as well to the Borough.

j. Control vested in the Police Chief. The Police Chief of the Borough of Hightstown shall be responsible for the overall conduct of the members of the Police Department in following the rules and regulations promulgated herein, and shall insure that the terms, conditions and provisions of this section shall be fully and faithfully carried out. Additionally, the Police Chief shall have authority to control officers engaged in off-duty or outside employment pursuant to this section, and shall further have the authority and the duty to commence disciplinary process as to any and all officers so engaged in outside employment by private employers, should cause for such charges arise or exist. The Police Chief shall be accountable for the failure to abide by or to enforce the terms of this section as to off-duty employment by police officers.

2-19.20 Drug Screening Procedure for Applicants and All Employees of the Police Department.

The Police Chief shall establish a drug screening procedure, including screening for steroids, for applicants and employees of the Police Department. The drug testing policy shall be reviewed and approved by the Office of the Mercer County Prosecutor. The policy shall be adopted as a part of the Police Department's rules and regulations and shall be amended from time to time so as to insure that applicants to the Police Department and the Department's sworn law enforcement personnel and employees are drug free. The Police Chief shall make sure that random and unannounced drug tests are conducted as to every single police officer, with every reasonable precaution taken to ensure the integrity, reliability, and fairness of the screening process and of the individual samples collected, and to ensure the confidence of the public and the reputation of the Police Department.

The Police Chief shall be accountable for the failure to abide by or to enforce the terms of this section as to all police officers.

SECTION TWO: Certain Subsections of Chapter 4, Section 21 shall be amended as to read as follows:

4-21.1 Definitions.

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

Borough shall mean the Borough of Hightstown.

Driver shall mean any person who operates a taxicab within the Borough, whether or not such person is also the owner thereof.

Operation of a taxicab shall mean transporting in a taxicab one (1) or more persons for hire. Accepting a passenger to be transported for hire from a point of departure within the Borough to a destination within or without the Borough shall be considered "operation of a taxicab" within the Borough. The "operation of a taxicab" by one other than the owner shall be deemed operation by the owner as well as by the person actually driving the taxi. The transportation of any person other than the owner or driver in any motor vehicle bearing a sign using the words "taxi," "taxicab," "cab" or "hack" shall be prima facie evidence of operation.

Owner shall mean any person, business entity, association or other legal entity in whose name title to any taxicab is registered with the New Jersey Division of Motor Vehicles or who appears in the Division's records to be a conditional vendee or lessee or has any other proprietary interest in a taxicab.

Police Commissioner shall mean the member of the Borough Council designated as such on an annual basis by the Mayor, pursuant to Subsection 2-19.3 of the Borough Code.

Chief of Police shall mean the person serving as the head of the police department pursuant to Section 2-19 of the Borough Code.

Taxicab or taxi or cab shall mean a motor vehicle used to transport passengers for hire or compensation which does not operate over a fixed route and is not hired by the day or hour.

4-21.4 Licensing of Taxicab Owners.

a. The Borough will make available on an annual basis a maximum of five (5) taxicab owner's licenses, subject to the provisions of sub-paragraph "b" below. Licenses shall be awarded on a first come, first served qualifying basis. Those licensees that have been previously licensed by the Borough during the prior year and who remain in good standing and who have submitted their statement for renewal (per the provisions of sub-paragraph "i" below) prior to January 1st, shall be afforded the first opportunity for re-licensing. All other applicants shall be afforded the opportunity to obtain a taxicab owner's license after January 1st.

b. Should the Borough determine to authorize the issuance of one or more new or additional taxicab owner's licenses beyond the maximum number referenced in sub-paragraph "a" above, then such issuance shall be authorized by future Ordinance of the Governing Body.

c. Application Information.

1. Application for a taxicab owner's license shall be made to the Borough Clerk on forms provided by the Borough Clerk's office.

2. Applications shall be signed and verified by oath or affirmation by the applicant. Applications by a partnership shall give the information required for each partner and shall be signed and verified by all partners. Applications by a corporation shall give the information required for and be signed and verified by all officers and directors and all persons holding more than ten (10%) percent of the corporation's common stock, as well as by a person duly authorized to act for the corporation itself.

4. Applications must be accompanied by proof of automobile liability insurance coverage which is in effect and issued by a company licensed and admitted to transact business in the State of New Jersey, and acceptable to the Borough, indicating limits of liability in amounts not less than the following: \$50,000 per person and \$100,000 per accident for bodily injury or death and \$50,000 per accident for property damage. Proof of insurance must also indicate that insurance coverage applies to all owned or leased vehicles of the applicant or must specify by description all of the vehicles to which the coverage applies. Said proof of insurance must also indicate that the Borough shall receive advance written notice of at least thirty (30) prior to any cancellation or non-renewal thereof, except that no less than ten (10) days advance written notice shall be provided for non-payment of premium. The insurance policy shall provide for the payment of any final judgment recovered by any person on account of the ownership, maintenance, or use of the vehicle(s) of the applicant, or any fault in respect thereto, and shall be for the benefit of every person suffering loss, damage or injury as aforesaid. The Borough of Hightstown shall be named as an additional insured on any insurance policy submitted in accordance with the requirements of this section. If the taxicab owner's application for license applies to more than one vehicle, the taxicab owner may satisfy the insurance requirements specified herein through the submission of a blanket bond or insurance policy which meets the criteria specified in *N.J.S.A. 48:16-4*.

4. Information about each taxicab vehicle to be operated under the taxicab owner's license shall be provided, including the following:

- (a) Vehicle year, make, model and color of vehicle.
- (b) Vehicle identification number.
- (c) New Jersey State license plate number.
- (d) Passenger capacity.
- (e) Insurance company, policy number and expiration date.
- (f) Name and address of vehicle owner if different than applicant.

5. Any person who shall make a false statement in any license application or in any record or certificate that is required to be filed or maintained shall be subject to rejection of the application submitted and/or to appropriate disciplinary sanctions, including license suspension or revocation, in addition to any penalty provided under the New Jersey Criminal Code.

d. Investigation; Grant or Denial of License. The Chief of Police or his designee shall investigate all applications. A copy of the application shall also be provided to the Zoning Officer for review and for a determination that the proposed location of the taxi operation does not violate applicable zoning regulations. A report containing the results of the Police investigation and evaluation, a recommendation by the Chief of Police or his designee that the license be granted or denied, and the reasons for such recommendation shall be forwarded to the Chief of Police (i.e., in cases where the investigation is performed by the Chief of Police's designee) and the Police Commissioner. A report regarding the Zoning Officer's findings shall also be provided to the Chief of Police and the Police Commissioner. The Borough Clerk shall ensure that copies of these reports are also made available to the applicant. Based upon the findings set forth in the reports, the Chief of Police shall determine whether to grant or deny the license. Said determination shall be rendered in writing and shall be provided to the applicant.

e. Factors Considered. In determining whether to grant or deny the license, the Chief of Police shall take into consideration the following factors:

1. The character, business and financial responsibility and experience of the applicant and the probability that, if granted a license, the applicant will operate his taxicab(s) in accordance with the provisions of this section.

2. Any other factors directly related to the granting or denial of the license which would substantially affect the public safety or convenience.

f. Issuance of License. If the application is approved by the Chief of Police, the Police Department shall issue the license.

g. License Term; Fees.

1. A taxicab owner's license shall be valid for the remainder of the calendar year for which it is issued, expiring on December 31 of said year.

2. The license fee shall be one hundred (\$100.00) dollars per year or portion thereof per vehicle and shall be nonrefundable in the event that the application is denied. For licenses issued in 2012, the license fee shall be pro-rated. For licenses issued in 2013 and thereafter, all applicants shall be charged the full nonrefundable license fee amount.

h. In those cases where the license has been denied, the applicant shall be afforded the opportunity for a hearing before the Police Commissioner. Any request for a hearing must be made within ten (10) days of the applicant's receipt of written notice of denial from the Chief of Police. At the hearing, the applicant shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. Following the hearing, the Police Commissioner's determination shall be final.

i. Renewals. A taxicab owner's license shall be renewed by the Chief of Police without a hearing upon the licensee's filing with the Chief of Police or his designee a sworn notarized statement certifying that there have been no changes in the information contained in the initial application and upon the completion of the investigation set forth in paragraph (d) above indicating results that are satisfactory to the Chief of Police.

j. Any change(s) in the information contained within the owner's license application shall be reported to the Borough Clerk within three (3) business days thereof. A charge in the amount of twenty-five (\$25.00) dollars shall be levied for each business day after three days that any such changes are not reported to the Borough.

4-21.5 Licensing of Taxicab Drivers.

a. Applications.

1. Application for a taxicab driver's license shall be made annually to the Borough Clerk upon forms provided by that office, and shall be forwarded to the Chief of Police for processing, screening and determination. Applications shall be taken in the Clerk's office only, during days and hours established by the Clerk. Except as hereinafter provided, applicants shall have the following minimum qualifications:

- (a) Applicant must be over twenty-one (21) years of age.

(b) Applicant must be a United States citizen or a legal resident alien. A copy of the alien registration card or work permit must be submitted with the application.

(c) Applicant must possess a valid New Jersey driver's license.

(d) Applicant must supply a certification from a licensed physician, on a form to be provided by the Borough Clerk, indicating that the applicant has been examined within the past sixty (60) days and is in sound physical condition, has eyesight corrected to 20/20 vision and is not subject to any infirmity of body or mind which might render the applicant unfit for safe operation of a vehicle for hire.

(e) Applicant must certify that he/she is not addicted to the use of narcotics or intoxicating liquors.

(f) Applicant must be able to read, write and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records.

(g) Applicants must be fingerprinted by the Police Department and submit to the performance of a criminal history record background check (both State and Federal). All costs associated with administering and processing the background check(s) shall be paid by the applicant. An applicant shall be disqualified from operating or driving a taxi within the Borough, and shall not be issued a taxicab driver's license, if a criminal history record background check reveals a record of conviction of any of the following crimes as having been committed by the applicant in New Jersey or elsewhere, or a record of conviction of a crime in another jurisdiction in the world which, in that jurisdiction, is comparable to any of the following crimes:

(1) Aggravated assault;

(2) Arson;

(3) Burglary;

(4) Escape;

(5) Extortion;

(6) Homicide;

(7) Kidnapping;

(8) Robbery;

(9) Aggravated Sexual assault;

(10) Sexual assault;

(11) Endangering the welfare of a child pursuant to *N.J.S.A. 2C:24-4*, whether or not armed with or having in his possession any weapon enumerated in subsection "r." of *N.J.S.A. 2C:39-1*; or

(12) A crime pursuant to the provisions of *N.J.S.A. 2C:39-3*, *N.J.S.A. 2C:39-4* or *N.J.S.A. 2C:39-9*, or other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in *N.J.S.A. 2C:35-2*.

The above automatic disqualification shall not apply, however, to those applicants who were convicted of any of the above crimes prior to the effective date of this Ordinance and who had previously received the consent of the Borough to operate a taxicab within the Borough and who had a valid taxicab driver's license issued and in effect by the Borough as of the effective date of P.L. 2011, c.135.

Additionally, if a person who has been convicted of one of the crimes listed above can produce a certificate of rehabilitation issued pursuant to N.J.S.A. 2A:168A-8 or, if the criminal offense occurred outside of New Jersey, an equivalent certificate from the jurisdiction where the criminal offense occurred, then the criminal offense shall not disqualify the applicant from operating or driving a taxicab within the Borough.

(h) Applicant must not have been convicted, within the three (3) years prior to the date of the application, of reckless driving, leaving the scene of an accident or driving more than thirty (30) miles an hour above the speed limit, and applicant must not have been convicted, within the five (5) years prior to the date of the application, of driving while intoxicated.

(i) At the time of application, applicant must have no more than six (6) New Jersey State Division of Motor Vehicle points on his or her driving record, or the equivalent if licensed in any other state.

(j) Requirements (d) and (g) above, regarding physician's certification and fingerprinting, shall not apply to any taxicab driver who holds a valid taxicab driver's license in any other Mercer County municipality which is compliant with P.L. 2011, c.135 and whose firm is licensed in and operating out of said municipality. Such person(s) shall be qualified to obtain a taxicab driver's license in Hightstown upon completion of the application form, payment of the required fee and submission of the following documentation:

(1) Certification by the applicant that he or she meets all of the requirements set forth in sub-paragraph "a(1)" of Subsection 4-21.5 above.

(2) If not a United States citizen, copy of alien registration card or work permit.

(3) Current valid taxicab driver's license from any other Mercer County municipality.

(4) Valid New Jersey driver's license.

2. The application shall be accompanied by a fee of fifty (\$50.00) dollars for the license period, subject to pro-ration in 2012 in accordance with the provisions of sub-paragraph "d" below.

3. The application shall be accompanied by two (2) unmounted, unretouched glossy photographs of the face of the applicant taken within thirty (30) days preceding filing of the application. Photographs shall be two and one half inches (2 1/2") by two and one half inches (2 1/2") in size and shall be passport picture quality. New photographs shall be submitted whenever the licensee's appearance changes significantly.

4. Any person who shall make a false statement in any license application or in any record or certificate that is required to be filed or maintained shall be subject to rejection of the application submitted and/or to appropriate disciplinary sanctions, including license suspension or revocation, in addition to any penalty provided under the New Jersey Criminal Code.

b. Investigation; Grant or Denial of License. The Chief of Police or his designee shall investigate the application and shall report the results to the Chief of Police (i.e., in cases where the investigation is performed by the Chief of Police's designee) and the Police Commissioner within a reasonable time. The report shall include a recommendation that the license be granted or denied and the reasons therefor. The Borough Clerk shall ensure that a copy of the report is made available to the applicant. Based upon the findings set forth in the report, the Chief of Police shall determine whether to grant or deny the license.

c. Issuance of License; Contents. Upon approval of the application by the Chief of Police, the Police Department shall immediately issue the applicant a taxicab driver's license. The license shall contain the licensee's name and address, physical description, signature and photograph.

d. Term of License; Fees; Renewal. An initial license to drive a taxicab shall be valid for the remainder of the calendar year in which it is issued, expiring on December 31st of said year. Licenses issued in 2012 shall be subject to a fee of fifty (\$50.00) dollars per license, which shall be pro-rated. Such fee shall be nonrefundable in the event that the application is denied. Licenses issued in 2013 and thereafter shall be subject to a nonrefundable non-prorated fee of fifty (\$50.00) dollars per license. A taxicab driver's license may be renewed annually thereafter, unless it has been revoked or suspended, upon the payment of a renewal fee of fifty (\$50.00) dollars per year, and processing, screening and determination of the application in accordance with all of the procedures set forth above.

e. Use of License. Taxicab driver's licenses are valid for use with any licensed taxi within the Borough of Hightstown.

f. In those cases where the Chief of Police has denied the license, the applicant shall be afforded the opportunity for a hearing before the Police Commissioner. Any request for a hearing must be made within ten (10) days of the applicant's receipt of written notice of denial from the Chief of Police. At the hearing, the applicant shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. Following the hearing, the Police Commissioner's determination shall be final.

g. Any change(s) in the information contained within the driver's license application shall be reported to the Borough Clerk within three (3) business days thereof. A charge in the amount of twenty-five (\$25.00) dollars shall be levied for each business day after three days that any such changes are not reported to the Borough.

4-21.8 Suspension or Revocation of Licenses.

a. In the case of an emergency, licenses may be temporarily suspended for not more than seven (7) days by the Chief of Police.

b. In all other cases, licenses may be suspended or revoked, for cause, by the Borough Council after reasonable notice and a hearing. At said hearing, the licensee shall have the right to be represented by counsel and will be afforded the opportunity to testify himself or to present witnesses in support of his position, to cross-examine opposing witnesses and, at his own expense, to have a stenographic record made of the proceedings. At the conclusion of the hearing, the Council will determine whether to suspend the license or to permanently revoke the license. Any license so suspended or revoked shall not be re-issued except for good reasons shown.

In addition to the causes for revocation of a license set forth in Subsection 4-1.10, any license issued under this section may be revoked or suspended by the Borough Council, or any application for the issuance or renewal of a license denied, for any of the following reasons:

1. Failure to render reasonable, prompt, safe and adequate taxicab service.

2. The existence of a judgment unsatisfied of record against the licensee or applicant in any suit arising over the operation of a motor vehicle.
 3. Permitting any taxicab owned or driven by the licensee to become unsafe, unsanitary or dirty.
 4. Failure to comply with all applicable laws of the State of New Jersey, the ordinances of the Borough or the rules and regulations adopted in accordance with this section.
 5. Where taxicab vehicles are found to be used for any improper, immoral or illegal business or purpose or for the violation of any federal or state statute or for the violation of any of the provisions of this section.
 6. Failure to maintain the proper amount of insurance on licensed taxicab vehicles pursuant to valid and effective insurance policies, as required by this section.
- c. Drivers. If the licensee is a driver, his license may also be revoked or suspended by the Borough Council for the following reasons:
1. Revocation or suspension of his New Jersey motor vehicle operator's license.
 2. Contraction by the licensee of a communicable or contagious disease.
 3. Operating a taxicab in a reckless or grossly negligent manner or habitually operating a taxicab in a negligent manner.
 4. Conviction of one of the crimes listed in Subsection 4-21.5a1(g) above, in New Jersey or elsewhere.

4-21.9 Complaints; Enforcement.

- a. All complaints shall be submitted to the Hightstown Police Department.
- b. Enforcement of Section 4-21 shall be the responsibility of the Hightstown Police Department or authorized persons designated by the Chief of Police.

SECTION 2: Chapter 7, Section 16, shall be amended as to read as follows:

7-16.3 Operational Regulations.

- a. All taxicab owners and drivers shall be licensed pursuant to Section 4-21 of the Borough Code.
- b. No taxicab shall stop, stand or remain idle on a public roadway or other public property within the Borough for a period of time in excess of fifteen (15) consecutive minutes without the prior approval of the Borough, unless said location has been properly designated as a taxi stand pursuant to Section 7-26 of this Chapter. Taxicabs while out of service (with an appropriate sign posted), or while parked by the owner or driver at their place of residence, shall be exempt from this regulation.
- c. No taxicab shall be parked or shall remain standing idle on any commercial property for the purpose of utilizing said property as a taxi stand without the express written consent of the property owner or other authorized representative, and the proper designation of said property as a taxi stand by the Borough pursuant to Section 7-26 of this Chapter.
- d. No taxicab shall remain "idling" with the engine running for more than three (3) consecutive minutes on any public roadway or other public property within the Borough, or on any private property within the Borough.

- e. Cruising is prohibited within the Borough.
- f. No person, while operating or attending a taxicab for hire, shall:
 - 1. Obstruct any sidewalk; or
 - 2. Knowingly misinform or mislead any person as to the location of a destination.
- g. Any motor vehicle accident involving a taxicab and causing injury to a person or damage to property in excess of \$500.00 shall be reported immediately to the Hightstown Borough Police Department and a copy of the police report for such accident must be given to the Hightstown Police Department within fourteen (14) days of the accident. Such information shall be placed in the Borough's records regarding the taxicab owner and taxicab driver.
- h. All taxicab owners shall keep trip records and receipt books for six (6) months, which shall be kept current and shall be displayed when so requested by authorized Borough officials appointed by the Chief of Police. Trip records shall show, at a minimum, the date, time, pick-up location, destination, number of passengers and fare charged.
- i. All taxicab vehicles shall be kept clean and free of debris.
- j. Each licensed taxicab driver shall be clean in person and fully dressed while on duty, including shirt, pants and shoes.
- k. Taxicab drivers and passengers shall refrain from smoking within the taxicab vehicle while a hired trip is in progress. This prohibition shall be conspicuously posted in each Borough licensed taxicab vehicle.
- l. No driver shall operate a taxicab after fourteen (14) consecutive working hours without an eight (8) hour rest period.
- m. Taxicab drivers shall, immediately after the conclusion of their on-duty time, carefully search the taxicab for any property lost or left therein, and shall, within twenty-four (24) hours after finding any such property, advise the Hightstown Borough Police Department of the nature of the property and where it may be collected.
- n. Taxicabs shall be used exclusively for purposes of transportation of passengers and their baggage.
- o. No owner or driver of a taxicab shall be obliged to transport any person who is not orderly.
- p. Taxicab drivers who are on-duty and available for hire shall not refuse to offer their services to potential patrons who are disabled, on the basis of said disability.

SECTION 3 Severability

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph or other wording in this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

SECTION 4 Effective Date

This Ordinance shall take effect upon compliance with procedures prescribed by law, including NJSA 40:55D-97 of the Municipal Land Use Law (Submission of plan and ordinances to County Planning Board for approval).

Ms. Garcia departed the meeting at this time.

RESOLUTIONS

Resolution 2016-39 Authorizing the Payment of Bills

Councilmember Kurs requested that Item #R0684 be pulled from the bill list and voted on separately.

Councilmember Stults requested that Item #G0171 be pulled from the bill list and voted on separately.

Councilmember Misiura moved Resolution 2016-39 without Items #R0684 and #G0171; Council President Hansen seconded.

Roll Call Vote: Councilmembers Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Council President Hansen moved Item #R0684 for payment; Councilmember Montferrat seconded.

Roll Call Vote: Council members Bluth, Hansen, Misiura, Montferrat and Stults voted yes, Councilmember Kurs abstained.

Councilmember Montferrat moved Item #G0171 for payment; Councilmember Misiura seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes, Councilmember Stults abstained.

Resolution adopted 4-0 with 2 abstentions.

Resolution 2016-39

*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 \$1,08,954.87 from the following accounts:

Current		\$869,100.24
W/S Operating		172,026.45
General Capital		21,173.09
Water/Sewer Capital		0.00
Grant		0.00
Trust		1,215.00
Housing Trust		1,287.50
Animal Control		525.00
Law Enforcement Trust		0.00
Housing Rehab Loans		0.00
Unemployment Trust		10,037.30
Escrow		<u>5,590.29</u>
Total		<u>\$1,080,954.87</u>

Resolution 2016-40 Appointing and Authorizing an Agreement for Professional Housing Rehabilitation Program Administration Services – Rehabco, Inc.

Council President Hansen moved Resolution 2016-40; Councilmember Stults seconded.

Mr. Underhill explained the need for the resolution.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, and Stults voted yes.

Resolution adopted 6-0.

Resolution 2016-40

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

APPOINTING AND AUTHORIZING AN AGREEMENT FOR PROFESSIONAL HOUSING REHABILITATION PROGRAM ADMINISTRATION SERVICES – REHABCO, INC.

WHEREAS, there exists the need for specialized administration of individual housing rehabilitation projects in connection with the Hightstown Housing Rehabilitation Fund and Small Cities Grant programs, and administration of the Small Cities Grant; and

WHEREAS, the Borough Council wishes to appoint Rehabco, Inc. of Brick, New Jersey as the administrator of individual housing rehabilitation projects in connection with the Hightstown Housing Rehabilitation Fund and Small Cities Grant programs, and as the Administrator of the Small Cities Grant effective February 1, 2016; and

WHEREAS, the cost for the proposed services shall be paid by the program associated with each rehabilitation; and,

WHEREAS, the Borough Attorney will review and approve the contract for execution by the Borough; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for “professional services” without public advertising for bids and bidding, provided that the Resolution authorizing the contract and the contract itself are available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, it has been determined that the value of this contract may exceed \$17,500, and therefore the contract is also subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.*; and

WHEREAS, the anticipated term of this contract is for the year 2016, and it may only be renewed upon further action of the Borough Council; and

WHEREAS, this contract is intended to be awarded as a “non-fair and open contract” pursuant to and in accordance with the Local Unit Pay-to-Play Law;

WHEREAS, Rehbc, Inc. has completed and submitted a Business Entity Disclosure Certification pursuant to the Local Unit Pay-to-Play law (specifically, at N.J.S.A. 19:44A-20.8), and has further submitted a certification that the firm is in compliance with the Borough’s own Pay-to-Play ordinance (Section 2-59 of the *Revised General Ordinances of the Borough of Hightstown*);

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

1. That the Mayor is authorized to execute and the Borough Clerk to attest an Agreement between the Borough of Hightstown and Rehabco, Inc. regarding the above-referenced professional administration services, as set forth herein.
2. That this contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because Rehabco, Inc. is a firm whose staff are authorized by law to practice a recognized profession.
3. That this contract is being awarded in accordance with the Local Unit Pay-to-Play Law and Section 2-59 of the *Revised General Ordinances of the Borough of Hightstown*, and the Business Disclosure Entity Certification, and other certifications required pursuant to same shall be placed on file with the contract.

Resolution 2016-41 Appointing and Authorizing an Agreement for Professional AWWTP Plant Operations Consulting Services – Lyon Environmental Services, LLC

Council President Hansen moved Resolution 2016-41; Councilmember Montferrat seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Resolution adopted 6-0.

Resolution 2016-41

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

**APPOINTING AND AUTHORIZING AN AGREEMENT FOR PROFESSIONAL
AAWTP PLANT OPERATION CONSULTING SERVICES – LYONS
ENVIRONMENTAL SERVICES, LLC**

WHEREAS, there exists the need for specialized plant operation consulting services for the AAWTP during 2016; and

WHEREAS, the Borough Council wishes to appoint Lyons Environmental Services, LLC of Neptune, New Jersey as the AAWTP Plant Operation Consultant effective February 1, 2016; and

WHEREAS, the cost for the proposed services shall not exceed \$25,000.00 without further approval by the Borough Council; and,

WHEREAS, funds for this purpose will be made available in the 2016 budget; and,

WHEREAS, the Borough Attorney will review and approve the contract for execution by the Borough; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for “professional services” without public advertising for bids and bidding, provided that the Resolution authorizing the contract and the contract itself are available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, it has been determined that the value of this contract may exceed \$17,500, and therefore the contract is also subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.*; and

WHEREAS, the anticipated term of this contract is for the year 2016, and it may only be renewed upon further action of the Borough Council; and

WHEREAS, this contract is intended to be awarded as a “non-fair and open contract” pursuant to and in accordance with the Local Unit Pay-to-Play Law;

WHEREAS, Lyons Environmental Services, LLC has completed and submitted a Business Entity Disclosure Certification pursuant to the Local Unit Pay-to-Play law (specifically, at N.J.S.A. 19:44A-20.8), and has further submitted a certification that the firm is in compliance with the Borough’s own Pay-to-Play ordinance (Section 2-59 of the *Revised General Ordinances of the Borough of Hightstown*);

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

4. That the Mayor is authorized to execute and the Borough Clerk to attest an Agreement between the Borough of Hightstown and Lyons Environmental Services, LLC regarding the above-referenced professional consulting services, as set forth herein.
5. That this contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because Lyons Environmental Services, LLC is a firm whose staff are authorized by law to practice a recognized profession.
6. That this contract is being awarded in accordance with the Local Unit Pay-to-Play Law and Section 2-59 of the *Revised General Ordinances of the Borough of Hightstown*, and the Business Disclosure Entity Certification, and other certifications required pursuant to same shall be placed on file with the contract.

Resolution 2016-42 Designating RBG Hightstown, LLC as a Conditional Redeveloper for the Property Commonly Known as Tax Block 30, Lots 1-7, Tax Block 30, Lots 10-13, and Tax Block 21, Lots 1-5 and 26 on the Tax Map of the Borough and also Known as the Mills at Hightstown, and Authorizing the Execution of a Conditional Redeveloper's Agreement with Respect Thereto

Councilmember Kurs moved Resolution 2016-42; Councilmember Stults seconded.

Borough Attorney Raffetto explained the conditional redeveloper's agreement and that a developer's agreement will be negotiated and contain details; this is a preliminary step.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Resolution adopted 6-0.

Resolution 2016-42

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

RESOLUTION OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY, DESIGNATING RBG HIGHTSTOWN LLC AS A CONDITIONAL REDEVELOPER FOR THE PROPERTY COMMONLY KNOWN AS TAX BLOCK 30, LOTS 1-7, TAX BLOCK 30, LOTS 10-13, AND TAX BLOCK 21, LOTS 1-5 AND 26 ON THE TAX MAP OF THE BOROUGH, AND ALSO KNOWN AS THE MILLS AT HIGHTSTOWN, AND AUTHORIZING THE EXECUTION OF A CONDITIONAL REDEVELOPER'S AGREEMENT WITH RESPECT THERETO.

WHEREAS, pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, (the "Redevelopment Law"), by Resolution 2003-19 duly adopted on December 1, 2003, the Borough Council (the "Borough Council") of the Borough of Hightstown, in the County of Mercer, New Jersey (the "Borough"), designated the properties known as Tax Block 54, Lots 6-10, 13, 14.01, 16.01 & 23; Block 40, Lots 14-28; Block 33, Lots 1-30 & 32-36; Block 30, Lots 1-13; Block 28, Lots 56 & 57; and Block 21, Lots 1-14 & 26 on the Official Tax Map of the Borough (collectively, the "Redevelopment Area"), as an "area in need of redevelopment" pursuant to the Redevelopment Law; and

WHEREAS, a revised redevelopment plan (the "Redevelopment Plan") containing development standards for that portion of the Redevelopment Area which is known as Sub-Area I (Bank Street) was adopted by Ordinance Number 2015-04 of the Borough Council on April 20, 2015, which revised redevelopment plans previously adopted by the Borough on September 7, 2004, October 2, 2006 and October 6, 2008; and

WHEREAS, the Borough Council has been presented with a plan by RBG Hightstown LLC (the "Entity") for the redevelopment of that portion of the Redevelopment Area consisting of Block 30, Lots 1-7, Block 30, Lots 10-13, and Block 21, Lots 1-5 & 26 on the Borough's Tax Map (collectively, the "Project Area"), which constitutes part of Sub-Area I (Bank Street) and which shall also be known as The Mills at Hightstown; and

WHEREAS, the Entity seeks to be designated as the "redeveloper" (as defined in the Redevelopment Law) of the Project Area, so as to redevelop the Project Area in accordance with the terms of the Redevelopment Plan and the Redevelopment Law; and

WHEREAS, the Borough has determined that in order to coordinate the redevelopment of the Project Area in the most timely and efficient manner, it is in the best interests of the Borough to designate the Entity as the conditional redeveloper (the "Conditional Redeveloper") of the Project Area, pending the negotiation and execution of, among other agreements, a redevelopment agreement (the "Redevelopment Agreement") with the Borough; and

WHEREAS, the Borough desires to authorize the execution of a conditional redeveloper's agreement with the Entity (the "Conditional Redeveloper's Agreement", substantially in the form attached hereto as Exhibit A) for the

purpose of creating a framework for the negotiation and execution of a Redevelopment Agreement.

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

Section 1. The Borough Council hereby designates RBG Hightstown LLC as the Conditional Redeveloper of the Project Area, commonly known as the Mills at Hightstown, pursuant to the terms and conditions set forth in the attached Conditional Redeveloper's Agreement (or one which is substantially similar thereto, with such deletions, additions, and other modifications as deemed appropriate by the Borough Council, upon consultation with Borough professionals and staff).

Section 2. The Borough Council hereby approves the Conditional Redeveloper's Agreement, in substantially the same form attached hereto, with such deletions, additions, and other modifications as deemed appropriate by the Borough Council, upon consultation with Borough professionals and staff.

Section 3. The Borough Council hereby authorizes the Mayor to execute, and the Municipal Clerk to attest, the Conditional Redeveloper's Agreement on behalf of the Borough.

Section 4. This resolution shall take effect immediately.

CONDITIONAL REDEVELOPER'S AGREEMENT

BY AND BETWEEN

THE BOROUGH OF HIGHTSTOWN

AND

RBG HIGHTSTOWN LLC

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CONDITIONAL REDEVELOPER'S AGREEMENT

This **CONDITIONAL REDEVELOPER'S AGREEMENT** (this "**Agreement**") is made this ____ day of February, 2016 (the "**Effective Date**") by and between the **BOROUGH OF HIGHTSTOWN**, a municipal corporation of the State of New Jersey, having its offices at 156 Bank Street, Hightstown, NJ 08520 (the "**Borough**") and **RBG HIGHTSTOWN LLC**, a Delaware limited liability company, having an office at 3930 N. Flagler Drive, Suite 202, West Palm Beach, Florida 33407 (and its successors and assigns, the "**Conditional Redeveloper**" and, together with the Borough, the "**Parties**").

WITNESSETH:

WHEREAS, pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, (the "**Redevelopment Law**"), by Resolution 2003-19 duly adopted on December 1, 2003, the Borough Council (the "Borough Council") of the Borough of Hightstown, in the County of Mercer, New Jersey (the "Borough"), designated the properties known as Tax Block 54, Lots 6-10, 13, 14.01, 16.01 & 23; Block 40, Lots 14-28; Block 33, Lots 1-30 & 32-36; Block 30, Lots 1-13; Block 28, Lots 56 & 57; and Block 21, Lots 1-14 & 26 on the Official Tax Map of the Borough (collectively, the "Redevelopment Area"), as an "area in need of redevelopment" pursuant to the Redevelopment Law; and

WHEREAS, a revised redevelopment plan (the "**Redevelopment Plan**") containing development standards for that portion of the Redevelopment Area which is known as Sub-Area I (Bank Street) was adopted by Ordinance Number 2015-04 of the Borough Council on April 20, 2015, which revised redevelopment plans previously adopted by the Borough on September 7, 2004, October 2, 2006 and October 6, 2008; and

WHEREAS, the Borough Council has been presented with a plan by the Conditional Redeveloper for the redevelopment of the portion of the Redevelopment Area consisting of Block 30, Lots 1-7, Block 30, Lots 10-13 and Block 21, Lots 1-5 and 26 on the Borough's Tax Map (collectively, the "**Project Area**"), which constitutes part of Sub-Area 1 (Bank Street) and which shall also be known as The Mills at Hightstown; and

WHEREAS, the Conditional Redeveloper seeks to be designated as the "redeveloper" (as defined in the Redevelopment Law) of the Project Area, so as to redevelop the Project Area in accordance with the terms of the Redevelopment Plan and the Redevelopment Law; and

WHEREAS, the Borough has determined that in order to coordinate the

redevelopment of the Project Area in the most timely and efficient manner, it is in the best interests of the Borough to designate the Conditional Redeveloper as the conditional redeveloper of the Project Area, pending the negotiation and execution of, among other agreements, a redevelopment agreement (the "**Redevelopment Agreement**") with the Borough; and

WHEREAS, the Borough desires to enter into this Agreement for the purpose of creating a framework for the negotiation and execution of a Redevelopment Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the receipt and sufficiency of which are acknowledged, the Parties hereto do hereby covenant and agree with each other as follows:

ARTICLE I. DEFINITIONS, PURPOSE OF THE AGREEMENT, DESCRIPTION OF THE PROJECT AND THE REDEVELOPMENT AGREEMENT

Section 1.01. Definitions. As used in this Agreement the following terms set forth in this Section shall have the meanings ascribed to such terms below. Terms listed below in the singular form shall include the plural and words listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Agreement shall include the corresponding masculine, feminine and neuter. Unless otherwise noted, the words "include," "includes" and "including" when used in this Agreement shall be deemed to be followed by the phrase "without limitation." The words "agree," "agreements," "approval" and "consent" when used in this Agreement shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or unduly delayed," except or unless the context may otherwise specify. All references to Sections, Articles or Exhibits shall refer to Sections, Articles or Exhibits in this Agreement. All Block and Lot references used in this Agreement shall refer to Blocks and Lots appearing on the official tax maps of the Borough.

"Agreement" shall be as defined in the preamble.

"Borough" shall be as defined in the preamble.

"Concept Plan" shall be as defined in Section 2.01 (a)(i).

"Conditional Redeveloper" shall be as defined in the preamble.

"Declaration of Restrictions" shall be a declaration of redevelopment agreement restrictions that complies with the provisions of *N.J.S.A. 40A:12A-9(a)*, provided that such restrictions shall not require the consent, written or otherwise, of the Borough to transfer of the Project Area or the Redevelopment Project, or any portion thereof, or any interest of the Conditional Redeveloper, to any Permitted Transferee.

"Effective Date" shall be as defined in the preamble.

"Event of Default" shall mean the failure of the Conditional Redeveloper to meet any of its obligations hereunder beyond any applicable notice and cure period.

“Governmental Approvals” shall mean all government approvals including, without limitation: preliminary and final site plan approvals; obtaining any demolition or building permits for the proposed construction; environmental approvals; sewerage capacity approvals and any and all other necessary permits, licenses, consents and approvals that may be required in connection with the acquisition or transfer of any property within the Project Area or the construction of the Redevelopment Project, as may be required under the Municipal Land Use Law or as may be required by Mercer County or by any other governmental entity having regulatory jurisdiction.

“Interim Costs” shall include costs incurred by the Borough prior to the execution of a Redevelopment Agreement, including all fees, costs and disbursements charged by any professional, consultant, contractor or vendor retained by the Borough in connection with the Redevelopment Project, compliance with this Agreement, the drafting of an amended redevelopment plan, as applicable, and the drafting and negotiation of a Redevelopment Agreement with the Conditional Redeveloper. Such professionals, consultants, contractors and vendors shall be compensated at their normal hourly rate(s) as approved by the Borough, pursuant to contracts entered into with the Borough.

“Municipal Land Use Law” shall mean the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et. seq.*

“Parties” shall be as defined in the preamble.

“Permitted Transferee” shall mean any entity in which the Conditional Redeveloper or any of its members (or any affiliated entity of either the Conditional Redeveloper or any of its members) owns a fifty-one percent (51%) or greater interest.

“Planning Board” shall mean the Planning Board of the Borough of Hightstown.

“Redeveloper” shall mean the Conditional Redeveloper, as the entity designated by the Borough, pursuant to a resolution, as the redeveloper for the Redevelopment Project, at such time as the Conditional Redeveloper and the Borough have entered into and executed the Redevelopment Agreement.

“Redevelopment Agreement” shall mean the redevelopment agreement described in Article III of this Agreement, to be entered into by and between the Borough and the Conditional Redeveloper, as same may be amended from time to time, for the development of the Redevelopment Project within the Project Area.

“Redevelopment Area” shall be as defined in the recitals.

“Redevelopment Law” shall be as defined in the recitals.

“Redevelopment Plan” shall be as defined in the recitals.

“Redevelopment Project” shall have the meaning assigned to such term in Section 1.04 hereof.

“State” shall mean the State of New Jersey.

Section 1.02. Purpose of the Agreement. The purpose of this Agreement is to outline the nature of the arrangement by and between the Parties hereto and the scope of rights and responsibilities that each will acquire or undertake hereunder in order to redevelop and/or rehabilitate the Project Area. The Parties hereto agree that the terms and conditions outlined herein will be incorporated, as soon as practicable, but no later than the dates established in Section 1.05 below, into a more definitive Redevelopment Agreement, and that the Parties will work with due diligence and in good faith for the consummation of the transaction contemplated in this Agreement.

Section 1.03. Exclusivity. The Borough agrees that for the term of this Agreement and provided no Event of Default occurs hereunder, the Conditional Redeveloper shall be the sole and exclusive party with whom the Borough shall negotiate and execute the Redevelopment Agreement to be the Redeveloper for the Redevelopment Project and the Project Area.

Section 1.04. The Redevelopment Project. The Project Area is depicted on the map attached hereto as **Exhibit A**. It is anticipated that the Redeveloper will construct on the Project Area a mixed-use residential, commercial and governmental (municipal building and firehouse) development with structured parking and public spaces, and all required site and infrastructure improvements and any ancillary uses (collectively, the “Redevelopment Project”).

Section 1.05. The Redevelopment Agreement. The Parties hereto agree that they shall undertake good faith negotiations of the Redevelopment Agreement between the Borough and the Conditional Redeveloper in accordance with the terms of this Agreement.

ARTICLE II. CONDITIONAL REDEVELOPER’S AND BOROUGH’S OBLIGATIONS

Section 2.01. Conditional Redeveloper Obligations. (a) The Conditional Redeveloper shall, within one hundred and twenty (120) days following the Effective Date (unless a different time period is expressly set forth in this Section 2.01) complete the following at its own cost and expense; provided, however, that in the event any action or approval by a local, State or federal sovereign authority having jurisdiction over the Redevelopment Project that is required to complete the obligations contained herein cannot be obtained within the specified period, the Conditional Redeveloper shall have a day-for-day extension of any such time period herein; provided further, the Conditional Redeveloper has diligently pursued same or as provided otherwise herein:

- (i) Prepare a detailed concept plan (the “**Concept Plan**”) and map for the Redevelopment Project;
- (ii) Commence negotiations with the Borough for the execution of the Redevelopment Agreement, which Redevelopment Agreement shall

include, among other things, terms and conditions designed to provide for completion of the Redevelopment Project;

- (iii)** Prepare a preliminary cost estimate for the acquisition of the property and construction of the Redevelopment Project;
- (iv)** Prepare a preliminary schedule for obtaining the Governmental Approvals and for the construction of the Redevelopment Project; and
- (v)** If and as applicable, provide the Borough with input into the preparation of amendments to the Redevelopment Plan, which amendment, along with the Redevelopment Agreement, shall encourage development of the Project Area while limiting, to the extent feasible, the adverse impact on municipal services.

(b) In the event that the Conditional Redeveloper has not performed its obligations as described above within the time period specified above, the Borough reserves the right to terminate the Conditional Redeveloper's designation as a "conditional redeveloper" provided, however, and as a condition thereto, the Borough has served the Conditional Redeveloper written notice advising the Conditional Redeveloper in reasonably sufficient detail the nature of the Conditional Redeveloper's failure to perform its material obligations and providing the Conditional Redeveloper with a thirty (30) day period after such notice to cure the failure to so perform (or some other reasonable period of time, if, in the Borough's discretion, such remedy cannot feasibly be completed within such thirty (30) day period) or within which the Conditional Redeveloper has undertaken steps to remedy such failure to perform and continues to pursue such remedy diligently. In such an Event of Default, the Borough shall have the right to declare this Agreement null and void and have no further obligation to the Conditional Redeveloper, financial or otherwise.

(c) The Conditional Redeveloper shall reimburse the Borough for any and all reasonable and necessary third-party Interim Costs. The Borough shall promptly provide invoices to the Conditional Redeveloper detailing the amount and basis for the third-party Interim Costs. In the event of a dispute over one or more invoices, the Parties shall attempt to resolve same in good faith. The Borough shall not increase rates charged for its third-party Interim Costs without first providing thirty (30) days' notice to the Conditional Redeveloper. As of the date hereof, the Conditional Redeveloper has paid the amount of twenty-five thousand dollars (\$25,000) to the Borough, which the Borough has deposited into an interest bearing escrow account established by it to ensure the payment of its third-party Interim Costs. If the Conditional Redeveloper does not dispute an invoice within fifteen (15) days of its receipt of an invoice, the Borough shall have the right to withdraw funds from the escrow account to pay the invoice. In the event that Conditional Redeveloper disputes an invoice, the Borough shall not withdraw any funds from the escrow account until and unless the Parties have amicably resolved the dispute. If, when and as often as may occur that the escrow account is drawn down to ten thousand dollars (\$10,000), then the Conditional Redeveloper, upon the Borough's written request, shall within fifteen (15) business days thereafter, provide to the Borough for deposit funds sufficient to replenish the escrow account to the amount of twenty-five thousand dollars

(\$25,000) for use in accordance with these terms, unless such time period shall be extended for good reason by the Borough in its sole discretion. In the event this Agreement either expires or is lawfully terminated by the Borough, then all escrowed monies and the interest earned thereon shall be returned to the Conditional Redeveloper following the payment from the fund of the undisputed Interim Costs incurred up to the time of said expiration or cancellation. In the event that the Borough and the Redeveloper execute a Redevelopment Agreement, then any remaining escrowed funds shall be applied in accordance with the requirements of the Redevelopment Agreement.

Section 2.02. Borough Obligations. (a) The Borough shall, within ninety (90) days following the Effective Date, at the Conditional Redeveloper's cost and expense (except as otherwise agreed by the Parties) undertake the following:

- (i) Cooperate with the Conditional Redeveloper in any reasonable manner so as to enable the Conditional Redeveloper to meet its obligations hereunder including but not limited to, scheduling of meetings, attendance at meetings, issuance of consents or estoppel certificates, and preparation and/or compilation of information;
- (ii) Provide the Conditional Redeveloper with all reasonable information in the Borough's possession which may affect the Conditional Redeveloper's ability to undertake and initiate the Redevelopment Project;
- (iii) Prepare, with input from the Conditional Redeveloper, amendments to the Redevelopment Plan required to facilitate the redevelopment of the Redevelopment Area in accordance with the Concept Plan;
- (iv) Commence and complete negotiations with the Conditional Redeveloper for the execution and delivery of the Redevelopment Agreement; and
- (iv) Seek or assist the Conditional Redeveloper in securing and/or applying to the costs of the Redevelopment Project any available incentives, funds, grants or loans to offset the costs enumerated herein; provided, however, that such assistance shall not relieve the Conditional Redeveloper of the obligations created hereby.

(b) The Borough shall not be held liable for damages in any way under this Agreement other than as a result of the Borough's gross negligence in undertaking, or failure to reasonably undertake, all actions for the satisfaction of its obligations as described herein.

Section 2.03. Information to be provided by the Borough. The Borough shall promptly provide all information reasonably requested by the Conditional Redeveloper as necessary for the Conditional Redeveloper to carry out its undertakings under this Agreement.

ARTICLE III. THE REDEVELOPMENT AGREEMENT

Section 3.01. Redevelopment Agreement. The Parties anticipate the execution and delivery of a redevelopment agreement for the Redevelopment Project, to be identified as the “**Redevelopment Agreement**”.

Section 3.02. Covenants and Restrictions. The Redevelopment Agreement executed by the Parties hereto shall, at a minimum, provide that:

(a) Redeveloper shall devote all applicable portions of the Project Area to be utilized for the Redevelopment Project to the uses specified in the Redevelopment Plan, as same may be amended, and the Borough zoning ordinance, if applicable, and shall not devote the Project Area to any other use(s); and

(b) Redeveloper shall commence the construction of the Redevelopment Project within the period of time agreed upon by the Parties in the Redevelopment Agreement; and

(c) Redeveloper shall agree with the Borough, upon terms reasonably acceptable to both Parties, to limit the Redeveloper’s authority to sell, lease or otherwise transfer all or a portion of the Project Area or the Redevelopment Project; and

(d) Redeveloper shall not discriminate upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or familial status in the sale, lease, rental, use or occupancy of the Project Area or any buildings or structures erected or to be erected thereon, or any part thereof; and

(e) In the sale, lease or occupancy of all or a portion of the Redevelopment Project, the Redeveloper shall not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Project Area under the Redeveloper’s control or any building or structure erected or to be erected thereon is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or familial status, and the Redeveloper, its successors and assigns, shall comply with all State and local laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex or familial status; and

(f) Upon redevelopment of any portion of the Project Area and completion of the portion of the Redevelopment Project to be constructed therein, the conditions that were found and determined to exist at the time the Project Area was determined to be in need of redevelopment shall be deemed to no longer exist.

(g) Record a Declaration of Restrictions with the Office of the Clerk of the County of Mercer.

Section 3.03. Effect and Term of Covenants and Restrictions. It is intended and agreed, that the covenants and restrictions set forth in Section 3.02 and otherwise noted in the Redevelopment Agreement shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Redevelopment Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Borough, its successors and assigns, and any successor in interest to the Project Area, or any part thereof, against the Conditional Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Project Area or any part thereof.

Section 3.04. Prohibition Against Speculative Development. Because of the importance of the development of the Project Area to the general welfare of the community, the Conditional Redeveloper represents and agrees that the Conditional Redeveloper's undertakings pursuant to this Agreement and any Redevelopment Agreement are, and will be used for the purpose of the redevelopment of the Project Area as provided herein, in any Redevelopment Agreement and the Redevelopment Plan and not for speculation in land holding.

ARTICLE IV. CONDITIONAL REDEVELOPER REPRESENTATIONS AND COVENANTS

Section 4.01. Conditional Redeveloper Representations and Covenants. The Conditional Redeveloper hereby makes the following representations and covenants in order to induce the Borough to enter this Agreement knowing that the Borough has relied on the Representations and Covenants herein;

(a) It has the legal capacity to enter into this Agreement and perform each of the undertakings set forth as of the date of this Agreement; and

(b) It is duly organized and a validly existing legal entity under the laws of the State of New Jersey, authorized to do business in the State, and all necessary resolutions have been duly adopted to authorize the execution and delivery of this Agreement and to authorize and direct the persons executing this Agreement to do so for and on the Conditional Redeveloper's behalf; and

(c) The Conditional Redeveloper has made the appropriate filings with the State and is authorized to do business within the State; and

(d) To the best of its knowledge, there is no action, proceeding or investigation now pending, nor any basis therefor, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by the Conditional Redeveloper pursuant to this Agreement; or (ii) is likely to result in a material adverse

change in the Conditional Redeveloper's property, assets, liabilities or condition which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement; and

(e) This Agreement is duly executed by the Conditional Redeveloper, and is valid and legally binding upon the Conditional Redeveloper and enforceable in accordance with its terms. The execution and delivery of this Agreement and the performance hereunder will not constitute a violation of any partnership and/or stockholder agreement of the Conditional Redeveloper or of any agreement, mortgage, indenture, instrument or judgment, to which the Conditional Redeveloper is a party; and

(f) The ownership structure of the Conditional Redeveloper is set forth on **Exhibit B** attached hereto. The Conditional Redeveloper shall, at such times as the Borough may request, furnish the Borough with a complete statement subscribed and sworn to by the managing member of the Conditional Redeveloper, setting forth all of the ownership interests of the Conditional Redeveloper, or other owners of equity interests of the Conditional Redeveloper and the extent of their respective holdings, and in the event any other parties have a beneficial interest in the Conditional Redeveloper, their names and the extent of such interest. The above outlined reporting requirements shall only apply to those individuals holding a ten percent (10%) or greater ownership interest in the Conditional Redeveloper; and

(g) This Agreement is not prohibited by and does not conflict with any other agreements, instruments, judgments or decrees to which the Conditional Redeveloper is a party or is otherwise subject; and

(h) No receiver, liquidator, custodian or trustee of the Conditional Redeveloper shall have been appointed as of the date hereof, and no petition to reorganize the Conditional Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Conditional Redeveloper shall have been filed as of the date hereof; and

(i) No adjudication of bankruptcy of the Conditional Redeveloper or a filing for voluntary bankruptcy by the Conditional Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute that is applicable to the Conditional Redeveloper shall have been filed; and

(j) No indictment has been returned against any official of the Conditional Redeveloper with respect to any transaction related to the transactions contemplated by the terms of this Agreement; and

(k) There is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which (i) questions the authority of the Conditional

Redeveloper to enter into this Agreement or any action or act taken or to be taken by the Conditional Redeveloper pursuant to this Agreement; or (ii) is likely to result in a material adverse change in the Conditional Redeveloper's property, assets, liabilities or condition which will materially and substantially impair its ability to perform its obligations pursuant to the terms of this Agreement; and

(l) The Conditional Redeveloper has received no notice as of the date hereof asserting any noncompliance in any material respect by the Conditional Redeveloper with applicable statutes, rules and regulations of the United States, the State or of any agency having jurisdiction over and with respect to the transactions contemplated in and by this Agreement, which would have a material adverse effect on the Conditional Redeveloper's ability to perform its obligations in connection with this Agreement. The Conditional Redeveloper is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency, or other governmental authority which is in any respect material to the transactions contemplated hereby; and

(m) Neither the Conditional Redeveloper, nor any person holding a controlling interest therein (i) has been convicted in a criminal proceeding or is a named subject in a pending criminal proceeding (excluding traffic violations or other minor offences); or (ii) to the best of the Conditional Redeveloper's knowledge and belief is a target of or a potential witness in a criminal investigation; and

(n) The Conditional Redeveloper, through its sole member/manager, R. Black Global, is fully experienced, financially and technically capable and properly qualified to undertake the responsibilities and perform the work provided for in or contemplated under this Agreement and that it is properly equipped, organized and financed to undertake all such responsibilities hereunder.

ARTICLE V. BOROUGH REPRESENTATIONS AND COVENANTS

Section 5.01. Borough Representations and Covenants. The Borough hereby makes the following representations and covenants in order to induce Conditional Redeveloper to enter this Agreement, knowing that Conditional Redeveloper has relied on the Representations and Covenants herein:

(a) The Borough is a municipal corporation of the State with all due power and authority to enter into this Agreement; and

(b) The Borough has duly authorized the execution and delivery of this Agreement; and

(c) The Borough is lawfully authorized to conduct its business within the State with all due power and authority to incur and perform its obligations hereunder; and

(d) All statutory notice and procedural requirements have been satisfied by the Borough concerning the actions of the Borough Council set forth in the language of this Agreement; and

(e) There is no action, suit or proceeding at law or in equity now pending or, to the knowledge of the Borough, threatened against or affecting the Borough that, if already determined, would materially impair its right and ability to perform its obligations under this Agreement; and

(f) The Project Area is a valid, proper, and existing “area in need of redevelopment” under the Redevelopment Law and was duly designated as same by the Borough; and

(g) The Redevelopment Plan is a valid, proper, and existing redevelopment plan under the Redevelopment Law and was duly prepared and adopted as same by the Borough; and

(h) Other than the Conditional Redeveloper, as contemplated by this Agreement, there is no other designated redeveloper or conditional redeveloper for the redevelopment of the Project Area and the Borough does not have an agreement with any other entity for the redevelopment of the Project Area; and

(i) The execution and delivery of this Agreement and the performance by the Borough of its obligations under this Agreement, do not and will not violate any provision of law and will not result in the breach of, or constitute a default, under any agreement to which the Borough is a party or by which it is bound; and

(j) The Borough is fully experienced, financially and technically capable and properly qualified to undertake the responsibilities and perform the work or services provided for in or contemplated under this Agreement and that it is properly equipped, organized and financed to undertake all such responsibilities hereunder; and

(k) Provided no Event of Default occurs hereunder, the Conditional Redeveloper shall be the sole and exclusive party with whom the Borough shall negotiate, agree and execute the Redevelopment Agreement for the term of this Agreement.

ARTICLE VI. MISCELLANEOUS

Section 6.01. Waivers. No waiver made by any Party with respect to any obligation of any other Party under this Agreement shall be considered a waiver of any rights of the Party making the waiver beyond those expressly waived in writing and to the extent thereof.

Section 6.02. Implementation of Agreement. The Parties agree to cooperate with each other and to provide all necessary and reasonable documentation, certificates, consents in order to satisfy the terms and conditions of this Agreement.

Section 6.03. Notices and Demands. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if dispatched by United States registered or certified mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (and receipt acknowledged) to the Parties at their respective addresses set forth herein, or at such other address or addresses with respect to the Parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section 6.03.

BOROUGH

CONDITIONAL REDEVELOPER

Borough of Hightstown

RBG Hightstown LLC

Municipal Building

3930 N. Flagler Drive

156 Bank Street

Suite 202

Hightstown, New Jersey 08520

West Palm Beach, Florida 33407

Attention: Business Administrator

Attention: Mr. Ryan Black

Attention: Mr. Ryan Cowell

with a copy to:

with a copy to:

Frederick C. Raffetto, Esq.

R. Black Global

Ansell, Grimm & Aaron, P.C.

3930 N. Flagler Drive

1500 Lawrence Avenue

Suite 202

Ocean, New Jersey 07712

West Palm Beach, Florida 33407

Attention: Mr. Ryan Black

Attention: Mr. Ryan Cowell

with a copy to:

Edward J. McManimon, III, Esq.

McManimon, Scotland & Baumann, LLC

75 Livingston Avenue

Roseland, New Jersey 07068

with a copy to:

Peter M. Flannery, Esq.

Sills Cummis & Gross P.C.

600 College Road East

Princeton, New Jersey 08540

Section 6.04. Title of Articles and Sections. The titles of the several Articles and Sections of this Agreement, as set forth in the Table of Contents or at the heads of said Articles and Sections, are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 6.05. Severability. The validity of any Articles and Section, clause or provision of this Agreement shall not affect the validity of the remaining Articles and Section, clauses or provisions hereof.

Section 6.06. Successors Bound. This Agreement shall be binding upon the respective Parties hereto and their successors and assigns.

Section 6.07. Governing Law. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

Section 6.08. Counterparts. This Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

Section 6.09. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto, supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof.

Section 6.10. Assignments. Except as expressly set forth herein, this Agreement may not be transferred and/or assigned by the Conditional Redeveloper without the consent of the Borough.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

ATTEST:

BOROUGH OF HIGHTSTOWN

By: _____

Debra Sopronyi, Municipal Clerk

Lawrence D. Quattrone, Mayor

WITNESS/ATTEST:

RBG HIGHTSTOWN LLC

By: R. Black Global

Its Managing Member

By:_____

Name: Ryan Black

Title:

EXHIBIT A

MAP OF PROJECT AREA

EXHIBIT B

CONDITIONAL REDEVELOPER OWNERSHIP STRUCTURE

RBG Hightstown LLC, a Delaware limited liability company, with an office at 3930 N. Flagler Drive, Suite 202, West Palm Beach, Florida 33407, is 100% owned by its sole member/manager, R. Black Global, a Delaware corporation, with an office at 3930 N. Flagler Drive, Suite 202, West Palm Beach, Florida 33407.

Resolution 2016-43 Authorizing a 2nd Amendment to the Lease Agreement for the Borough's Continued Use of a Portion of the Property Known and Designated as Block 61.01, Lots 43, 44 & 45, Commonly Known as 415A Mercer Street, Hightstown, New Jersey

Council President Hansen moved Resolution 2016-43; Councilmember Stults seconded.

The Borough Attorney explained the changes to the terms of the lease.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Resolution adopted 6-0.

Resolution 2016-43

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

RESOLUTION AUTHORIZING A 2ND AMENDMENT TO THE LEASE AGREEMENT FOR THE BOROUGH'S CONTINUED USE OF A PORTION OF THE PROPERTY KNOWN AND DESIGNATED AS BLOCK 61.01, LOTS 43, 44 & 45, COMMONLY KNOWN AS 415A MERCER STREET, HIGHTSTOWN, NEW JERSEY.

WHEREAS, the Hightstown Borough Governing Body previously adopted Ordinance No. 2014-02 which authorized the Borough of Hightstown (the "Borough") to enter into a Lease Agreement (the "Agreement") with Hights Realty, LLC, regarding the Borough's temporary use of a portion of the premises located at 415 Mercer Street in the Borough, commonly known and designated as Block 61.01, Lots 43, 44 and 45 on the Borough's Tax Map (hereinafter referenced as the "Property"), for the relocation of the Borough's Police Department and associated operations; and

WHEREAS, the Agreement was executed by the parties on February 1, 2014; and

WHEREAS, the parties previously executed a "1st Amendment to Lease Agreement and First Renewal Thereof" (the "1st Amendment"), which modified the renewal terms set forth in the initial Agreement; and

WHEREAS, the term of the 1st Amendment is currently scheduled to expire as of January 31, 2016;

WHEREAS, the parties wish to renew the said Agreement for a third renewal term, which constitutes a two (2) year period from February 1, 2016 to January 31, 2018; and

WHEREAS, the Parties have negotiated a 2nd Amendment to Lease Agreement (the "2nd Amendment"), which sets February 1, 2016

forth the renewal terms and conditions, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Mayor and Borough Council with to authorize the Borough to enter into this 2nd Amendment, or one which is substantially similar thereto and which meets with the approval of the Borough Attorney, and to authorize the Mayor and Borough Clerk to execute the same on behalf of the Borough.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Hightstown that the Mayor is hereby authorized to execute and the Borough Clerk to attest the attached 2nd Amendment, or one which is substantially similar thereto and which meets with the approval of the Borough Attorney, on behalf of the Borough.

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

1. Hights Realty, LLC
2. Drew Edwards, Esq.
2. Frederick C. Raffetto, Esq., Borough Attorney
3. Lt. Frank Gendron

2nd AMENDMENT TO LEASE AGREEMENT

THIS 2nd AMENDMENT TO LEASE AGREEMENT dated February 1, 2014 by and between HIGHTS REALTY, LLC, a New Jersey limited liability company, having an office at 401 E. Linden Ave., Linden, NJ, hereinafter called the "Landlord"; and THE BOROUGH OF HIGHTSTOWN, a municipal corporation of the state of New Jersey, having an office at 156 Bank St., Hightstown, NJ 08520, hereinafter called the "Tenant," is made this 1st day of February, 2016, as follows:

W I T N E S S E T H :

WHEREAS, Tenant entered into a Lease Agreement dated February 1, 2014 ("Lease"), regarding the Tenant's temporary use of a portion of the Landlord's premises located at 415 Mercer Street in the Borough of Hightstown, commonly known and designated as Block 61.01, Lots 43, 44 and 45 on the Borough's Tax Map, for the relocation of the Hightstown Borough's Police Department and associated operations, which was extended by way of a 1st Amendment dated February 1, 2015; and

WHEREAS, the parties now wish to further amend and extend the Lease pursuant to the within 2nd Amendment to Lease Agreement.

NOW, THEREFORE, the parties hereto covenant and agree as follows:

1. The Lease is hereby extended for an additional term of two (2) years to commence on February 1, 2016 and expire on January 31, 2018.

2. The monthly rent shall be \$3,914.68 for the first year of this term from February 1, 2016 to January 31, 2017. The monthly rent shall be \$3,973.40 for the second year of this term from February 1, 2017 to January 31, 2018.

3. Tenant shall have an option to renew for one additional one-year term commencing on February 1, 2018 and terminating on January 31, 2019. Tenant may exercise its renewal option according to paragraph 2.3 of the Lease. The monthly rent for this renewal term shall be \$4,033.00.

4. All other terms and conditions of the Lease shall remain in full force and effect, unimpaired and unmodified.

5. This agreement shall be binding upon the parties hereto, their heirs, successors and assigns.

WITNESS/ATTEST: HIGHTS REALTY LLC

By: _____
Print Name: _____ Print Name: _____

WITNESS/ATTEST: BOROUGH OF HIGHTSTOWN

By: _____
DEBRA L. SOPRONYI, CLERK HON. LAWRENCE D. QUATTRONE, MAYOR

Resolution 2016-44 Authorizing a Refund of Taxes

Councilmember Montferrat moved Resolution 2016-44; Councilmember Misiura seconded.

Roll Call Vote: Council members Hansen, Kurs, Misiura, Montferrat and Stults voted yes; Councilmember Bluth abstained.

Resolution adopted 5-0, with one abstention.

Resolution 2016-44

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

AUTHORIZING REFUND OF TAX OVERPAYMENT

WHEREAS, an overpayment of 2015 taxes was made for Block 2.01, Lot 1, 102 Mill Run East, in the amount of \$4,402.78 due to double payments made by the homeowner and his mortgage company; and

WHEREAS, the payer, Eric Dengelegi, 102 Mill Run East, Hightstown, New Jersey, 08520 has requested that a refund be issued for the overpayment in the amount of \$4,402.78; and

WHEREAS, the Tax Collector has requested that said overpayment be refunded in the amount of \$4,402.78.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Tax Collector and Treasurer are hereby authorized to issue a refund in the amount of \$4,402.78 to Eric Dengelegi, 102 Mill Run East, Hightstown, New Jersey, 08520, representing the tax overpayment as set forth herein.

CONSENT AGENDA

Consent Agenda – Resolutions 2016-45 and 2016-46

Councilmember Kurs moved Resolutions 2016-45 and 2016-46 as the consent agenda; Councilmember Stults seconded.

Roll Call Vote: Councilmembers Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Resolutions adopted 6-0.

Resolution 2016-45

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

AUTHORIZING A TRANSFER OF FUNDS IN THE 2015 BUDGET

Whereas, N.J.S.A. 40A:4-59 provides that the governing body may authorize a transfer of funds in the budget during the first three months of the following year.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the following transfers in the 2015 budget are hereby authorized:

<u>Current:</u>	<u>From</u>	<u>To</u>
Municipal Court		
Salaries and Wages	\$ 5,000.00	-
Celebration of Public Events		
Other Expenses	1,500.00	-
Snow Removal		
Other Expenses	-	6,000.00
Board of Health		
Other Expenses	<u>-</u>	<u>500.00</u>

TOTALS \$ 6,500.00 \$ 6,500.00

Resolution 2016-46

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

**AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS
PRIOR TO ADOPTION OF THE 2016 BUDGET**

WHEREAS, an emergent condition has arisen with respect to inadequate appropriation balances remaining in some line items of the 2016 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 2016 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	0.00	0.00	0.00
Capital Outlay – Current	0.00	0.00	0.00
Debt Service - Current	0.00	0.00	0.00
Water/Sewer	125,000.00	0.00	125,000.00
Capital Outlay – W/S	0.00	0.00	0.00
Debt Service - W/S	0.00	0.00	0.00
TOTAL	125,000.00	0.00	125,000.00

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 2016 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.

DISCUSSION

Grand Opening and Coming Soon Signs Ord. 29-12

Councilmember Stults advised that the recommended revisions to the ordinance came from the Planning Board, and the discussion began when he served as Liaison. The amendments are being recommended to keep signs in character with the small town feel of Hightstown, and to make the coming soon signs professional.

There was discussion and the Mayor inquired as to whether the Council could introduce the ordinance at this meeting since they appear to agree with the ordinance amendment. The Borough Attorney advised that they could and the Borough Clerk advised that it would be ordinance 2016-004.

Ordinance 2016-004 First Reading and Introduction – An Ordinance Amending and Supplementing Chapter 29, Entitled “Signs”, Section 12, Entitled “Grand Opening Signs”, of the “Revised General Ordinances of the Borough of Hightstown, New Jersey”

Mayor Quattrone called for a motion to move ordinance 2016-04.

Council President Hansen moved ordinance 2016-04 for introduction, Councilmember Stults seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Ordinance Introduced 6-0, Public Hearing scheduled for February 16, 2016.

ORDINANCE 2016-04

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 29, ENTITLED “SIGNS”, SECTION 12, ENTITLED “GRAND OPENING SIGNS”, OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”

WHEREAS, the Planning Board has made certain recommendations for revisions to Chapter 29, “Signs”, Section 12, entitled “Grand Opening Signs” of the Borough Revised General Ordinances of the Borough of Hightstown; and

WHEREAS, the Borough Council has reviewed and concurs with these recommendations.

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

Section 1. Chapter 29 “Signs”, Section 12, entitled “Grand Opening Signs” is hereby amended as follows (underline for additions, strikethroughs for deletions):

29-12. GRAND OPENING SIGNS

Grand-opening signs shall comply with the provisions of this chapter including the following additional requirements:

A. Grand-opening signs shall be permitted for periods of time not to exceed ~~seven (7) days prior to and/or fourteen (14) days after~~ thirty (30) days. The signs are to only note the initial opening of a business or a change in the ownership of the premises on which the sign is located. A grand opening of another establishment in the same chain of stores or under the same ownership shall not be grounds for permission to install grand-opening signs for existing businesses.

B. Grand-opening signs may be facade signs, freestanding signs, ~~or~~ banners or red, white and blue bunting.

C. Grand-opening signs shall not exceed the total sign area permitted on the premises for permanent signs. Such signs shall be permitted in addition to any permanent signage allowed. For the purposes of this subsection, the total sign area of banners shall not exceed that for facade signs.

D. Coming soon signs shall be permitted for periods of time not to exceed thirty days. The signs are to only note the business that will be opening and the anticipated opening date. A coming soon sign of another establishment in the same chain of stores or under the same ownership shall not be grounds for permission to install coming soon signs for existing businesses.

E. Coming soon signs may be window signs attached to the interior of the window. The sign lettering should be professionally painted or applied. "Loose" hand painted or stenciled painted letters are not acceptable. The sign must have a professional appearance.

F. Coming soon signs will be limited to half the size of the window it is being displayed in.

SECTION 2 Severability

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph or other wording in this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

SECTION 3 Effective Date

This Ordinance shall take effect upon compliance with procedures prescribed by law, including NJSA 40:55D-97 of the Municipal Land Use Law (Submission of plan and ordinances to County Planning Board for approval).

Ordinance to Authorize the Borough Clerk to Approve Raffles, Bingo and Auction Licenses and Permits and exemption of Raffle/Bingo fees

The Borough Clerk clarified that this ordinance would permit her to issue the licenses for bingos, raffles, and auctions without the need for a resolution of the Council; all other requirements would still be met. She then noted that the waiving of application fees for raffles and bingos for the Fire and First Aid is currently done by resolution; she suggested that the ordinance be amended to exempt the Fire and First Aid from the fees so a resolution does not have to be done each year.

There was discussion and Councilmember Kurs objected to the use of the word moral in the ordinance. The Borough Clerk was directed to put the ordinance on the next agenda with the revision requested. She noted that it may be possible to do one ordinance authorizing the Clerk to approve the licenses, as well as exempt the Fire and First Aid from fees.

Capital Purchases

Mr. Underhill advised that certain things need to be done during 2016 and an ordinance needs to be done now for these items: purchase two police vehicles; police radios; the E-Ticket digital ticketing system; and the sluice gate at the dam. George Lang, CFO stated that the purchase of the police vehicle will be structured to be comparable with what has been in the budget the last three years, causing minimal, if any, change to the budget. Mr. Underhill noted that purchasing two vehicles this year would permit the purchase of one vehicle each year thereafter to stabilize the fleet.

There was discussion regarding the purchase of radios and frequencies. Council directed that the ordinance be put on the next agenda.

On-Street Parking

Mr. Underhill reviewed the streets that are a problem when trying to plow after a snowfall; he recommended adding the requested streets to the ordinance.

There was discussion regarding where the residents would then park and whether residents can be notified as to when they would be plowed so they could move the vehicles. Mr. Underhill noted that advising residents of when the street will be plowed is not practical. Discussion continued and Council inquired as to how many homes on these streets have driveways in which they could be parking. Mr. Underhill will work with Public Works to determine how many homes have driveways and how many residents will have to find somewhere else to park. Council directed that the ordinance be put on the next agenda for introduction.

PUBLIC COMMENT PERIOD II

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

Keith LePrevost, 213 Greeley Street – congratulated Council on the redevelopment but is concerned with ordinance 2016-02, specifically the negotiations of fee obligations in developer agreements and he hopes this does not cause a burden on the tax payer.

Eugene Sarafin, 628 South Main Street – inquired as to the purpose of resolution 2016-41. Mayor Quattrone explained that they are replacing the Engineer hired last year with this consultant. Mr. Sarafin then noted that there should be a database for residents who live alone so they can receive a phone call to be checked on. Councilmember Kurs noted that the service is available from the County.

Scott Caster, 12 Clover Lane – urged Council not to restrict public comment to items on the agenda and is concerned with the Rug Mill Property being rental units.

Lynne Woods, 315 Park Avenue – inquired as to whether the public can call a point of order. The Borough Attorney advised that they can, but must be recognized by the Chair for it to be acknowledged. Ms. Woods then noted that the discussion regarding changing back to a Chief should have been public discussion so the public could comment, not in executive session. Councilmember Montferrat noted that it was discussed in public at the last meeting, and Mr. Underhill noted that it is being done at the recommendation of the police committee assigned to evaluate the titles.

Doug Mair, 536 S. Main Street – commented that Council President Hansen is in violation of resolution 2016-13 because she is looking at her cell phone; he hopes something positive comes from the Rug Mill negotiations, not like the previous negotiations with Wolfington; he is concerned that there will be a tax increase; he is concerned about including the old municipal building and firehouse in the redevelopment agreement as the Council did not get the public's permission to sell the property.

At this time Mr. Mair had exceeded his three minute limit and Mayor Quattrone asked him to be seated. Mr. Mair continued to speak and Mayor Quattrone repeatedly asked him to sit down while pounding the gavel. Mr. Mair ignored the Mayor.

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

MAYOR/COUNCIL/ADMINISTRATIVE REPORTS

Councilmember Stults

Reviewed the Construction/Inspection monthly report; noted that Downtown Hightstown has removed the holiday lights and are preparing a plan for this year; he is excited about the proposed Rug Mill redevelopment; noted that the agreement that was authorized for the Rug Mill is a condition agreement and more details will be available with the final redevelopment agreement; the plan includes the old municipal/police building and firehouse to convert the property to commercial and provide connectivity to downtown, the prior location is less acceptable and the concept plan with details will be forthcoming in the redevelopment agreement.

Councilmember Kurs

Noted that the presentation on the redevelopment showed possible re-purposing of the buildings; DPW did a great job with snow removal and neighbors were helping one another; Congresswoman Coleman will be visiting the McKnight School on February 9th as part of the Valentines for Veterans Program.

Councilmember Bluth

Advised that the Cultural Arts Commission had a presentation by a Jazz Group and is interested in bringing a large event to the Borough in conjunction with the Parks & Recreation Commission; they are also discussing a possible summer workshop for children; they are sponsoring “Empty Bowls to Help Hunger” at the VFW on March 12th with the proceeds going to RISE.

Councilmember Montferrat

Noted that he rode with Public Works when they plowed the big storm and he thanked them for a great job; he thought the presentation was a good meeting.

Councilmember Misiura

Commented that he was on the Planning Board when the original re-build of Borough Hall was referred to them and he read their comments from that time, which stated that the Planning Board did not recommend nor support re-building Borough Hall in its present location; this concept plan validates the Planning Board recommendations. He believes the jazz festival would be a good thing and he will follow-up with the promoter. He then noted that the Theater in the Park students were the leads in the Peter Pan Play at the school; DPW did an awesome job of plowing; suggested that possibly the Health Department or Borough Nurse could start a database for the elderly residents.

Borough Clerk Sopronyi

Advised that the coordinators of the Latino Festival have picked up an application for a park use permit for their event this year.

Council President Hansen

Commented that a Water/Sewer meeting will be held next week and the Housing Authority will meet on the 17th.

Mayor Quattrone

Advised that the Police used to make calls to seniors years ago, but the program was stopped; noted that he hates to hit the gavel, but will to stop someone who is out of order.

ADJOURNMENT

Council President Hansen moved to adjourn at 9:25 p.m. Councilmember Montferrat seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC
Borough Clerk