

**Meeting Minutes  
Hightstown Borough Council  
Workshop Meeting  
February 16, 2016  
7:00 p.m.**

The meeting was called to order by Mayor Quattrone at 7:00 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 Elizabeth Garcia, Labor Counsel.

**EXECUTIVE SESSION**

**Resolution 2016-47** Authorizing a Meeting Which Excludes the Public

Councilmember Stults moved Resolution 2016-47; Councilmember Bluth seconded.

Councilmember Misiura inquired if the Mayor must read the entire resolution aloud prior to going into executive session. The Borough Attorney advised that he need not read the entire resolution, but the subject matter should be stated aloud.

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

Resolution adopted 5-0.

Resolution 2016-47

*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 16, 2016 at 7:00 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:

February 1, 2016

Litigation – Marchione  
Affordable Housing (COAH)

Attorney-Client Privilege  
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 16, 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 7:32 p.m. and again read the Open Public Meetings Statement.

The Flag Salute followed roll call.

Councilmember Montferrat had arrived during executive session and was now present. George Lang, CFO, arrived at this time and is now present.

#### **APPROVAL OF AGENDA**

Council President Hansen moved the agenda for approval; Councilmember Montferrat seconded.

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

Agenda approved 6-0.

#### **APPROVAL OF MINUTES**

Council President Hansen moved the February 1, 2016 meeting minutes for approval, Councilmember Misiura seconded.

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

Minutes approved 6-0.

Councilmember Bluth moved to table the February 1, 2016 executive session meeting minutes, Councilmember Misiura seconded.

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

Minutes tabled 6-0.

#### **Resolution 2016-48 Amending Resolution 2016-13 Which Adopted Guidelines for the Conduct of Business at Hightstown Borough Council Meetings**

Councilmember Bluth moved resolution 2016-48, Council President Hansen seconded.

Mayor Quattrone explained that while Mr. Mair complained that the Borough Council did not have the right to change the first public period to pertain to only items on the agenda because it did not so state in resolution 2016-13, when Council adopts the agenda at each meeting it is approved. However, to make the intent of Council clear this resolution will be adopted.

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

Resolution adopted 6-0.

### **PUBLIC COMMENT**

Lynne Woods, 315 Park Avenue – referenced an article in the Trenton Times where the Prosecutor’s investigation has found no wrongdoing on the part of Lt. Gendron; she will file a complaint against the Prosecutor for not properly investigating the complaint she filed.

Eugene Sarafin, 628 South Main Street – noted that it is nice to see Council this evening.

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

### **ORDINANCES**

#### **2016-02 Final Reading and Public Hearing – 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”**

Mayor Quattrone opened the public hearing on Ordinance 2016-02 and the following individuals spoke:

Eugene Sarafin, 628 South Main Street – inquired as to whether the developer fee is negotiable. He was advised yes, in redeveloper agreements.

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

Council President Hansen moved Ordinance 2016-02 for adoption; Councilmember Montferrat seconded.

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

Ordinance adopted 6-0.

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):

## **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 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).

#### **2016-03 Final Reading and Public Hearing – 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”**

Mayor Quattrone opened the public hearing on Ordinance 2016-03 and the following individuals spoke:

Eugene Sarafin, 628 South Main Street – encouraged the Council to adopt this ordinance.

Lynne Woods, 315 Park Avenue – commented that she was on Council when this ordinance was changed to a Police Director and a lot of work went into the ordinance. There has only been one Director and because that did not work out the Council thinks that a Director does not work for the Borough. There was not a lot of public discussion which makes her think that there is other discussion taking place on this ordinance. She would like to hear the reasoning for going back to a Chief.

J P Gibbons, 602 N. Main Street – commented that there were good points to changing to a Director, a Chief has statutory safeguards and there is no accountability. He then had a question and answer discussion with Labor Counsel consisting of the statutory requirements of the title of Police Chief and why both the titles of Chief and Director should not be in the ordinance. He then made inquiries into Council's previous discussions on the ordinance and the basis for their decision to go back to the title of Police Chief.

Councilmember Kurs responded that a Chief can do both administrative and police duties making it more financially beneficial for the taxpayers.

Mr. Gibbons then addressed the duties and responsibilities and qualifications for the selection of a Chief in the ordinance, commenting that he thinks it should be expanded to include moral turpitude and previous performance; the methodology of selection; and qualifying examination standards. He noted the term of service until age 65 and thinks residents should be included in the committee who selects the Chief, and recommended that the ordinance be made stronger.

Eugene Sarafin, 628 S. Main Street – referenced the Police Chief Association and inquired if the Chief appointment must come from within the department. Ms. Garcia responded that yes, the appointment must come from within the department, but an exemption from the statute could be requested.

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

Councilmember Kurs moved Ordinance 2016-03 for adoption; Council President Hansen seconded.

Councilmember Misiura noted that this matter was not taken lightly and that this ordinance is much more comprehensive than the last. Council members availed themselves of the Labor Counsel to ask questions and help in the decision making process; we can go back to a Director, but based on the recommendation of the police committee and Labor Counsel, we are going with the Chief.

Councilmember Montferrat noted that he had his questions answered by Mr. Underhill and he has thoroughly read the ordinance.

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

Ordinance adopted 6-0.

#### 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 an 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.

**Ordinance 2016-004 Final Reading and Public Hearing** – 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 opened the public hearing on ordinance 2016-004 and the following individuals spoke:

Eugene Sarafin, 628 S. Main Street – commented that this ordinance is no good because having banners hang across the street is no good for Hightstown.

Scott Caster, 12 Clover Lane – requested that the ordinance be reviewed. Councilmember Stults reviewed the changes to the code and their purposes. Mr. Caster then stated that he supports the ordinance as it serves the businesses and the Borough needs a mechanism to nurture new business.

J P Gibbons, 602 N. Main Street – suggested including a requirement in the ordinance that the construction/zoning office distribute this ordinance to all applicants, it would show that Hightstown is business friendly.

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

There was discussion regarding amending the ordinance to add verbiage requiring the ordinance to be distributed to each applicant. The Borough Attorney noted that the Council could still vote on the ordinance this evening if they make this change, as this would not be a substantive change. There was further discussion regarding employees performing due diligence with applicants and that this would be an administrative item, not something that should be in the ordinance; and that it may create exposure to the Borough to put it in the ordinance.

The Borough Attorney noted that the Council would need to move and second, and vote, to amend the ordinance. Mayor Quattrone called for a motion to amend the ordinance, there being none, he asked for a roll call vote on the adoption of the ordinance.

Council President Hansen moved ordinance 2016-04 for adoption, Councilmember Kurs seconded.

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

Ordinance adopted 6-0.

#### 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 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, 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 2016-05 First Reading and Introduction** – An Ordinance Amending and Supplementing Chapter 4, Entitled "General Licensing", Section 4-10, Entitled "Auction; Circuses and Exhibitions", of the "Revised General Ordinances of the Borough of Hightstown, New Jersey"

Councilmember Montferrat moved ordinance 15-005 for introduction, Councilmember Kurs seconded.

The Borough Clerk explained that the revisions to this ordinance give her the authority to issue bingo, raffle and auction licenses without a Council resolution; however all other processes will be continued. It also exempts the Fire Company and Ladies Auxiliary, and First Aid from Borough fees for these licenses. They would still be required to pay all state fees.

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

Ordinance introduced 6-0, public hearing scheduled for March 7, 2016.

**ORDINANCE 2015-05**

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

**AN ORDINANCE AMENDING CHAPTER 4, ENTITLED “GENERAL LICENSING”, SECTION 4-10 ENTITLED “AUCTIONS; CIRCUSES AND EXHIBITIONS” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Hightstown, that Chapter 4, entitled “General Licensing”, Section 4-10 entitled “Auctions; Circuses and Exhibitions” of the “Revised General Ordinances of the Borough of Hightstown, New Jersey is hereby amended as follows:

**Section 1.** Section 4-10 entitled “Auctions; Circuses; Exhibitions” is hereby amended as follows (deletions are noted by cross-out and additions are noted by underline):

**Section 4-10**

**AUCTIONS; BINGOS; RAFFLES; CIRCUSES; EXHIBITIONS\***

**Subsections:**

**4-10.1 License Required.**

**4-10.2 Issuance of License.**

**4-10.3 Additional Requirements.**

\* ***Editor's Note:** For additional licensing regulations and fees, see Section 4-1.*

**4-10.1 License Required.**

No person shall conduct a ~~an auction sale~~, circus, traveling show or exhibition of any sort without first obtaining a license, which shall be issued by resolution of the Borough Council.

No person shall conduct an auction sale of any sort without first obtaining a license; said issuing authority shall be the Borough Clerk.

No organization shall conduct a bingo or raffle of any sort without first obtaining a license; said issuing authority shall be the Borough Clerk.

**4-10.2 Issuance of License.**

No circus or traveling show license shall be issued unless the Borough Council is satisfied that the ~~an auction~~, circus or traveling show is bona fide in all respects and can be permitted without substantial danger of fraud ~~or impairment of the morals~~ of any person or breach of the peace and good order of the Borough. (1991 Code § 77-2)

No auction license shall be issued unless the Borough Clerk is satisfied that the auction is bona fide in all respects and can be permitted without substantial danger of fraud of any person or breach of the peace and good order of the Borough.



No bingo or raffle license shall be issued unless the Borough Clerk is satisfied that the auction is bona fide in all respects and can be permitted without substantial danger of fraud of any person or breach of the peace and good order of the Borough pursuant to State Law.

#### **4-10.3 Additional Requirements.**

The following information, in addition to that supplied on all applications for licenses, shall be required to be supplied by applicants under this section:

a. Circus or traveling show: an exact description of the entertainments, acts, games, amusements, attractions or exhibitions which will be offered, together with the price to be charged for admission for each separate amusement.

b. Auctioneer: a description, under oath, of all goods which will be auctioned and the owner of all such goods. The description shall be sufficient for a person reasonably knowledgeable as to goods of the nature described to be able to fix a value therefor. The applicant shall be bound by the description set forth in the application and be liable to any purchaser should any goods not be as described. A copy of the description of goods shall be displayed conspicuously at the premises where the auction is to be held. (1991 Code § 77-3)

c. Bingo or Raffle: Fees shall be paid as designated by the State of New Jersey. The Hightstown Engine Co. #1, Hightstown First Aid Squad, and Hightstown Engine Co. #1 Ladies Auxiliary shall be exempt from the fees due the Borough but shall be required to pay all State of New Jersey fees associated with these licenses.

**Section 3.** All other ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed to the extent of any inconsistency or conflict.

**Section 4.** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall remain valid and effective.

**Section 5.** This ordinance shall take effect after final adoption and publication according to law.

**Ordinance 2016-06 First Reading and Introduction** – An Ordinance Amending and Supplementing Chapter 2, Entitled “Administration”, Section 14, Entitled “Department of Administration, Budget and Finance”, of the “Revised General Ordinances of the Borough of Hightstown, New Jersey”

Council President Hansen moved ordinance 15-06 for introduction, Councilmember Misiura seconded.

Mr. Underhill explained that the Treasurer title is not needed. The employee currently holding the position does not hold the credentials for the position; they will be given another title with no loss in salary. The duties in the ordinance for Treasurer will now fall under the CFO.

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

Ordinance introduced 6-0, public hearing on March 7, 2016.

ORDINANCE 2016-06

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

**AN ORDINANCE AMENDING CHAPTER 2, ENTITLED "ADMINISTRATION", SECTION 14, ENTITLED "DEPARTMENT OF ADMINISTRATION, BUDGET AND FINANCE", SUBSECTION 14.2, ENTITLED "DIVISION OF BUDGET AND FINANCE", OF THE "REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY."**

**WHEREAS**, the Borough Administrator has recommended amending the structure of the Division of Finance and Budget for the purpose of efficiency; and

**WHEREAS**, the Mayor and Council concur with the recommendation.

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

Section 1. Chapter 2, entitled "Administration", Section 14, entitled "Department of Administration, Budget and Finance", Subsection 14.2, entitled "Division of Budget and Finance" of the "Revised General Ordinances of the Borough of Hightstown, New Jersey" is hereby amended as follows (underline for additions, strikethroughs for deletions):

**Subsection 2-14.2                      Division of Budget and Finance.**

This Division shall be headed by the Chief Finance Officer, under the direction of the Borough Administrator, and shall be organized as follows:

a. Powers and Duties of the Chief Finance Officer (CFO). The CFO shall have, perform and exercise all the functions, powers and duties provided by general law and Borough ordinances. The CFO shall keep and maintain books and records of all financial transactions of the Borough in accordance with the standards and requirements of the Division of Local Finance in the Department of Community Affairs of the State of New Jersey. The CFO shall have custody of all public moneys of the Borough and shall make monthly reports to the Administrator of all receipts, expenditures, commitments and unexpended appropriations. All moneys received from any source by or on behalf of the Borough or any Department, Board, Office or agency thereof, except as otherwise provided by Borough ordinance, shall be paid to the CFO, who shall, within forty-eight (48) hours after their receipt, deposit them in the authorized public depository of the Borough to the credit of the proper account. A Deputy CFO may be appointed by the Administrator, and shall perform duties as assigned by the CFO.

b. Disbursements. Disbursements in payment of bills and demands shall be made by the CFO upon approval of the Borough Administrator, approved by the Council, except that payments from the payroll account shall be made pursuant to paragraph c. Every payment shall be in the form of a check payable to the order of the person entitled to receive it, and shall specify the purpose for which it is drawn and the account or appropriation to which it is chargeable. Each check shall bear the signatures of the officers of the Borough so designated by resolution each year. The Mayor and Council may, by resolution, establish purchasing policies which will permit certain categories of purchases and payments to be made without approval of the Council.

c. Payroll Account. There shall be an account to be designated the "Borough of Hightstown Payroll Account," and, from time to time, the Borough CFO, upon receipt of amounts due such payroll account, shall deposit the same to the credit of the payroll account, charging the appropriate budgetary accounts therewith. Disbursements from the

payroll account may be made by payroll checks signed by the Borough Officials so designated by resolution each year. In case of error or adjustment in the payroll, the CFO shall make proper correction and appropriate record of such correction.

d. Travel Expenses. Itemized claims supported by receipts, where available, shall be presented in order to obtain reimbursement for expenses incurred by local officials where authorized to travel by the Borough. Travel expenses shall be reimbursed only in accordance with the travel regulations of the Borough as established by the Borough Administrator.

e. Qualified Purchasing Agent. There shall be a Qualified Purchasing Agent who shall be appointed by the Mayor and who shall have the authority, responsibility and accountability for the purchasing activity of the contracting unit, to prepare public advertising for bids and to receive bids for the provision or performance of goods or services on behalf of the Borough, and to award contracts permitted pursuant to *N.J.S.A. 40A:11* in the name of the Borough, and to conduct any activities as may be necessary or appropriate to the purchasing function of the contracting unit. The position of Qualified Purchasing Agent may be held by any Borough official qualified by education, certification and experience to perform in that capacity. (Ord. No. 19-1994; Ord. No. 2000-32)

Section 2. Severability. If any sentence, paragraph or section of this Ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 4. Repealer. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Ordinance 2016-07 First Reading and Introduction** – An Ordinance Amending and Supplementing Chapter 7, Entitled “Traffic”, Section 9, Entitled “Temporary Parking Prohibition for Snow Plowing and Removal”, of the “Revised General Ordinances of the Borough of Hightstown, New Jersey”

Councilmember Kurs moved ordinance 15-07 for introduction, Councilmember Montferrat seconded.

Councilmember Bluth requested a response to the inquiries from Council at the last meeting regarding how many residents on the streets affected have driveways, and where they will park.

Mr. Underhill explained that over 90% of the residents have driveways on the affected streets, but there is no recommendation on where they can park. He noted that there are other streets already in the ordinance and they find places to park; and if they do not remove their vehicle, the police call them to give them the opportunity to remove their vehicle; they are not immediately towed. He noted that this is only during snow; once the snowfall stops and the street is plowed they can park on the street again. He added that the inability to push back the snow is costing the Borough \$3,000 - \$4,000 per snowfall to truck out the snow because it cannot be pushed back. Mr. Underhill advised that a letter will be sent to the homeowners on the streets that will be affected to advise them of the ordinance and the date of the public hearing so they have the opportunity to comment.

There was discussion regarding the streets being safer for everyone when they are properly plowed; there are other towns that require vehicles to be off all of the streets in a snowfall; the need for access by emergency vehicles; and that it takes DPW approximately 40 hours to remove snow that cannot be plowed.

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

Ordinance introduced 6-0, public hearing scheduled for March 7, 2016.

ORDINANCE 2016-07

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

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 7, ENTITLED “TRAFFIC”, SECTION 9, ENTITLED “TEMPORARY PARKING PROHIBITION FOR SNOW PLOWING AND REMOVAL”, OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”**

**WHEREAS**, the Public Works Superintendent has recommended that certain streets in the Borough prohibit parking during snowfalls to permit the plowing and removal of snow; 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 7 “Traffic”, Section 9, entitled “Temporary Parking Prohibition for Snow Plowing and Removal” is hereby amended as follows (underline for additions, strikethroughs for deletions):

**Section 7-9**

**TEMPORARY PARKING PROHIBITION FOR SNOW PLOWING AND REMOVAL**

**Subsections:**

**7-9-1 Temporary Parking Prohibition for Snow Plowing and Removal.**

**Subsection 7-9-1 Temporary Parking Prohibition for Snow Plowing and Removal.**

a. Whenever, snow has fallen and the accumulation is such that it covers the streets or highways, an emergency shall exist and no vehicle shall be parked on the streets or highways or portions thereof indicated.

The above parking prohibition shall remain in effect after the snow has ceased until the streets have been plowed sufficiently and to the extent that parking will not interfere with the normal flow of traffic.

b. An unoccupied vehicle parked or standing in violation shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any police officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of the vehicle.

<b>Name of Street</b>	<b>Sides</b>	<b>Location</b>
Academy Street	Both	From Bank Street to Mercer Street
Bank Street Both		From North Main Street to Academy Street
Church Street	Both	From Rogers Avenue to Stockton Street
Clinton Street	Both	From Cole Avenue to Maxwell Avenue

Cole Avenue Both	From Franklin Street to Clinton Street
East Ward Street	Both From Maxwell Avenue to South Main Street
First Avenue Both	From Summit Street to Outcalt Street
Forman Street	Both Entire Length
Harron Avenue	Both From Morrison Avenue to Stockton Street
Joseph Street Both	Second Avenue to Stockton Street
Morrison Avenue	Both From Hausser Avenue to Academy Street
Oak Lane Both	From Stockton Street to Lincoln Avenue
Outcalt Street	Both From Morrison Avenue to Rogers Avenue
Purdy Street Both	Entire Length
Reed Street Both	Mechanic Street to Rev. William L. Powell Drive
Rogers Avenue	Both From Stockton Street to Mercer Street
Second Avenue	Both From Joseph Street to Outcalt Street
South Street Both	From South Main Street to Mercer Street
Summit Street	Both From Stockton Street to Mercer Street
Ward Street Both	From Mercer Street to South Main Street
Westerlea Avenue	Both From Leshin Lane to Grape Run Road
William Street	Both From North Main Street to Cranbury Station Road

Section 2. Severability. If any sentence, paragraph or section of this Ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 4. Repealer. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Ordinance 2016-08 First Reading and Introduction** – A Bond Ordinance Providing for Various Capital Improvements in and by the Borough of Hightstown, in the County of Mercer County, New Jersey, Appropriating \$140,000 Therefor and Authorizing the Issuance of \$75,800 Bonds or Notes of the Borough to Finance Part of the Cost Thereof

Councilmember Kurs moved ordinance 15-08 for introduction, Councilmember Stults seconded.

George Lang, CFO, explained the ordinance and vehicle financing.

Councilmember Bluth inquired as to why the sluice gate for the dam was not included. Mr. Underhill explained that it is not yet ready, there is more research being done as to the cost.

There was discussion regarding vehicle costs and the vehicles being replaced.

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

Ordinance introduced 6-0, public hearing scheduled for March 7, 2016.

ORDINANCE 2016-08

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

**BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL  
IMPROVEMENTS IN AND BY THE BOROUGH OF HIGHTSTOWN, IN  
THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING  
\$140,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF  
\$75,800 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART  
OF THE COST THEREOF.**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HIGHTSTOWN, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of Hightstown, in the County of Mercer, New Jersey (the "Borough") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$140,000, and further including the aggregate sum of \$64,200 as the several down payments for the improvements or purposes, which in fact exceeds the amount required by the Local Bond Law, \$34,200 of which is from the Capital Improvement Fund and \$30,000 of which is from the Capital Surplus Fund. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$75,800 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation &amp; Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds &amp; Notes</u>	<u>Period of Usefulness</u>
a) Acquisition of interceptor utility	\$94,000	\$32,000	5 years

vehicles for the Police Department, including all related costs and expenditures incidental thereto.				
b) Acquisition of E-ticket equipment, dispatch equipment and radio equipment for the Police Department, including all related costs and expenditures incidental thereto.	<u>\$46,000</u>		<u>\$43,800</u>	10 years
<b>TOTAL:</b>	<u>\$140,000</u>		<u>\$75,800</u>	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment for each purpose.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 7.88 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$75,800, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$10,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

(e) Any action taken prior to the date of adoption of this bond ordinance in furtherance of the several improvements or purposes described in Section 3, including but not limited to, expenditures of funds appropriated hereby, are hereby ratified, confirmed and approved.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes or improvements described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purposes or improvements described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the ARule@) for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

## **RESOLUTIONS**

### **Resolution 2016-49 Authorizing the Payment of Bills**

Councilmember Kurs moved resolution 2016-49, Councilmember Stults seconded.

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

Resolution adopted 6-0.



Resolution 2016-49  
*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 \$ 249,792.41 from the following accounts:

Current		\$111,937.31
W/S Operating		96,843.55
General Capital		24,663.80
Water/Sewer Capital		7,680.00
Grant		0.00
Trust		240.00
Housing Trust		5,399.25
Animal Control		0.00
Law Enforcement Trust		0.00
Housing Rehab Loans		0.00
Unemployment Trust		0.00
Escrow		<u>3,028.50</u>
Total		<u><u>\$249,792.41</u></u>

**CONSENT AGENDA**

**Consent Agenda – Resolutions 2016-50, 2015-51, 2016-52, 2016-53 and 2016-54**

Councilmember Kurs moved Resolutions 2016-50, 2015-51, 2016-52, 2016-53 and 2016-54 as the consent agenda; Council President Hansen seconded.

Councilmember Montferrat requested that resolution 2015-54 be removed from the consent agenda and voted on separately.

Councilmember Kurs amended his motion to move the consent agenda without resolution 2016-54, Council President Hansen seconded.

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

Resolutions adopted 6-0.

Resolution 2016-50

*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><b>THIS RESOLUTION</b></i>	<i><b>PREVIOUS TOTAL</b></i>	<i><b>CUMULATIVE TOTAL</b></i>
Current	40,000.00	0.00	<b>40,000.00</b>
Capital Outlay – Current	0.00	0.00	<b>0.00</b>
Debt Service - Current	0.00	0.00	<b>0.00</b>
Water/Sewer	0.00	125,000.00	<b>125,000.00</b>
Capital Outlay – W/S	0.00	0.00	<b>0.00</b>
Debt Service - W/S	0.00	0.00	<b>0.00</b>
<b>TOTAL</b>	<b>40,000.00</b>	125,000.00	<b>165,000.00</b>

**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.

Resolution 2016-51

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

**AUTHORIZING THE ISSUANCE OF AN AUCTION LICENSE - EMPIRE ANTIQUES**

**WHEREAS**, an application for a license to hold an auction on Saturday, March 19, 2016 at 278 Monmouth Street in the Borough of Hightstown has been submitted by Empire Antiques, together with the required fee; and

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

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

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized to issue a license to Empire Antiques for their auction to be held on Saturday, March 19, 2016 at 278 Monmouth Street.

Resolution 2016-52

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

**RESOLUTION MAKING AND CONFIRMING APPOINTMENTS FOR THE BOARD  
OF HEALTH AND ENVIRONMENTAL COMMISSION**

**BE IT RESOLVED** that the following appointments are hereby made and confirmed by the Mayor and Council of the Borough of Hightstown:

**Environmental Commission**

<b>Renato A. DiLorenzo – Alt. #2</b>	<b>2 yrs.</b>	<b>December 31, 2017</b>
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**Board of Health**

<b>Jennifer Bernal – Alt. #2</b>	<b>Ux. 3 yrs.</b>	<b>December 31, 2017</b>
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Resolution 2016-53

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

**AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL2016-01 TO HIGHTSTOWN  
HIGH SCHOOL PARTNERS IN PERFORMING ARTS (PIPA)**

**WHEREAS**, the Hightstown High School Partners in Performing Arts (PIPA) wishes to hold an on-premise 50/50 raffle at 25 Leshin Lane, on March 18, 2016; March 19, 2016 and March 20, 2016; and

**WHEREAS**, the group has submitted application number RA2016-01 for the raffle along with the required fees; and

**WHEREAS**, the Hightstown High Partners in Performing Arts (PIPA) is currently registered with the Legalized Games of Chance Control Commission, holding registration identification number 209-5-37407; and

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

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Raffle License No. RL2016-01 to the Hightstown High School Partners in Performing Arts (PIPA) for their on-premise 50/50 raffle to be held on March 18, 2016; March 19, 2016 and March 20, 2016

**Resolution 2016-54 Authorizing a Shared Services Agreement with Robbinsville Township for Municipal Court Facilities**

Councilmember Montferrat noted that there is an increase in the agreement. Mr. Underhill explained that the rent has increased \$2,000.00 for the year plus a \$333.00 charge for the use of the cells. There was discussion regarding the one year term of the agreement.

Councilmember Bluth requested that the resolution be amended to include the payment of the additional fees in the agreement.

Councilmember Kurs moved resolution 2016-54 as amended, Councilmember Bluth seconded.

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

Resolution adopted as amended 6-0.

Resolution 2016-54

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

**AUTHORIZING A SHARED SERVICES AGREEMENT WITH ROBBINSVILLE  
TOWNSHIP FOR MUNICIPAL COURT FACILITIES**

**WHEREAS**, there is a need for Municipal Court Facilities; and

**WHEREAS**, Hightstown Borough desires to enter into an agreement with Robbinsville Township for Municipal Court Facilities and Robbinsville Township has agreed to provide said services to Hightstown Borough; and

**WHEREAS**, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40:65-1 et seq. authorizes the approval of Shared Services Agreements by Resolution; and

**WHEREAS**, the Mayor and Council have reviewed the proposed Shared Services Agreement for Municipal Court Facilities for a one (1) year period retroactive to January 1, 2016; and

**WHEREAS**, this agreement is contingent upon and subject to the approval of the AOC and the Assignment Judge, and that the agreement shall not become effective until such approval(s) have been received.

**WHEREAS**, the Borough's net cost under this agreement is \$12,000 for 2016 to be paid on January 1st, April 1st, July 1st, and October 1<sup>st</sup>, and such others fees as listed in the agreement; and

**WHEREAS** funds for this expenditure will be made available in the 2016 budget.

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

February 1, 2016

1. The Shared Services Agreement with the Township of Robbinsville for Municipal Court Facilities for a one (1) year period is hereby approved, in accordance with the provisions of N.J.S.A. 40:65-1 et seq.
2. The Mayor and Borough Clerk are hereby authorized and directed to execute the agreement for same.
3. This agreement is approved subject to the provision of adequate funds in the Borough's 2016 budget.
4. This agreement is contingent upon and subject to the approval of the AOC and the Assignment Judge.

## **PUBLIC COMMENT PERIOD II**

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

Lynne Woods, 315 Park Avenue – stated that she does not see the three minute rule for public comment in the newly adopted resolution that amended resolution 2016-13. She was directed to the section that includes the three minute rule.

She then confirmed with the Borough Attorney that the Mayor presides over a meeting and the Attorney serves as the Parliamentarian; she then inquired as to why the Mayor would address a point of order call from the public. The Borough Attorney explained that the Parliamentarian addresses a point of order from Council and the Mayor would have to recognize a point of order from the public before it can be addressed.

Ms. Woods commented that the police have informed the school that Crossing Guards cannot be used on Mercer Street near Riggins. Mayor Quattrone informed her that the Crossing Guard is not an officer and therefore cannot direct traffic, which is what this intersection really is, traffic directing. The school has worked it out that the busses will leave out the back and they are all High School kids and few cross at this location.

Scott Caster, 12 Clover Lane – noted that there was no packet on line this weekend so he could not read it; he wants to be put in a capacity to work with the Administrator regarding getting signs posted on Main Street that bicycles are not permitted on the sidewalks. Mayor Quattrone approved Mr. Caster working with the Administrator to get the signs posted. Mr. Caster thanked Council for the Police Chief ordinance, noting it is well over due.

Jay Dixon, 104 Manlove – inquired why the developer is exempt from affordable housing. The Borough Attorney noted that the developer's obligation will be negotiated in the developer's agreement and has not yet been determined. Then she asked why the Housing Authority has not received their money from the Borough. Council responded that the Borough does not owe the Housing Authority money and they do not know what she is talking about. She then deferred to Mr. LePrevost, Housing Authority Administrator.

Keith LePrevost, 213 Greeley Street – commented that there is public concern with affordable housing; he has opened the wait list at the Housing Authority for the first time in years; he hopes that the Council does not negotiate a zero obligation the developer's agreement; and that Council does not discuss affordable housing enough, they need to come up with a plan for affordable housing. Councilmember Misiura noted that Council is continuously discussing affordable housing and is obligated to come up with a plan, as are all municipalities.

Eugene Sarafin, 628 South Main Street – commented regarding Supreme Court Justice Scalia and how government does not work.

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

## **SUB COMMITTEE REPORTS**

Mayor Quattrone asked if there were any subcommittee updates.

Councilmember Misiura noted that the Re-development committee will have a meeting on Thursday and the draft appraisal should be ready for the meeting.

Mr. Underhill advised that the delivery of the fire truck is scheduled for May or June; it is running ahead of schedule.

## **MAYOR/COUNCIL/ADMINISTRATIVE REPORTS**

### **Councilmember Bluth**

Wished Phyllis Deal the best, she heard she is ill; referenced an article regarding taxes in the Trenton Times and noted that Hightstown Borough has made great strides; budget meeting will be held soon; the Cultural Arts Commission is meeting tomorrow night and is sponsoring the “Empty Bowls” fundraiser for RISE; Parks and Recreation met with the promoters for a Jazz Festival and issued park use permits for the open swim and egg hunt; they are considering other events such as pilates in the park and a walk for diabetes.

### **Councilmember Montferrat**

Congratulated Jennifer Bernal, and noted that the next Board of Health meeting is March 9<sup>th</sup>.

### **Councilmember Misiura**

Advised that the Planning Board has hired a new attorney due to the death of Gary Rosensweig; they are working on another sign ordinance; amendments to the Master Plan need to be enacted; they have received a proposal to demo a building on Franklin Street and a sub-committee has been appointed to guide the inquiry; the Fire Department is anxious for the redevelopment project and a new firehouse.

### **Councilmember Stults**

Noted that Downtown Hightstown had a meeting last week and will be sending out an appeal letter; the flyers for flower donations will be going out soon; they are working with other groups for fundraising; their facebook page will share information regarding events in the Borough; they are contacting businesses during the day; Downtown Hightstown is looking for grants, needs members and ideas. He advised that he will advise the Construction/Zoning office about the new ordinance; the strip mall parking lot on Franklin Street has automobiles with for sale signs on them and it is being investigated.

### **Councilmember Kurs**

Advised that George Colon from the Board of Education passed away; noted that the public accuses Council of not doing due diligence, but we do our research before the meeting so we are prepared; and the comments are unreasonable from the public, especially from those who have served on Council.

### **Council President Hansen**

Noted that the Council is making a lot of important decisions and they do not always have the same point of view, but they want to do what is best for the Borough; she did an information talk at the Women’s Club regarding the redevelopment plan and it went well; the question regarding affordable housing has been placed with the courts and we are working hard to develop the plan and negotiations on the redevelopment agreement are also confidential, and while these are big items, we are working hard; we are spending a lot of money on our professionals, but they are needed because this will have a lot of impact on Hightstown She apologized for not being able to answer the affordable housing questions regarding the development of the rug mill property.

### **Administrator Underhill**

Advised that some towns have hand-outs in their construction and zoning offices, he will speak to the office about developing the hand-outs; a water/sewer meeting was held last week with the new consultant and he will be visiting

the AWWTP next week to perform an evaluation; the plans for the UV have been sent to Biff and then they can go to DEP so we can bid the project; the Clerk send out an RFP to the engineering pool for the settling tanks and East Ward Street. The State will be paying for the design Engineer for the Joseph/Stockton Street project.

**Mayor Quattrone**

Advised that he attended the Mayor's meeting at the State House and a legislative meeting with Senate President Sweeney. He spoke to other Mayors about many matters; commended the Council for their great work; welcomed Scott aboard regarding assisting with the bicycle signs; he will be attending the Housing Authority meeting tomorrow night to swear in Yolanda Sweeney; Councilmember Bluth will swear in the members of the Parks & Recreation Commission if he cannot make it; DPW did a great job with the snow removal; he asked Council to let him know if they are attending the Shining Star Gala so he can make sure they all sit together. He noted that this year Larry Blake and the Garden Club are honorees; it will be a nice evening.

**ADJOURNMENT**

Council President Hansen moved to adjourn back into executive at 9:50 p.m. Councilmember Stults seconded. All ayes.

Council reconvened into open session at 10:10 p.m. and Councilmember Montferrat moved to adjourn, Councilmember Misiura seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC  
Borough Clerk