

December 1, 2010
Hawthorne, NJ

The Regular Meeting of the Municipal Council of the Borough of Hawthorne was held on the above date at 8:06 p.m., in the Council Meeting Room of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey. Present were Councilpersons Bennett, Council-elect Lane, Matthews, Mele, Sinning, Wojtecki, and Bertollo. Also present were Mayor Goldberg, Borough Administrator Maurer, Borough Attorney Pasquale, Director of Revenue and Finance Hewitt, Borough Engineer Boswell, and Borough Clerk Witkowski.

FLAG SALUTE

Council President Bertollo invited all present to join him in the flag salute.

STATEMENT

Council President Bertollo stated adequate notice of this meeting had been provided by the Annual Schedule of regular meetings heretofore adopted and posted on the Public Bulletin Board at the Municipal Building, faxed to the Hawthorne Press, Herald News, The Record, The Gazette, and all persons who have requested the mailing of such schedule, and a copy of said schedule has remained on file in the office of the Borough Clerk from and since December 16, 2009.

ADMINISTERING OATH OF OFFICE:

Mayor Goldberg Administered the Oath of Office to Councilman John V. Lane.

APPROVAL OF MINUTES

Council President Bertollo entertained a motion to approve the minutes of the Regular Meeting of November 15, 2010, and the Closed Session of November 15, 2010, moved by Councilman Mele, seconded by Councilman Wojtecki. On roll call, all said yes.

PUBLIC COMMENT

Council President Bertollo opened the meeting to the public. He stated if anyone desired to be heard, please raise your hand to be recognized, come forward to the microphone and state your name and address. He stipulated this was for agenda items only.

Seeing no one, Council President Bertollo entertained a motion to close the public portion, moved by Councilman Wojtecki, seconded by Councilman Sinning. On roll call, all voted yes.

ADOPTION OF ORDINANCES

There were no ordinances adopted.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

There was no other new business to discuss.

ADMINISTRATIVE AGENDA PRESENTED BY THE MAYOR

Mayor Goldberg started by commenting on the number of officers in the room here in support of those officers being promoted and of his selections for the promotions. He congratulated the three being promoted and also all those he interviewed, 13 total, all of whom were very qualified. He stated that he believes the future of the Police Dept. is bright with such a talented group of people and that everyone's time will come for a promotion. He continued with the announcement of the Chamber of Commerce's Annual Santa Parade being held this Friday at 6pm, the route going from Lafayette Ave starting at Goffle straight to the Municipal Building. At the conclusion of the parade, the Borough will light the Borough Christmas Tree, and there will be refreshments and activities in the rear parking lot and an appearance by Santa as well. He also reminded us that with the start of the holiday season we all need to be safe and not overloading circuits or using frayed extension cords.

Mayor Goldberg continued with the Appointment of Ernest Carbone, as Captain of the Hawthorne Police Department, effective December 1, 2010. Oath of Office administered to Captain Carbone by Richard S. Goldberg, Mayor.

Appointment of John Carbone, as Lieutenant of the Hawthorne Police Department, effective December 1, 2010. Oath of Office administered to Lieutenant Carbone by Richard S. Goldberg, Mayor.

Appointment of Robert Finstra, as Sergeant of the Hawthorne Police Department, effective December 1, 2010. Oath of Office administered to Sergeant Finstra by Richard S. Goldberg, Mayor

Mayor Goldberg called upon Director of Revenue and Finance Hewitt for her report.

Council President Bertollo suspended the meeting at 8:23pm for anyone in the audience to exit at this time. The meeting resumed at 8:29.

Director of Revenue and Finance Hewitt reported on the following:

The entire focus in the Finance Dept. is getting everything ready for year end closing. The Annual Debt Statement is due by January 31, 2011 which means the current water and both capital funds need to be closed out. In addition they will roll the budget with their principal focus on delinquent tax notices which impact all taxpayers in Hawthorne affecting our surplus and our budget.

This concludes Director of Revenue and Finance Hewitt's report.

Mayor Goldberg called upon Borough Attorney Pasquale for his report.

Borough Attorney Pasquale reported on the following:

He will be appearing tomorrow at 2pm before Judge Brogan in Passaic County to respond to the Order Show Cause filed by Smentkowski in regards to our garbage bids. He reiterated the seriousness of this matter due to the huge difference to the taxpayers of Hawthorne. The lowest bid submitted for garbage removal was submitted by Future Sanitation, the next lowest bid submitted by Smentkowski was \$650,000 more than Future's bid. Smentkowski is objecting to Future's paperwork as being non-compliant. We are hoping that the judge will agree with us that Future is the correct low bidder.

Enterprise Outdoor Signs: Judge Schipp of the Federal Court is giving us a briefing schedule for submitting depository briefs which look for the grant of summary judgment, both sides to submit their briefs by the beginning of February.

There was a long meeting on the Norma Terrace project which included Borough Attorney Pasquale, the homeowner, adjacent neighbor, Mike Kelly of Boswell Engineering, and John Pallotta. He concluded that they have a better understanding what the property owners are looking for from the developer, work the developer still needs to do and that the homeowner will be protected.

Borough Attorney Pasquale reported that Mr. Russo and son have taken over the project on Mountain Ave. where a significant amount of excavation has been done which appeared to be beyond the scope of his soil movement permit which also required retaining walls for which he did not have a design. It was agreed upon that his Engineer Bruce Rigg would meet with our Engineer, Mike Kelly to quickly work together on a retaining wall design. We are not allowing the wall to be designed by the property owner.

Congratulations to the three police officers on their outstanding promotions.

This concluded Borough Attorney Pasquale's report.

Mayor Goldberg called upon Borough Engineer Boswell for his report.

Engineer Boswell reported on the following:

Oil/Water Separator - Underwater separator plans & specs will be presented at the next meeting along with authorization to go out to bid. Plans & specs will be given to Bruce for his review beforehand.

Leaf Compost Facility Permit – recycling permit already filed and the soil & erosion application is going in this week.

UST Groundwater Monitoring – Mayor tonight signed certification for the Borough, there are two copies of the report which will state to the DEP “No Further Action is Required”; awaiting additional information from the contractor then reports can be submitted, this should be done in the next few days.

Goffle Brook Bank Stabilization – trying to separate the two bridges from the landscaping project so we can move, as per the Permit Expeditor in the County, the estimated permit time is 45-60 days from today.

Veterans Field – the field has been completed, Kevin Downes did an outstanding job, we’ll have to show Arcadis where the monitoring well is and everyone please stay off the field until May.

2010 Road Improvement Program – Lynack has been resurfaced and only three items remain on the punch list and are being addressed – glue down the domes on the handicap ramps, driveway repair on Division, and the curbs on Cornell. All items will be done by next meeting.

Goffle Hill Force Main – completed but one punch list item – reset of one water valve. Done by next meeting.

Brockhuizen Lane – waiting for a custom guide rail, texture to the bottom of the road will be done on Friday, and the last pole still on the road awaiting Verizon to move their service over.

Christian Health Care Center – scheduled for special meeting with Wyckoff Zoning Board on Dec. 13, 7:30pm at St. Nicholas on Grandview.

Drainage Improvement Project – Stacey Contracting notified us that they can not start until February 7th, original start date was December 1st. A letter was sent stating this was unacceptable, they have agreed to come in next week and start some of the test pits. Stacey Contracting has been informed that liquidated damages which are provided for in the contract, will be severely enforced with no exception if the completion date is not met. A price of \$9,000 was provided by same contractor for additional drainage work at Rea & 3rd in front of church, quote seemed high so will obtain a price from a second contractor for comparison.

Ridgewood Water Proposal – is investigating constructing an elevated tank at the Christian Health Care Center, they do not want to use our water at this point.

Signs on Lafayette Avenue – Paving Contractor Joe Smith indicated that some of the signs have to stay up while work on the handicap ramps is still being done. Councilman Wojtecki inquired about the macadam up on the sidewalk in front of Atlantic Stewardship and new paving area done at Goffle & Lafayette. Engineer Boswell indicated they will follow-up with the paving contractor to clean-up these areas.

Cornell Curb – mentioned above

Goffle Road Sidewalk Proposal – ready to move on this.

5th Avenue Sewer – Two breaks and the under drain have all been replaced at the suggestion of Joe Clementi; got 56 feet of pipe for the cost of 32 feet.

Mountain Ave - two upper homes (Kennerson & Keivet) have been taken off the private sewer line and are now tied into the Borough sewer system. The line from Russo home down to Rea Ave. has been tested and there are no problems. The break between Russo and his neighbor will be repaired in the next few days. Goal is to tie these four homes into Borough sewer line and off private line that goes down to Goffle Road. The lower two homes will need ejectors. One homeowner opposes an ejector in their home. There are issues with a small section of the private line which is currently being researched and will be resolved by next meeting. Councilman Wojtecki inquired as to why we are doing work to a private line. Engineer Boswell explained that it was an emergency public health issue that needed to be repaired and there are clearly legal issues as to who is responsible and it is currently being researched.

Councilman Lane commented to Engineer Boswell that there is a grinder pump that can be installed outside of the home. Engineer Boswell stated he would recommend that for any residential home, a holding tank be installed as backup.

That concludes Engineer Boswell's report.

Mayor Goldberg called on Borough Administrator Maurer for his report.

Administrator Maurer reported on the following:

Administrator Maurer reported that he and Director of Revenue and Finance Hewitt conducted Budget hearings with all departments last Monday & Tuesday. He is proceeding with the preparations of the 2011 budget and is working with the Finance Committee on putting it together.

The County approved our request to use our existing Open Space Grant for the drainage improvements at Veterans Field, we added that Resolutions accepting those changes to the agenda in addition to a Change Order.

Residential and non-residential parking stickers will be on sale beginning next week, for evening hours please visit the Borough website at www.hawthornenj.org.

Leaf collection is proceeding, the schedule can be found on the Borough website at www.hawthornenj.org with the exception of the pickup at Hawthorne at Highview which will be done the week of the 13th for rake to the curb leaf pickup.

The County has accepted the bids for shared electricity purchase and awarded the master contract on 11/23 to Hess Energy. The Borough savings are estimated to be about \$90K

per year, most in the water utility where we have the greatest costs. We will receive an analysis report of which will be brought to the Dec 15 meeting. Savings is about 17% of generation costs and the County will now look at natural gas.

Direct Install Program application has been mailed to PSE&G for lighting upgrade at the Municipal Building. 80% of the \$17,000 cost will be paid by the Direct Install Program and the remaining \$3,400 will be made by 12 monthly installments on our PSE&G bill. Not 100% approved by PSE&G as yet, but approval highly likely.

Rayna Laiosa Environmental Commission Chair has been advised we will receive 50 pts on our sustainable Jersey application due to the audit and the Direct Install Program.

That concludes Administrator Maurer's report.

Councilman Wojtecki inquired about the status of the leaf pickup schedule. One working crew not meeting our expectations, and received phone call from Parmelee resident. Administrator Maurer indicated we are behind on leaf pickup due to the short week and the rain, he will discuss the crew's performance with the Director, and follow-up on Parmelee resident issue.

Council President Bertollo asked Council if there were any other questions.

Councilman Lane asked Borough Engineer Boswell for an update to the repair of the sidewalks on Goffle Road. Mayor Goldberg interjected that it was discussed tonight with the Public Works Committee meeting, they will walk the area and report their feedback as to whether the project should be done in one phase or several phases. Councilman Lane expressed concern to the improvements that need to be done to the inside fenced area at Congress Textiles property. Mayor Goldberg stated the Engineers report will address this concern and what needs to be done when and how. Councilman Lane asked for an update on the design of the new truck wash building at the Public Works yard. Engineer Boswell responded that the final plan & spec proposal is being presented to Joe Clementi and then that proposal will be presented to the Council. Councilman Lane commented that he feels the size of the building should be large enough to park vehicles inside during inclement weather. Mayor Goldberg agreed with parking of the vehicles is a concern and that they will be looking into it.

Councilman Bennett asked Engineer Boswell to explain worst-case scenario if the ejectors were not installed in the two homes on Mountain Ave. Engineer Boswell responded that you only have to install the ejectors if you take these two lines off of the private line because now the flow would have to go uphill to the Borough sewer line. The Borough continues to investigate and research the issue and all parties involved.

Council President Bertollo asked Engineer Boswell the cost of the ejectors. Engineer Boswell responded approximately \$10,000 per home which would include the pump, tank, electricity, plumbing and labor. Council President Bertollo also asked if this would be classified as an assessment to the homeowner. Attorney Pasquale commented no because it is a private improvement.

Council President Bertollo asked Engineer Boswell to give residents on Division Ave a 24-hour notice to move vehicles from driveway when they get the driveway apron repair. Engineer Boswell agreed. Council President Bertollo stated that he publicly wanted to thank Mike Kelly of Boswell Engineering for his professional and representation of the Boswell firm and Borough during a very difficult situation. Engineer Boswell thanked Council President Bertollo and indicated he would pass on the compliment to Mike Kelly.

Councilman Sinning asked if Public Service has completed their work on Watchung. President Bertollo commented that he met with Steve Edmond, County Engineer, and has requested a timetable of their projects. Councilman Lane asked Borough Administrator Maurer to take note that PSE&G has left pipes and barricades on Watchung Drive and Ivan.

Council President Bertollo entertained a motion to record the Administrative Agenda, moved by Councilman Vice President Matthews, seconded by Councilman Bennett. On roll call, all voted yes.

INTRODUCTION OF ORDINANCES

There were no ordinances to be introduced.

CONSENT AGENDA: R211-10 through R214-10, R216-10, and R217-10:

R211-10 Resolution, Introduced by Council Vice President Matthews

Resolved: To ratify the actions of the Municipal Council of the Borough of Hawthorne

CURRENT FUND	WT 888889	\$	235,758.19	payroll dated Novem ber 19, 2010.
WATER OPERATING FUND	WT 888889	\$	37,307.36	
OTHER TRUST II FUND	WT 888889	\$	21,953.70	
ORDINANCE TOTAL	WT 888889	\$	150.00	
TOTAL PAYROLL			<u>\$ 295,169.25</u>	
OTHER TRUST II FUND TO PAYROLL/FICA	WT 888889	\$	5,220.50	
WATER OPERATING FUND TO PAYROLL/FICA	WT888889	\$	7,998.73	
TOTAL FICA			<u>\$ 13,219.23</u>	

R212-10 Resolution, Introduced by Council Vice President Matthews

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION AND MUNICIPALITY OF HAWTHORNE.

WHEREAS, the State of New Jersey intends to construct Route 208, Bridge over CR 665 (Lafayette Ave.), Hawthorne Borough, Passaic County, Use of Municipal Police Officers as Traffic Directors, within the Municipality of Hawthorne; and

WHEREAS, the project proposed by the State of New Jersey Department of Transportation may require the limited use of municipal police as Traffic Directors for work zone safety operations supplementing the traffic control plan established under the contract for construction of the project; and

WHEREAS, the State of New Jersey of Transportation has requested that the Municipality of Hawthorne enter into a Police Agreement for use of Municipality officers as Traffic Directors,

NOW, THEREFORE, BE IT RESOLVED by the Municipality Committee of the Municipality of Hawthorne, in the County of Passaic in the State of New Jersey, that the appropriate municipal official, Richard Goldberg, Mayor, is hereby authorized to execute an agreement between the State of New Jersey Department of Transportation and the Municipality of Hawthorne to provide Police Officers as Traffic Directors.

The costs incurred by the Municipality of Hawthorne for use of its officers in connection with the State construction project shall be paid directly to the Municipality of Hawthorne by the State of New Jersey Department of Transportation pursuant to the agreement attached hereto.

R213-10 Resolution, Introduced by Council Vice President Matthews

WHEREAS, checks drawn against the Bail Account – Municipal Court of the Borough of Hawthorne having an issuance date of at least six months which have not been presented for payment prior to this time are no longer honored by TD Bank and must be cancelled as per the New Jersey requirements of audit.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal court of the Borough of Hawthorne that the following checks which have an issuance date of greater than six months be cancelled and voided and that such funds be returned to the Current Fund as appropriate:

CHECK#	AMOUNT
50728883-5	\$2,522.43

R214-10 Resolution, Introduced by Council Vice President Matthews

WHEREAS, checks drawn against the Magistrates Account-Municipal Court of the Borough of Hawthorne having an issuance date of at least six months which have not been presented for payment prior to this time are no longer honored by TD Bank and must be cancelled as per the New Jersey requirements of audit.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Court of the Borough of Hawthorne that the following checks which have an issuance date of greater than six months be cancelled and voided and that such funds be returned to the Current Fund as appropriate:

CHECK#	AMOUNT
50728884-6	\$170.75

R216-10 Resolution, Introduced by Council Vice President Matthews

WHEREAS, the Borough of Hawthorne has previously awarded a contract to Downes Tree Service for improvements to Veterans Field pursuant to Ordinance 1959-08 in total sum of \$211,733.80; and

WHEREAS, the said contractor has submitted to the Borough Change Order Number One, resulting in an increase in the contract value by \$16,845 and Change Order Number Three, resulting in a decrease in the contract value by \$3,445.25; and

WHEREAS, the contractor has now submitted Change Order Number Three in the amount of \$38,800, which would result in a net increase in the contract of \$52,199.75 or 24.7% in excess of the original contract; and

WHEREAS, the 24.7% increase is in excess of the limitation imposed for such change orders in accordance with NJAC 5:30-11.9; and

WHEREAS, the Engineer has reviewed a submission of the contractor explaining the nature of the extra work involved and has issued a report, dated October 29, 2010, confirming the basis for the change order; and

WHEREAS, based upon the information provided by the contractor and the Borough Engineer, the Municipal Council is able to reach the following conclusions:

1. The original contract entailed the construction of a soccer field at the Kohler facility, the same to be referred to as Veteran's Field. The contract included all grading, drainage improvements, driveway and parking lot improvements, plumbing and electrical installation, where indicated, and seeding of the field for use as a soccer field. All work was completed in a satisfactory manner and the field was made ready for play.
2. Prior to use by sports teams, it became evident that significant damage was being done to the grass on the field and about the same to a previously undetected water condition. Downes made various efforts to repair the same, at its own cost and expense, despite the fact that the condition was not something readily apparent or known during the construction process or revealed in the bid specifications.
3. After all other effort failed to result in proper drainage of the field, rendering the field unplayable in certain conditions, the Borough Engineer recommended more significant drainage improvement measures including the installation of a below-ground drainage system with perforated pipe and stone beneath the surface of the field and a swale between the parking lot and the playing field. The work determined as necessary by the Engineer was based upon its own field examination and consultation with experts retained by the contractor to assist in finding a solution to the problem.
4. It is clear from the record and from the report of the Engineer that the additional work now required was not known and could not have been known at the time of contract. The contractor has gone above and beyond his obligation to remedy the latent situation and has concurred with the Engineer and its own expert that this is the best solution for the problem as now known.
5. It would be impractical and inefficient to retain a different contractor to perform the additional work in question. The current contractor is extremely familiar with the project and has, as noted, already gone far beyond its contractual obligation to see this matter through to conclusion. The contractor is prepared to undertake this work immediately, while weather still permits the same, and has even offered, at its own cost and expense, to put down sod so as to avoid loss of the field for the spring season. If a different contractor was to be hired or the matter submitted for bid, there is no doubt that a year's use of the field will be lost and the benefit of the gift of sod to prevent field loss would be lost to the residents of the Borough. In addition, to have more than one contractor working at the site on the same project would result in confusion and an inability to assess potential future liability should the work not be performed properly.
6. Finally, the Engineer is completely satisfied that the quoted price of Downes is more than favorable to the Borough. The Engineer has estimated that the cost of the work to be more than that quoted by the contractor. Again, there are favorable

terms to the extent that extra work is being donated to the Borough. In addition, the amount of deviation, 24.7% versus 20%, is relatively nominal. For these reasons, the Engineer strongly recommends the approval of the change order.

WHEREAS, the Municipal Council is satisfied that there is ample factual circumstances supporting the propriety of the change order, including the reason why the work was unforeseen when the contract was first awarded; and

WHEREAS, the Municipal Council is also satisfied that the approval of the change order is not only in the best interest of the Borough of Hawthorne but also in no way an abuse of the rules established governing such matters;

NOW THEREFORE, BE IT RESOLVED that the Municipal Council of the Borough of Hawthorne does approve of Change Order No. 3, in the sum of \$38,800, for the reasons set forth herein and in the supporting documents referenced herein.

R217-10 Resolution, Introduced by Council Vice President Matthews

RESOLUTION ACCEPTING REVISION TO AN OPEN SPACE GRANT FROM THE COUNTY OF PASSAIC FOR VETERANS FIELD

WHEREAS, the Borough of Hawthorne previously accepted an Open Space Grant in the amount of \$138,00 from the County of Passaic for installation of lights at Veteran's Field; and

WHEREAS, the cost of the lighting was far less than the grant award; and

WHEREAS, the Borough Administration made a request to the County of Passaic for permission to use up to \$50,000 of the balance of the grant for drainage improvements on Veteran's Field; and

WHEREAS, via resolution at its meeting of November 23, 2010, the Passaic County Board of Chosen Freeholder authorized a letter agreement approving the use of grant funds for the drainage improvements;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Hawthorne, that the Borough Administration are hereby authorized to execute the attached letter agreement permitting the use of existing grant funds for drainage improvement at Veteran's Field.

Council President Bertollo entertained a motion to approve Resolutions R211-10 through R214-10, R216-10 and R217-10 moved by Councilman Vice President Matthews, seconded by Councilman Mele. Council President Bertollo asked if there were any questions. There were no questions on roll call, all voted yes, Council President Bertollo abstained from R216-10.

OFF-CONSENT AGENDA: R208-10, R215-10:

R 208-10 Resolution, Introduced by Councilman Wojtecki

WHEREAS, various appropriations in the 2010 Municipal Budget may be over-expended and others under-expended.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne that the Treasurer be and is hereby authorized to make the following transfers:

<u>TO</u>	<u>FROM</u>	<u>AMOUNT</u>
Local Code O/E	Municipal Insurance	\$ 500.00
Vehicle Maintenance-Fire	Municipal Insurance	\$10,000.00
DPW Administration	Municipal Insurance	\$ 3,000.00

R 215-10 Resolution, Introduced by Councilman Wojtecki

WHEREAS, the Borough of Hawthorne maintains a sanitary sewer system serving properties located in the Borough of Hawthorne; and

WHEREAS, the Borough detected a collapsed sewer main in or about the area of Fifth Avenue requiring immediate repair; and

WHEREAS, the Borough solicited quotations for the work from reputable contractors capable of performing that work with the lowest quotation being submitted by Colonelli Brothers, Inc., a firm well-known to the Borough as capable of performing such repair; and

WHEREAS, the amount of the quotation was less than the bid threshold set forth in the Local Public Contracts Law and was also less than the \$17,500 threshold set forth in the Pay to Play Law, thereby exempting award from either body of laws; and

WHEREAS, after retaining Colonelli Brothers to perform the work in question, the same was undertaken and completed at a price consistent with the quotation; and

WHEREAS, immediately upon completion of the work, when the repaired line could be properly examined with video equipment, another more serious problem was found in the vicinity of the repair requiring the immediate replacement of approximately 50 feet of additional pipe, together with other related work; and

WHEREAS, at the same time the damage was detected, the County of Passaic reported that it had detected a discharge of effluent into the Goffle Brook, which it traced to the same location that Hawthorne had detected the sewer main break; and

WHEREAS, the detection of the additional break in the sewer main and determination that a discharge of effluent was emanating there from constitutes an emergency condition and a threat to public health, safety and welfare requiring emergency repair; and

WHEREAS, as a result of the emergency condition, the Borough, in consultation with its Engineer and Public Works Director, determined that Colonelli Brothers was mobilized on the site, was capable of making the required repair and that there was no time to obtain additional quotes; and

WHEREAS, the Borough further determined that the quotation it received from Colonelli Brothers for performing this additional emergency work was fair and reasonable under the circumstances and was unquestionably lower than any quotation it would receive from any other contractor, given the fact that Colonelli was already mobilized on the site;

WHEREAS, the estimate for the work as determined by the Engineer and as quoted by Colonelli Brothers, is marginally in excess of \$37,500, bringing the expenditure beyond the amount that may be expended without formal bidding in accordance with the Local Public Contracts Law; and

WHEREAS, the nature of the emergency, consistency of the quotation received from the contractor with the estimate received from the Engineer, reputation and expertise of Colonelli Brothers and fact that Colonelli Brothers was already mobilized on site resulted in a recommendation from the Municipal Engineer that the work be undertaken by Colonelli Brothers without delay; and

WHEREAS, the Borough Attorney has rendered an opinion to the Borough that given the significant risk posed to person and property, the experience and expertise of the contractor, the reasonableness of its cost estimate and the fact that the contractor was mobilized and ready to proceed immediately, the Borough may enter into an agreement with Colonelli Brothers for the making of emergency repairs as the same would represent an exception to the Local Public Contracts Law; and

WHEREAS, the Administration, based upon the opinion of the Borough Attorney, has concluded that the award of a purchase order to the vendor would not be subject to the Local Public Contracts Law as being specifically exempt there from pursuant to NJSA 40A:11; and

WHEREAS, the Chief Financial Officer has determined that funds sufficient to pay for the required improvement are available through the Capital Improvement Fund of the Borough of Hawthorne as a Temporary Capital Emergency;

NOW THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne that it does agree that an emergency situation does exist and does therefore authorize the emergency award of purchase order or contract to Colonelli Brothers, Inc., based upon the quotation submitted, in accordance with NJSA 40A:11-6, subject to

certification that funds for such purchase order exists by way of Temporary Capital Emergency.

Council President Bertollo entertained a motion to approve Resolution R208-10 and R215-10 moved by Councilman Wojtecki, seconded by Councilman Sinning. Council President Bertollo asked if there were any questions. There were no questions on roll call, all voted yes.

REPORTS OF SPECIAL COUNCIL COMMITTEES

Councilman Bennett

Reported that the Public Works Committee met tonight and most issues were reviewed again here tonight. Public Works will be meeting with Steve Edmonds, County Engineer, to clarify status of roads are up to par, vehicle issues will be reviewed, sewer line problems as discussed, vehicle maintenance contracts for Borough vehicles will go out to bid soon for the new year.

Councilman Lane

Thanked Board of Ed for allowing the two high school students to participate in the audio visual cable program who were trained by Clerk Witkowski. One of them is here tonight and is doing a great job. Councilman Lane reported that the Economic Development Committee met last week and has put together a spreadsheet showing timelines of how long each process will take place. They will meet soon with Administrator Maurer who is the point person between County and State. Pushing for summer meeting once meetings with all individual groups in the community are completed.

Councilman Mele

Attended NJ Transit Village meeting in Atlantic City. Eagle Scout project cleaned up 8-Acre woods again and did a great job. He attended Zoning Board meeting for Patriot project and main concern is density of trees and run-off. At the Municipal Alliance we were notified the County is cutting us 10% from budget. Mayor Goldberg and Joanne Graziano will be speaking with them. Hawthorne High School students enjoyed the Wyckoff Rotary Club Peer-Leader meeting where they were able to meet with many other schools. Mayor Goldberg is hosting a Lunch & Learn Session on Dec. 22 at the Hawthorne Library with the Municipal Alliances and the Passaic County Underage Drinking Coalition in regards to the passing of the new law on energy drinks. Project Pride is on hold while awaiting an Architect.

Council Vice President Matthews

Clarified Santa Parade this Friday starts at 6:30. Finance Committee discussed 2011 salary ordinances and certain positions have contractual obligations for increases, discussions continue on next years budget and its challenges. Planning Board had no applicants at last meeting but there are a few on the agenda for Tuesday including one here in the audience tonight.

Councilman Sinning

Concerns of the Economic Development Committee regarding the sign ordinances have been rectified and some additional concerns have been added to include LED signs, sizing of real estate signs for commercial vs. residential properties, Attorney Pasquale will have all prepared for meeting in January.

Councilman Wojtecki

Shade Tree Commission meeting next Tuesday Dec. 7th at 7:30pm. He attended the convention in Atlantic City and it was a great success, classes attended were excellent, all in attendance will receive insurance credits. The convention cost was paid for by personal funds and only registration was paid for by the Borough.

CORRESPONDENCE

- C -1 Correspondence was received from the Board of Fire Commissioners for the resignation of Firefighter George Allen III, Rescue Five, effective October 1, 2010.
- C-2 Approve application received from the Board of Fire Commissioners for membership to Rescue Five, Jason A. Rees, 64 Mountain Avenue. Council approval is required on the application for the New Jersey State Fireman’s Association.

Council President Bertollo entertained a motion to approve the correspondence, moved by Council Vice President Matthews seconded by Councilman Bennett. On roll call, all voted yes, Councilman Lane and Councilman Wojtecki abstained.

MISCELLANEOUS

None recorded.

BILLS

VENDOR	CHECK#	TOTAL	DESCRIPTION
CURRENT FUND			
A T & T	10934	45.14	TELEPHONE CHARGES
A-VAN ELECTRICAL	10935	20.52	PUB WORKS ADMIN O/E
AAA EMERGENCY SUPPLY CO INC	10936	1,237.00	VARIOUS
AERIAL LIFT, INC	10937	122.12	SHADE TREE COMMISSION O/E
AFFLITTO,RAIMONDI & AFFLITTO	10938	818.75	LEGAL SERV& COSTS O/E
ALAN RIBBE	10939	179.00	FIRE DEPT O/E
ALBERTA J COMERRO	10940	180.00	GROUP INSURANCE O/E
ANDREW METZLER	10941	153.00	AMBULANCE CORPS O/E
ANTHONY DE SALVO	10942	179.00	FIRE DEPT O/E
BRIAN TRICOLI	10943	153.00	AMBULANCE CORPS O/E
CAITLIN SMITH	10944	25.00	PUBLIC EVENTS O/E

CARLY TEN KATE	10945	25.00	PUBLIC EVENTS O/E
CDM	10946	9,045.00	BPU CLEAN ENERGY
CHRISTOPHER CONNOLLY	10947	153.00	AMBULANCE CORPS O/E
COACHMAN INT'L TOURS INC	10948	1,375.00	VARIOUS
DANIEL VANDERHOOK	10949	153.00	AMBULANCE CORPS O/E
DAVID HILDEBRAND	10950	153.00	AMBULANCE CORPS O/E
DAVID LEMBO	10951	153.00	AMBULANCE CORPS O/E
DAVID SYLVESTER	10952	153.00	AMBULANCE CORPS O/E
DOUGLAS MORGAN	10953	70.00	GROUP INSURANCE O/E
DOWNES TREE SERVICE, INC.	10954	963.00	VEHICLE MAINT ROAD
DUPONT SUSTAINABLE SOLUTIONS	10955	1,002.41	PEOSHA O/E
EDWARD WARR	10956	179.00	FIRE DEPT O/E
FED EX	10957	46.55	STREETS & ROADS O/E
FRANCESCA BIGICA	10958	25.00	PUBLIC EVENTS O/E
GEMPLERS INC	10959	296.60	STREETS & ROADS O/E
GEORGE LODDER	10960	153.00	AMBULANCE CORPS O/E
GIANT TIRE SERVICE INC	10961	108.50	RECYCLING PRO
HAWTHORNE AUTO LAB	10962	825.24	VEHICLE MAINT POLICE
HAWTHORNE B.O.E.	10963	2,620,542.00	SCHOOL TAX
HAWTHORNE PRESS INC	10964	41.00	MUNI COURT
HAYLEY ENCARNACION	10965	195.00	MUNI COURT
HENRY JOUSTRA	10966	179.00	FIRE DEPT O/E
HHSPGC	10967	350.00	MUNICIPAL ALLIANCE
JAMES BARKER	10968	179.00	FIRE DEPT O/E
JASON CRAWFORD	10969	153.00	AMBULANCE CORPS O/E
JERSEY ELEVATOR INC	10970	145.00	PUB WORKS ADMIN O/E
JESSICA LUQUE	10971	153.00	AMBULANCE CORPS O/E
JILL MINIACI	10972	153.00	AMBULANCE CORPS O/E
JOHN DE BELL	10973	179.00	FIRE DEPT O/E
JOHN P FANNIN	10974	179.00	FIRE DEPT O/E
JOHN WARNET	10975	179.00	FIRE DEPT O/E
JONI GONZALEZ	10976	153.00	AMBULANCE CORPS O/E
JOSEPH MASCARI	10977	179.00	FIRE DEPT O/E
JOSHUA MARCUS GROUP	10978	1,340.44	FIRE DEPT O/E
KEN HOUTSMA	10979	153.00	AMBULANCE CORPS O/E
LEONARD METZLER	10980	153.00	AMBULANCE CORPS O/E
LINDA SABOW	10981	95.00	GROUP INSURANCE O/E
LISA SLOOTMAKER	10982	222.00	GROUP INSURANCE O/E
MARGO LANE	10983	153.00	AMBULANCE CORPS O/E
METLIFE	10984	324.84	GROUP INSURANCE O/E
MONSEN ENGINEERING CO	10985	789.00	PUB WORKS ADMIN O/E
MORGAN HESSE	10986	153.00	AMBULANCE CORPS O/E
MOTOROLA	10987	250.38	FIRE DEPT O/E

MUNICIPAL EXCESS LIABILITY JIF	10988	28,075.74	MUNICIPAL INSURANCE O/E
NICK MILLER	10989	25.00	PUBLIC EVENTS O/E
NIZAR MESHANNI	10990	153.00	AMBULANCE CORPS O/E
NO JERSEY MUNI EMPL BNFT FUND	10991	163,326.98	GROUP INSURANCE O/E
NORTH JERSEY MEDIA GROUP INC	10992	490.00	STREETS & ROADS O/E
PAMELA GRANGER	10993	153.00	AMBULANCE CORPS O/E
PATRICIA ALBERTA	10994	153.00	AMBULANCE CORPS O/E
PAUL CASTELLVI	10995	153.00	AMBULANCE CORPS O/E
PHILIP SAVOIE	10996	121.80	SHADE TREE COMMISSION O/E
PROCOPY INC	10997	147.93	VARIOUS
PUBLIC SERV ELEC & GAS	10998	50.46	ELECTRIC CHARGES
RIDGEWOOD PRESS	10999	976.00	VARIOUS
ROBERT BOMMELYN	11000	179.00	FIRE DEPT O/E
ROBERT EMORY	11001	179.00	FIRE DEPT O/E
ROBERT VAN DUESEN	11002	153.00	AMBULANCE CORPS O/E
RYAN BURKE	11003	153.00	AMBULANCE CORPS O/E
SAMANTHA BIGICA	11004	25.00	PUBLIC EVENTS O/E
STATE WIDE STRIPING CORP	11005	7,172.20	STREETS & ROADS O/E
SUSAN G KOMEN	11006	88.00	BOARD OF HEALTH O/E
THOMSON WEST INC	11007	249.00	VARIOUS
TIMOTHY O'BRIEN	11008	153.00	AMBULANCE CORPS O/E
TRI-COUNTY TACTICAL, LLC	11009	372.38	LOCAL CODE ENFORCEMENT
TYLER TEN KATE	11010	25.00	PUBLIC EVENTS O/E
UNITED COMPUTER	11011	1,521.75	VARIOUS
VERIZON	11012	2,320.05	VARIOUS
WILFORD MAC DONALD, INC	11013	51.99	VEHICLE MAINT ROAD
WILLIAM MILLER	11014	25.00	PUBLIC EVENTS O/E
WURTH	11015	<u>192.89</u>	STREETS & ROADS O/E
TOTAL CURRENT		\$ 2,851,270.66	
WATER OPERATING			
A-VAN ELECTRICAL	8369	18.98	WATER UTILITY O/E
FIRESTONE COMPLETE AUTO CARE	8370	1,084.98	WATER UTILITY O/E
MONTONE REMOD & CONS CO, INC	8371	500.00	WATER UTILITY O/E
ONE CALL CONCEPTS, INC.	8372	72.76	WATER UTILITY O/E
PROCOPY INC	8373	49.32	WATER UTILITY O/E
TANIS CONCRETE	8374	275.50	WATER UTILITY O/E
TECHINICAL COMPENENTS CO,INC	8375	1,200.00	WATER UTILITY O/E
USA BLUE BOOK INC	8376	510.12	WATER UTILITY O/E
VERIZON	8377	<u>686.28</u>	WATER UTILITY O/E
TOTAL WATER OPERATING		\$ 4,397.94	

WATER CAPITAL			
AC SCHULTES INC	1015	4,098.00	VARIOUS
ELECTRICAL POWER SYSTEMS, INC	1016	<u>9,865.00</u>	CAPITAL EQUIPMENT
TOTAL WATER CAPITAL		\$ 13,963.00	
OTHER TRUST II			
STATE OF NJ - DEPT OF LABOR	4130	17,084.94	TRUSTEE
IAN MULLER	4131	1,680.00	RELOCATION FUND
KELLY FIORILLO	4132	1,815.00	RELOCATION FUND
AMERICAN HOSE CO INC	4133	440.00	RECYCLING TRUST
HAWTHORNE HS DRAMA DEPT	4134	250.00	MUNICIPAL ALLIANCE
POSTMASTER-PATERSON	4135	<u>1,200.00</u>	RECYCLING TRUST
TOTAL OTHER TRUST II		\$ 22,469.94	
UNEMPLOYMENT TRUST			
OTHER TRUST II ACCOUNT	777779	<u>17,084.94</u>	DUE T/F OT II TRUSTEE
TOTAL UNEMPLOYMENT TRUST		\$ 17,084.94	
BUILDERS ESCROW			
BOSWELL ENGINEERING, INC	5062	581.00	REALTY ACQ GROUP 242/ 1&2
BOSWELL ENGINEERING, INC	5063	747.00	SPRINT
BOSWELL ENGINEERING, INC	5064	488.00	NJ SUPPORT HOUSING 6/10
BOSWELL ENGINEERING, INC	5065	1,371.00	116 WASHINGTON
BOSWELL ENGINEERING, INC	5066	6,860.75	PUDDINGSTONE 267/10&11
BURGIS ASSOCIATES, INC	5067	1,051.25	PUDDINGSTONE 267/10&11
BOSWELL ENGINEERING, INC	5069	3,403.00	PATRIOT DEVELOP 90/1
BURGIS ASSOCIATES, INC	5070	1,595.00	PATRIOT DEVELOP 90/1
BOSWELL ENGINEERING, INC	5071	1,494.00	CHURCHILL FURNITURE
BOSWELL ENGINEERING, INC	5072	1,572.00	PAPAS 24/13.03
MICHAEL J. PASQUALE, ESQ	5073	<u>412.50</u>	PAPAS 24/13.03
TOTAL BUILDERS ESCROW		\$ 19,575.50	
OTHER TRUST I ESCROW			
JUDITH NOTORGIACOMO	7013	<u>1,252.50</u>	RES BE CLOSEOUT
TOTAL OTHER TRUST I ESCROW		\$ 1,252.50	
TOTAL BILL LIST		<u>\$ 2,930,014.48</u>	

Council President Bertollo entertained a motion to approve the bills and forward them to the Treasurer for payment. Check #10985 was pulled from tonight's Bill List. Motion moved by Councilman Mele, seconded by Councilman Sinning. On roll call, all voted yes, with the exception of Council President Bertollo who abstained on Downes Tree

Service, Councilman Lane and Councilman Wojtecki who abstained from all Fire Department bills, Councilman Lane who abstained from all Ambulance Corp bills as well.

PUBLIC COMMENT

Council President Bertollo opened the meeting to the public. He stated if anyone desired to be heard, please raise your hand to be recognized, come forward to the microphone and state your name and address.

Dan Melfi, 84 Emeline Ave, Hawthorne, inquired if any of the Council will attend the Dec. 13th meeting at the Christian Health Care Center. Council President Bertollo stated that there will be Council representation. Mr. Melfi asked if the planner has been hired, Joe Burgess, to review the plan. Mayor Goldberg responded that no one has been hired in Hawthorne, until Wyckoff is done and we don't want to incur any extra expenses. Mr. Melfi asked Engineer Boswell to confirm that Mr. Parker Sr. had been hired by Wyckoff to re-do the plan for them. Engineer Boswell responded that was correct. Mr. Melfi stated that he was surprised to find that the Patriot meeting on Monday night had already ended by the time he showed up at 9:20pm and that the attorney was applying for waivers for the steep slope not a variance. Attorney Pasquale responded as the ordinance reads the property is in the residential zone, they are allowed to get a waiver rather than a form of variance. Therefore, the Christian Health Care Center is subject to the steep slope ordinance but he would take another look at it and discuss it again with Mr. Collins who, he believes, was correct in determining that it does not necessarily apply in the same way to this property. Mr. Melfi asked if Mr. Collins makes the decision as to whether it is a variance or waiver. Borough Attorney Pasquale responded that Mr. Collins gives his opinion and the Council decides whether they agree or disagree with his opinion. Mr. Melfi asked Engineer Boswell if the Christian Health Care Center has submitted an application for the water tower. Engineer Boswell indicated that Christian Health Care Center is talking about putting a tank there but they were told by Wyckoff they may not need one as they use Hawthorne water as opposed to a tank and as of now he believed they are moving forward with another tank. Mr. Melfi asked if it would be the same size as the one installed approx. four years ago. Engineer Boswell responded that he did not know because they had not submitted it as yet, but he assumes it would be so. Mr. Melfi continued and addressed Attorney Pasquale if he had knowledge of the meeting between the Bergen County Planning Board and Christian Health Care Center in resolving the curb/parking issue at the intersection of Cedar Hill. Attorney Pasquale responded that he was not aware of this meeting or its outcome, but Engineer Boswell responded that it had all been resolved. Mr. Melfi extended congratulations to the members of the Council for attending the league convention in Atlantic City in light of the public not always understanding the attendance at such conventions.

Rosemarie Spinelli, 169 Lafayette, Hawthorne, inquired if the Spinelli property was being addressed tonight or at the next meeting. Council President Bertollo indicated that there was nothing formally in front of them to discuss for the application. He had spoken with the Borough Clerk there was only a letter from Ms. Spinelli. Ms. Spinelli indicated

that it is pertaining to the re-application which she filled out and dropped off upstairs. Council President Bertollo remarked that she would be on the agenda for the Planning Board, not the Council agenda. Mayor Goldberg suggested that she apply for her license in January rather than now to avoid paying double fees (2010 & 2011). Council President Bertollo remarked that she is working with two separate entities, the Planning Board for her land-use approval and the Council for her license in which she can get that application from the Borough Clerks office.

Fire Chief Joe Speranza, 27 Robertson, Hawthorne, here on behalf of the Fire Department in reference to the clothing allowances report. Fire Chief Speranza received Administrator Maurer's report on Monday and is ready to present it to the Council. Council President Bertollo responded that at this point it needs to be addressed by Administration and then to Council. Fire Chief Speranza stated for the record, members of this Department were supposedly going to get their clothing allowance checks. This year these guys need these checks. We have 117 volunteer members that are ready to walk off the job. The chain of command in Hawthorne Fire Department needs to be followed. This is really a break down of communication that has led to a total disaster. In our report you'll see we basically have laid it out there, we find the same things that Mr. Maurer has found, bad reporting practices, nobody did anything wrong.

Council President Bertollo stated that at this point it is an Administration function and not a Council function. Fire Chief Speranza replied that he would like the Council to share in this report if possible. Council President Bertollo stated that Mayor Goldberg shared with the Council the meeting he had with the Fire Board on Monday evening. Mayor Goldberg presented his findings on it; the Department was to respond back to the Mayor. Fire Chief Speranza responded that he thinks we can correct things with the Mayor's recommendations and then move forward. The department is ready to correct any deficiencies if there are any, and we do identify some, so we want to take the owners responsibility to correct that. We want to make sure we're doing the right thing for the Borough, for the Council, and for the Administration.

Council President Bertollo stated that he just got his report, the Mayor's report, and the Administrative Report tonight and has not been able to read them. It was very clear to them that there was no criminal wrong doing, there was no intent of misleading the public, or public funds, or public trust, that it was bad Administrative reporting, that there are instances of not getting credit for credit due.

Fire Chief Speranza responded that he wanted to reassure that any person that walks in, whether it's the Mayor's office, or the Chief's office, or the Council President's office, has substance to the allegation. This was an unsubstantiated allegation from a member that is being questioned himself for inappropriate behavior. Council Vice President Matthews asked Fire Chief Speranza when his checks where coming because they were told he was getting them today. Fire Chief Speranza responded that some will come on December 3, some will come on December 17 and that he really wasn't sure. Also, the Boards recommendation as you'll see disclosed, of the 117 members, we found one that we questioned whether or not we might have made a mistake internally on his reporting.

The others are bad reporting. Councilman Lane stated the checks go through the payroll account and will be cut with the next payroll check which is December 17th. Fire Chief Speranza asked if the members that are in question are going to be cleared. Councilman Lane stated that he was not speaking of the members in question. Borough Attorney Pasquale interjected that the matter came from the Administration to Fire Chief Speranza and should come back from Fire Chief Speranza to the Administration. Council President Bertollo commented to Mayor Goldberg that they'll be a quick resolution to this and a report back to them. Mayor Goldberg stated yes and he would assume they'd go through it quickly. Council President Bertollo indicated to Mayor Goldberg if there was anything he needed from the Council to get this done by the 17th or a special meeting called, to let him know. Mayor Goldberg indicated a special meeting was not necessary because normal process is approval after the checks are done with payroll.

Council President Bertollo asked if anyone else wished to be heard. Seeing no one, Council President Bertollo entertained a motion to close the public comment portion of the meeting, moved by Council Vice President Frank Matthews, seconded by Councilman Mele. On roll call, all voted yes.

ADJOURNMENT

Council President Bertollo entertained a motion to adjourn the meeting at 9:38 p.m., moved by Councilman Sinning, seconded by Council Vice President Matthews. On roll call, all voted yes.

Council President Bertollo indicated that the next regular council meeting will be on Wednesday, December 15, 2010. The work session will begin at 7:00 p.m. and the regular meeting will begin at 8:00 p.m.

John Bertollo
Council President

Susan Witkowski
Borough Clerk