

August 18, 2010
Hawthorne, NJ

The Regular Meeting of the Municipal Council of the Borough of Hawthorne was held on the above date at 8:10 p.m., in the Council Meeting Room of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey. Present were Councilpersons Bennett, Lane, Matthews, Mele, Sinning, Wojtecki and Bertollo. Also present were Mayor Goldberg, Borough Administrator Maurer, Borough Attorney Pasquale, Borough Engineer Boswell, and Borough Clerk Witkowski. Director of Revenue and Finance Hewitt was absent.

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.

APPROVAL OF MINUTES

Council President Bertollo entertained a motion to approve the minutes of the Regular Meeting of August 4, 2010 and the Closed Session of August 4, 2010, moved by Councilman Mele, seconded by Councilman Lane. 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 Bennett, seconded by Councilman Wojtecki. On roll call, all voted yes.

ADOPTION OF ORDINANCES

Ordinance No. 2022-10 For Adoption

AN ORDINANCE AUTHORIZING THE LEASE OF A PORTION OF LANDS LOCATED ON GOFFLE ROAD IN THE BOROUGH OF HAWTHORNE AND KNOWN AS THE AMBULANCE CORPS FACILITY

Public Hearing

Council President Bertollo opened the meeting to the public and asked anyone who desired to be heard to come forward and state your name and address for the record. No one desired to be heard.

Council President Bertollo entertained a motion that the public hearing on Ordinance No. 2022-10 is closed and that it be resolved that this ordinance was posted on the bulletin board on which public notices are customarily posted and published in the Hawthorne Press. Copies of said ordinance were made available to the general public.

Now, therefore, be it resolved that this ordinance be adopted and the Clerk is authorized to advertise the same according to law.

Council President Bertollo entertained a motion to adopt Ordinance No. 2022-10, moved by Councilman Matthews, seconded by Councilman Sinning. On roll call, all voted yes.

Ordinance 2023-10 For Adoption

AN ORDINANCE TO FURTHER AMEND AND SUPPLEMENT CHAPTER 210 OF THE CODE OF THE BOROUGH OF HAWTHORNE VEHICLES AND TRAFFIC SO AS TO CREATE TRAFFIC SAFETY REGULATIONS ON BROCKHUIZEN LANE

Public Hearing

Council President Bertollo opened the meeting to the public and asked anyone who desired to be heard to come forward and state your name and address for the record. No one desired to be heard.

Council President Bertollo entertained a motion that the public hearing on Ordinance No. 2023-10 is closed and that it be resolved that this ordinance was posted on the bulletin board on which public notices are customarily posted and published in the Hawthorne Press. Copies of said ordinance were made available to the general public.

Now, therefore, be it resolved that this ordinance be adopted and the Clerk is authorized to advertise the same according to law.

Council President Bertollo entertained a motion to adopt Ordinance No. 2023-10, moved by Councilman Bennett, seconded by Councilman Wojtecki. On roll call, all voted yes.

Ordinance 2024 For Adoption

AN ORDINANCE TO REGULATE OUTDOOR APPLICATION OF FERTILIZER SO AS TO PROTECT AND IMPROVE SURFACE WATER QUALITY AND PRESCRIBED PENALTIES FOR NON-COMPLIANCE

Public Hearing

Council President Bertollo opened the meeting to the public and asked anyone who desired to be heard to come forward and state your name and address for the record. No one desired to be heard.

Council President Bertollo entertained a motion that the public hearing on Ordinance No. 2024-10 is closed and that it be resolved that this ordinance was posted on the bulletin board on which public notices are customarily posted and published in the Hawthorne Press. Copies of said ordinance were made available to the general public.

Now, therefore, be it resolved that this ordinance be adopted and the Clerk is authorized to advertise the same according to law.

Council President Bertollo entertained a motion to adopt Ordinance No. 2024-10, moved by Councilman Mele, seconded by Councilman Sinning. Council President Bertollo stated on behalf of the Council, this ordinance is being passed on severe duress being fined by the DEP. On roll call, Councilmen Sinning, Mele, Lane and Bennett voted yes. Councilman Wojtecki, Matthews and Council President Bertollo voted no.

OLD BUSINESS

Council President Bertollo asked if there was any old business to discuss.

Councilmen Wojtecki and Matthews said their old business was discussed during the work session.

Councilman Bennett asked the status of the final easement for the drainage project. Administrator Mauer stated that no response has been received from the property owner and that all concerns were answered. Councilman Bennett asked if the owners will be contacted prior to the next council meeting. Administrator Mauer said the process of receiving a response from the homeowners is approximately one week. Council President Bertollo asked Engineer Boswell the date bids will be received and Engineer Boswell said August 27th. Mayor Goldberg said when dealing with a homeowner in the past with a situation similar to this one, we considered to authorize "the taking" which sometimes is enough to re-start the conversation. The easement is needed for the health, welfare and safety of the neighborhood. Council President Bertollo requested that this be in place prior to the award on September 1st if there is no other movement. Engineer Boswell asked Attorney Pasquale if the notice is thirty or sixty days and was told sixty days. Councilman Matthews asked Attorney Pasquale if he had discussions with the owners and he said no, and if he could discuss this with the homeowners' attorney prior to condemnation. Attorney Pasquale does not know who the attorney is and asked Administrator Mauer to obtain that information. If a conclusion cannot be reached by September 1st, a decision needs to be made as to how to proceed. Council President Bertollo asked that whatever needs to be in place should be done prior to September 1st as he would like to award the project on that date.

Council President Bertollo asked if there was any more old business. There was none.

NEW BUSINESS

Council President Bertollo asked if there was any new business to discuss. There was no new business to discuss.

ADMINISTRATIVE AGENDA

APPOINTMENT

Appointment of Coordinator of the Emergency
Management Disaster Control

Richard McAuliffe

By virtue of the power and authority vested in me as the Mayor of the Borough of Hawthorne, I hereby appoint Richard McAuliffe as Coordinator of Emergency Management – Disaster Control of the Borough of Hawthorne, for a term of three years, effective August 15, 2010 and until his successor shall be appointed and quality.

Council President Bertollo entertained a motion to record the appointment moved by Councilman Wojtecki, seconded by Councilman Lane. On roll call all voted yes.

Mayor Goldberg administered the oath of office.

Leadership Camp began this week and approximately 130 students are enrolled. There was a great presence from the New Jersey Guard. Mayor Goldberg thanked the Police Department and the Board of Education for this program, which is in its ninth year. He also thanked Captain McAuliffe who heads the program. The helicopter is scheduled to land on Friday, August 20th at approximately 10:00 a.m. and the culmination of the program is at 1:00 p.m.

Mayor Goldberg invited everyone to the Farmer's Market which is held every Sunday. He congratulated the Chamber of Commerce for the great job.

Plans for Hawthorne Day are moving along, there are commitments from five bands, including the Nerds. Sponsors are still being sought in order that there will be no cost to the taxpayers and volunteers are also needed. Hawthorne Day is scheduled for October 2nd. Anyone interested in participating in this event is asked to call Charlene Elvin. Volunteer, sponsor and vendor information is also available on the borough website, www.hawthornenj.org.

Mayor Goldberg contacted County Administrator Tony DeNova with regarding to paving on Diamond Bridge Avenue and requested that paving continue to Grand Avenue, which is an additional 300 feet. Administrator DeNova said this is a thorough project and while he is not saying "no", he cannot say "yes". He is anticipating this will be done as a field

change. Mayor Goldberg asked Engineer Boswell what the cost would be if the borough decided to take it upon themselves to pave. Engineer Boswell said he would calculate the number.

Mayor Goldberg wished Director of Revenue and Finance Hewitt a speedy recovery to her recent surgery. Mayor Goldberg reminded everyone that third quarter tax payments are due on August 30th. Interest reverts back to August 1st for payments made after August 30th. Mayor Goldberg stated the audit has been received and Council members were given a copy. The Finance Committee will meet in the near future to discuss the results of the audit.

Mayor Goldberg called upon Borough Attorney Pasquale for his report.

Attorney Pasquale prepared a resolution with regard to the extension of the developer's agreement that was discussed during the work session. The second condition was cut off from the photocopy that was given to Council. This condition states "Estimate of the bond cost by Boswell Engineering". Councilman Wojtecki asked if the dates were correct, June 8th to June 7th. Attorney Pasquale said this was correct, the agreement is for one year.

Tax appeals continue to be filed. The tax appeal period is over, however the State appeals are being received. Attorney Pasquale said he will compile a list of all appeals for Council's review. The appeals are mainly from small property owners, however there are many appeals.

Deposition dates are being sought with regard to the Enterprise Outdoor matter.

The Gialanella matter is moving forward. He spoke with Police Chief Scully and the attorney handling the matter has been provided with discovery information. A motion for dismissal should be filed by our attorney within the next two months.

This concludes Attorney Pasquale's report.

Mayor Goldberg called upon Borough Engineer Boswell for his report.

Engineer Boswell reported on the following:

With regard to the cost of paving on Lafayette to Grand, the distance is approximately 250 feet and 30 feet wide and it would cost approximately \$7,500.00 to pave this with a two inch overlay. If milling and striping were included, the cost would be approximately \$9,000.00.

Veteran's Field – Kevin Downes will supply a report based on a recent meeting which discussed soil testing, grades and other items. This is still under a maintenance bond. Drill and fill which is a process to install sand channels, and the installation of perimeter drains have been looked at. Soil samples have been sent to Rutgers. The report should be available at the next Council meeting. It is anticipated that this project will begin at the end of the soccer season.

Leaf Compost Facility Permit – Plans are being worked on.

UST Groundwater Monitoring – The groundwater samples were clean, the site investigation report needs to be written and the monitoring well closed. It will cost approximately \$500.00 to \$600.00 to close the well. The paperwork needs to be completed in order to receive a No Further Action Letter.

Oil/Water Separator – We are waiting for information and a price on a Butler building for the truck wash facility. Trucks that need to be washed do not fit in the current building.

Van Winkle Avenue Section 2 – Buckler Associates, the contractor, is expected to begin work on August 19th.

2010 Road Improvement Program – Curbs and sidewalks are currently being addressed and should be completed in the near future then paving will begin. There will be one change order for the installation of a seepage pit, which has been discussed and will be available at the next council meeting.

Brockhuizen Lane – Public Service has completed the gas main replacement. 4 Clean-Up is expected to provide a work schedule on Thursday, August 19th. Councilman Sinning asked if the utility pole has been moved and Engineer Boswell did not know. PSE&G will be paying for this and it does not matter when the pole is moved during the project.

2009 Road Program – Mr. King's sidewalk at 66 Eklings will be repaired next week.

Goffle Hill Force Main – The project is near completion. A final connection needs to be made and four trees need to be replaced. It was necessary to access the station so trees needed to be removed. The adjacent neighbor was concerned with the removal of the trees. Money remains in the contract in order to replace four 12' trees. The resident has agreed to the type of trees being replaced and Engineer Boswell said he will discuss this with the Shade Tree Commission.

Christian Health Care Center – Has passed the Design Review Committee. The next appearance will be before the Zoning Board of Adjustment, however, no meeting date has been scheduled in September.

Goffle Brook Bank Stabilization – A meeting is scheduled on August 23rd.

Drainage Improvement Project – The project is out to bid and the bid opening is Friday, August 27th. We are waiting for receipt of the final easement which was discussed during the work session.

Ridgewood Water Proposal – Information previously given about an individual who is no longer at Ridgewood Water is valid. No answer has been received from Ridgewood Water with regard to their working with us on the drainage project.

HVAC – There were two problems with the unit over the past several days. One problem was with Unit 2 located in the Police Department. A loose wire has been repaired four times and is covered under the warranty, a technician will return to look at this issue. The other issue is on the main unit pumps which were switched into the manual mode as opposed to the auto mode. This is still under the maintenance period and the unit is working accordingly. The warranty period is near expiration. It has been recommended a maintenance contract be obtained, which Administrator Maurer is looking into. The issue in the Police Department is not repaired to Engineer Boswell's satisfaction, a loose wire is not a good answer. The borough is not being billed for any of these repairs. Administrator Maurer is preparing a bill to be given to the contractor for engineering costs, the installation of the temporary units that were installed and other issues.

That concludes Engineer Boswell's report.

Mayor Goldberg called on Borough Administrator Maurer for his report.

Administrator Maurer reported on the following:

The information that he provided in the work session was incorrect. Due to a technical problem in documenting violations, no summonses were issued at Congress Mills last week and will be issued on August 19th.

There are five weeks left before the solid waste bid opening and twelve prospective bidders have picked up the solid waste and recycling specs.

Administrator Maurer is working with the Shade Tree Commission, the consulting firm of CTE Services, and Public Works Department on an RFP for acceptance of recyclables.

The Public Works Department is beginning the fall leaf collection schedule.

Clerk Witkowski is beginning to work on the auction sale of surplus property. It is anticipated that a resolution for the auction will be prepared for the next Council meeting.

Pool survey forms will be distributed to the pool patrons beginning this weekend. We are looking to see how well we did and what we can do better at the pool.

The Water Department completed 41% installation of water meters which included one hundred sixty five one-inch and larger meters and one hundred ninety seven 5/8 inch meters.

Our fire inspectors found two illegal apartments in one building this morning and significant penalties will be sought as well as removal of the illegal units.

A letter has been prepared to the County requesting corridor enhancement funds for the leading left turn signal on Wagaraw at Lincoln.

Administrator Mauer will provide answers to the owner of the property located at Florence and Cornell regarding the sidewalk damage and sprinkler head issues. He has had conversation with our engineers regarding the water that is in the basement and the engineers have assured Administrator Mauer that the water is not coming from the seepage pit.

Approximately \$9.8 million has been received for 2010 taxes representing 63% of third quarter billing. Taxpayers should pay their tax bill by August 30th in order to avoid an interest charge which reverts back to August 1st if paid after August 30th.

The tax office is preparing for the annual tax sale which will be held at the end of September for any properties with unpaid taxes for the year 2009.

That concludes Administrator Maurer's report.

Mayor Goldberg stated the retail survey, on behalf of the Economic Development Committee, will be available on the borough website by Labor Day weekend. It is planned that the survey will also be available at the Farmer's Market, home high school football games, Hawthorne Day and possibly at some movies. The Committee will ask for assistance from the Keystone Club. The survey is being conducted in conjunction with the Chamber of Commerce who is studying what types of business people would like to have in Hawthorne, as well as rating the current businesses. Two thousand responses are anticipated. The Economic Development Committee continues to work on attracting more businesses to Hawthorne and is anxiously awaiting the new train station which will hopefully be next week.

Mayor Goldberg asked Council if there were any questions for Administration.

Councilman Wojtecki asked Engineer Boswell if handicap ramps have been installed on Mohawk and North 8th. He was under the assumption that this would be done under the milling and paving of North 8th. Engineer Boswell said yes, handicap ramps are installed prior to milling and paving.

Councilman Wojtecki told Attorney Pasquale that incorrect trees were planted at the corner of North 8th and 55 Westervelt. Attorney Pasquale said no further discussions were held with the property owner since he has been away, however he will follow up on this issue.

Councilman Bennett asked Administrator Mauer how the two illegal departments were discovered. Administrator Mauer said the Fire Department responded to an activated smoke alarm or CO alarm.

Council President Bertollo stated that during the work session, it was mentioned that lubrication was not in the right place with regard to the HVAC. Engineer Boswell said that has been fixed. Council President Bertollo asked if the maintenance manuals have been received. Engineer Boswell said he will follow up on this matter.

Council President Bertollo asked if we received the revised plans of the Christian Health Care Center that were approved by on the Wyckoff Design Review Committee. Engineer Boswell said the buffer zone and set back changes have not been made, the change on the plans was the look of the building. CHCC has been advised not to submit any plans to Wyckoff without the non-new buffers from Hawthorne. The current plans have the wrong buffers on the Hawthorne side. Engineer Boswell believes CHCC's intent is to submit the plan with the proper buffers in Hawthorne. The Design Review Committee looked at the building from an architectural standpoint. Attorney Pasquale said that he was told by Jerry Vogel that the plans will include Hawthorne's setbacks.

Council President Bertollo asked how many contractors picked up bid specs for the storm water project on Royal and Washington. Engineer Boswell said approximately six, however, he will confirm this tomorrow.

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

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

INTRODUCTION OF ORDINANCES

There were no ordinances to be introduced.

CONSENT AGENDA MR06-10, R154-10 through R161-10

MR06-10 Resolution, Introduced by Councilman Mele

BE IT RESOLVED by the Mayor and Council of the Borough of Hawthorne, in the County of Passaic and State of New Jersey, that:

1. The words and phrases used herein shall have the same meaning respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey.
2. Pursuant to the Authority granted under N.J.S.A. 39:4-197.6, the following location is hereby designated as a restricted parking space for use by persons who have been issued special vehicle identification cards by the Division of Motor Vehicles. No other person shall be permitted to park in this space.
3. The parking space will be located on the North side of Post Avenue beginning Thirty-four feet (34') West of Washington Avenue and extending 22 feet West. The marked parking space will end Three feet (3') prior to the driveway of the residence 270 Washington Avenue, also known as Block 11, Lot 87 as shown on the Borough Tax Map.

4. The Police Department is hereby directed to have proper signs calling attention to the provisions of the resolution erected or placed upon said street.
5. This resolution shall take effect on adoption and posting of the signs required above.

R154-10 Resolution, Introduced by Councilman Mele

Resolved: To ratify the actions of the Municipal Council of the Borough of Hawthorne payroll dated August 13, 2010

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

CURRENT FUND	WT 888889	\$	352,124.95
WATER OPERATING FUND	WT 888889	\$	60,093.90
OTHER TRUST II FUND	WT 888889	\$	23,807.69
	TOTAL PAYROLL		\$ 436,026.54
CURRENT FUND TO PAYROLL/FICA	WT 888889	\$	14,728.46
WATER OPERATING FUND TO PAYROLL/FICA	WT888889	\$	5,000.00
	TOTAL FICA		\$ 19,728.46

R155-10 Resolution, Introduced by Councilman Mele

WHEREAS, interfunds, one in the amount of \$5,955.82, and one in the amount of \$34.00, created by a transfer error, between the Builders Escrow Fund and the Current Fund, and, between the Builders Escrow Fund and the Other Trust I Escrow Fund respectively.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne, that the Treasurer be and is hereby authorized, to liquidate said interfunds by transferring \$5,955.82 from the Current Fund to the Builders Escrow Fund and \$34.00 from the Other Trust I Escrow Fund to the Builders Escrow Fund.

R156-10- Resolution, Introduced by Councilman Mele

WHEREAS, the semi-annual payment of \$7,044.02 of the Wastewater Trust loan has become due and payable as of October 1, 2010.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne, that the Treasurer be and is hereby authorized to wire funds in the amount of \$7,044.02 from the Current Fund in payment of the Wastewater Trust loan.

BE IT ALSO RESOLVED, by the Municipal Council of the Borough of Hawthorne that the Treasurer be and is hereby authorized to wire funds in the amount of \$2,452.50 from the Current Fund to The Bank of New York in payment of the New Jersey Wastewater Treatment Trust semi-annual Administration Fee.

R157-10 Resolution, Introduced by Councilman Mele

WHEREAS, the semi-annual payment to the 1994A NJEIT Trust Loan in the amount of \$1,404.89 and the semi-annual payment to the 1994 NJEIT Fund Loan in the amount of \$2,561.70 has become due and payable as of September 1, 2010 and,

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne, that the Treasurer be and is hereby authorized to wire funds in the amount of \$3,966.59 in payment of the 1994 NJEIT Trust and Fund Loans.

BE IT ALSO RESOLVED, by the Municipal Council of the Borough of Hawthorne that the Treasurer be and is hereby authorized to wire funds in the amount of \$682.50 to US Bank in payment of the New Jersey Environmental Infrastructure Trust semi-annual Administration Fee.

R158-10 Resolution, Introduced by Councilman Mele

WHEREAS, the semi-annual interest payment and the annual principal payment for the General Serial Bonds 2008 has become due and payable on September 1, 2010.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne, that the Treasurer be and is hereby authorized, to wire funds in the amount of \$110,000.00 in payment of principal and \$78,432.00 in payment of interest from the Current Fund, made payable to Depository Trust Company.

R159-10 Resolution, Introduced By Councilman Mele

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

SECTION 1

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne, that the Borough of Hawthorne hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2010 in the sum of \$5,000.00 which item is now available as revenue for the Emergency Management Grant Program.

SPECIAL ITEM OF REVENUE OFF-SET WITH APPROPRIATIONS
Emergency Management Grant Program \$5,000.00

pursuant to the provision of the statute; and

SECTION 2

BE IT FURTHER RESOLVED, that a like sum of \$5,000.00 be and is hereby appropriated under the caption of:

OPERATIONS EXCLUDED FROM "CAPS"
PUBLIC AND PRIVATE PROGRAMS OFF-SET BY REVENUES
Emergency Management Grant Program \$5,000.00

SECTION 3

BE IT FURTHER RESOLVED, that the above is the result of funds due to the Borough of Hawthorne from the State of New Jersey that were not available at the time of the adoption of the 2010 budget and are now available by law.

R160-10 Resolution, Introduced By Councilman Mele

WHEREAS, Local Improvement Assessments were confirmed on May 20, 2009 for the construction of sidewalks and driveway aprons as part of the 2008 Road Program under Ordinance Number 1948-08, and the amount and schedule of payments for the same were referred to the Collector for payment from the owners of the properties benefited by said projects, and

WHEREAS, the following identified premises was assessed for installation of sidewalks and driveway aprons and the Borough engineers have adjusted quantities and recommend the cancellation of a portion of the special assessment for the Block and Lot listed below:

<u>Ordinance#</u>	<u>Block</u>	<u>Lot</u>	<u>Work Performed</u>	<u>Amount</u>
1948-08	186	6	Sidewalks and Aprons	\$237.50

NOW, THEREFORE, BE IT RESOLVED, that the collector shall be and is hereby authorized to enter a credit for the above listed block and lot, and any remaining payments be adjusted to reflect the reduction in the outstanding balance if required.

R161-10 Resolution, Introduced By Councilman Mele

WHEREAS, the Municipal Council of the Borough of Hawthorne previously authorized the execution of a developers agreement in connection with the development of property located on Norma Terrace and known as Norma Terraces Estates; and

WHEREAS, the Mayor executed such agreement on June 7, 2007, the agreement by its terms to last for a period of two years and therefore to expire on June 7, 2009; and

WHEREAS, the said agreement was extended for a period of one year; and

WHEREAS, as a result of difficulties encountered during development of the project, including economic difficulties brought about by the contraction in the home construction industry, the project was not completed within two years, or the one year extension; and

WHEREAS, the applicant has requested an extension of the developers agreement for an additional one year period so as to allow the project to be completed; and

WHEREAS, the Municipal Council finds that the applicant has demonstrated good cause, taking notice of the general economic downturn affecting the home construction industry most notably;

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Council of the Borough of Hawthorne, that it does authorize the Mayor to execute an extension of the developers agreement previously executed by the parties with all terms and conditions thereof to continue for an additional one year period running from June 8, 2010 to June 7, 2011 subject to the following conditions:

1. Proof of financing for the completion of the project
2. Estimate of the bond cost by Boswell Engineer
3. Creating of a work schedule with municipal work to be completed first

Council President Bertollo entertained a motion to approve Resolutions MR06-10, R154-10 through R161-10 moved by Councilman Mele, seconded by Councilman Wojtecki. 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 – On behalf of the Public Safety Committee, Councilman Bennett thanked and congratulated Captain McAuliffe for agreeing to serve and take on the responsibility as Coordinator of Emergency Management Disaster Control.

Councilman Lane – Had no report.

Councilman Mele – Municipal Alliance did not have a meeting in August. However they sponsored a movie two weeks ago and there were 175 attendees. The final movie will be shown on Friday, August 20th at the municipal pool.

The Environmental Committee is meeting on August 19th. Patriot, runoff water and trees will be discussed.

Project Pride is anticipating completing the pocket park on Diamond Bridge this fall and no grants were received for this project.

Councilman Matthews – The Finance Committee will be forwarding the audit to the current auditor for review and comments. Upon Auditor Kelly’s review and comments, a meeting will be scheduled, if required.

The Insurance Committee needs to schedule a meeting to discuss membership renewal with JIF, which expires at the end of the year.

The Chamber of Commerce has scheduled the fishing derby on September 18th between 8:30 a.m. and 11:00 a.m. More details will follow and flyers will be distributed during the first school week.

Councilman Sinning – Had no report.

Councilman Wojtecki – The Shade Tree Commission meeting will be on Wednesday September 8th beginning at 7:30.

Council President Bertollo – Had no report.

CORRESPONDENCE

There was no correspondence to discuss.

BILLS

Council President Bertollo entertained a motion to approve the bills and forward them to the Treasurer for payment. Motion moved by Councilman Mele, seconded by Councilman Matthews. Check number 10440 was pulled. On roll call, all voted yes. Councilmen Lane and Wojtecki abstained check numbers 10415, 10418, 10419, 10433, 10435, 10440, 10441, 10448, 10454, 10456, 10463 and 10488. Councilman Bertollo abstained on check number 7009 from the escrow account.

VENDOR	CHECK#	TOTAL	DESCRIPTION
CURRENT FUND			
A-VAN ELECTRICAL	10414	72.94	SWIMMING POOL
AAA EMERGENCY SUPPLY CO INC	10415	824.36	VEHICLE MAINTENANCE

ACORN TERMITE & PEST CONTROL	10416	100.00	PUB WORKS ADMIN
ALBERTA J COMERRO	10417	50.00	GROUP INSURANCE
ALL HANDS FIIRE EQUIPMENT	10418	2,119.99	VEHICLE MAINTENANCE
ANTHONY DIVINCENT	10419	30.00	TELEPHONE
BEACHSTONE SEPTIC	10420	1,500.00	SEWER SYSTEM
BERGEN COUNTY HARLEY-DAVIDSON	10421	969.15	VEHICLE MAINTENANCE
BOB'S TIRES & WHEELS INC	10422	125.00	VEHICLE MAINTENANCE
CABLEVISION	10423	272.14	SWIMMING POOL
CAROL CHAMBERLIN	10424	295.00	GROUP INSURANCE
CINTAS CORP	10425	348.30	PUB WORKS ADMIN
CITY WIDE MAINTENANCE	10426	1,350.00	PUB WORKS ADMIN
COUNTY OF PASSAIC	10427	3,787,548.10	COUNTY TAX PAYABLE
COUNTY OF PASSAIC-OPEN SPACE T	10428	67,541.63	OPEN SPACE TAX
DELL GARDEN CENTER	10429	314.00	SWIMMING POOL
ELAINE SWEENEY	10430	180.00	GROUP INSURANCE
ESIS	10431	199.05	VEHICLE MAINTENANCE
FARRIER SPORTING GOODS INC	10432	560.00	BOARD OF RECREATION
FEDERATED EMERGENCY SERVICES	10433	4,952.21	VEHICLE MAINTENANCE
FIRESTONE COMPLETE AUTO CARE	10434	490.68	VEHICLE MAINTENANCE
FOREMOST PROMOTIONS	10435	12.73	FIRE DEPARTMENT
FUTURE SANITATION INC	10436	31,892.58	GARBAGE PICKUP
GET A CAN	10437	23,000.00	RECYCLING PROGRAM
GILBEY'S EMBROIDERY CO	10438	1,761.50	BOARD OF RECREATION
GILL ASSOCIATES	10439	850.00	SWIMMING POOL
GROENEWAL RAMSEY DOOR, LLC	10440	1,117.10	FIRE DEPARTMENT
GUARD LINE FIRE EQUIPMENT	10441	425.00	FIRE DEPARTMENT
HARVEY M HAMMER, MD	10442	750.00	STREETS & ROADS
HAWTHORNE AUTO BODY, INC	10443	1,445.63	VEHICLE MAINTENANCE
HAWTHORNE AUTO LAB	10444	868.31	VEHICLE MAINTENANCE
HAWTHORNE BOARD OF EDUCATION	10445	2,620,542.00	SCHOOL TAXES PAYABLE
HAWTHORNE PAINT CO INC	10446	68.50	SEWER SYSTEM
HAWTHORNE PRESS INC	10447	275.60	SHADE TREE
HFD #2	10448	1,595.00	FIRE DEPARTMENT
HOME SUPPLY & LUMBER CO., INC.	10449	40.49	STREETS & ROADS
IF IT'S WATER, INC	10450	1,317.07	SWIMMING POOL
J J KELLER & ASSOC INC	10451	406.94	PEOSHA
JAYNE TEN KATE	10452	123.62	BOARD OF RECREATION
JORDAN TRANSPORTATION,INC	10453	630.00	BOARD OF RECREATION
JP HOME ARAMA, INC	10454	282.01	FIRE DEPARTMENT
JUNGLE LASERS LLC	10455	1,720.00	FEES PAYABLE
KEN'S AUTO ELECTRIC, LLC	10456	1,808.24	VEHICLE MAINTENANCE
KNAPP, TRIMBOLI & PRUSINOWSKI	10457	1,401.00	LEGAL SERVICES
LAB SAFETY SUPPLY	10458	149.60	SEWER SYSTEM

LERCH VINCI & HIGGINS	10459	250.00	FINANCIAL ADMIN
LUK OIL	10460	6,750.63	BULK PURCHASE
LUSCHER'S AUTO INC	10461	858.64	VEHICLE MAINTENANCE
M & B SEPTIC SERVICE, LLC	10462	80.00	BOARD OF RECREATION
MARDEL ELECTRICAL CONTRACTOR L	10463	4,800.00	IMPRV TO RESCUE 5
MCMCA	10464	55.00	MUNI COURT
NJ ECONOMIC DEVELOPMENT AUTHOR	10465	12,950.00	DEBT SERVICE
NJ MEADOWLANDS COMMISSION	10466	1,882.51	TRANSFER STATION
NY NJ TRAILER SUPPLY	10467	344.71	MAINTENANCE OF PARKS
OFFICE CONCEPTS GROUP INC	10468	358.96	LOCAL CODE
P & A AUTO PARTS, INC	10469	158.98	STREETS & ROADS
ROUTE 23 AUTO MALL	10470	1,286.74	VEHICLE MAINTENANCE
RT OFFICE PRODUCTS	10471	101.52	FINANCIAL ADMIN
SCHWAAB INC	10472	90.97	BOARD OF HEALTH
SHOTMEYER BROS FUEL CO	10473	4,756.61	BULK PURCHASE
SILK CITY PIZZA	10474	1,337.00	BOARD OF RECREATION
SIR SPEEDY, INC	10475	40.00	MUNICIPAL CLERK
SPRINT-WIRELESS	10476	339.92	POLICE DEPARTMENT
ST JOSEPH'S REG MED CENTER	10477	100.00	EMERGENCY MGMT
STAPLES	10478	310.14	GENERAL ADMIN
STATE OF NEW JERSEY	10479	564.00	GROUP INSURANCE
STONE INDUSTRIES	10480	497.80	STREETS & ROADS
TEAM LOGIC IT	10481	3,400.00	POLICE DEPARTMENT
THE STAR-LEDGER	10482	145.00	MUNICIPAL CLERK
THOMAS ZACONIE	10483	52.00	CONST CODE
TODE LANDSCAPE CONTRACTORS	10484	200.00	SHADE TREE
UNITED COMPUTER	10485	558.00	IT SERVICES
VALLEY HOSPITAL	10486	255.86	BOARD OF RECREATION
VERIZON	10487	310.85	TELEPHONE
VERIZON WIRELESS (N)	10488	997.82	TELEPHONE
VITAL COMMUNICATIONS, INC.	10489	575.00	CONST CODE
WASTE MANAGEMENT OF NJ	10490	37,115.95	TRANSFER STATION
WESTMARK INC	10491	50.00	PUB WORKS ADMIN
WILFORD MAC DONALD, INC	10492	<u>270.44</u>	MAINTENANCE OF PARKS
TOTAL CURRENT		\$ 6,644,170.52	
 GENERAL CAPITAL			
BOSWELL ENGINEERING, INC	3066	<u>21,858.88</u>	VARIOUS ORD
TOTAL GENERAL CAPITAL		\$ 21,858.88	
 WATER OPERATING			

AGRA ENVIRONMENTAL SVC	8269	425.00	WATER UTILITY
AQUARIUS IRRIGATION SUPPLY,INC	8270	46.84	WATER UTILITY
CABLEVISION	8271	82.14	WATER UTILITY
GARDEN STATE BOBCAT GROUP	8272	240.01	WATER UTILITY
GILBEY'S EMBROIDERY CO	8273	251.00	WATER UTILITY
GP JAGER & ASSOC INC	8274	2,280.00	WATER UTILITY
HENRY'S PLUMBING & HEATING INC	8275	226.15	WATER UTILITY
LEE CO	8276	2,902.83	WATER UTILITY
LUK OIL	8277	740.68	WATER UTILITY
ONE CALL CONCEPTS, INC.	8278	80.25	WATER UTILITY
P & A AUTO PARTS, INC	8279	26.91	WATER UTILITY
ROUTE 23 AUTO MALL	8280	498.54	WATER UTILITY
SHOTMEYER BROS FUEL CO	8281	198.03	WATER UTILITY
VERIZON WIRELESS (N)	8282	<u>196.21</u>	WATER UTILITY
TOTAL WATER OPERATING		\$ 8,194.59	
OTHER TRUST II			
WILFORD MAC DONALD, INC	4086	<u>702.42</u>	RECYCLING TRUST
TOTAL OTHER TRUST II		\$ 702.42	
DOG DEDICATED			
NJ DEPARTMENT OF HEALTH	6020	<u>22.80</u>	STATE OF NJ
TOTAL DOG DEDICATED		\$ 22.80	
BUILDERS ESCROW			
BOSWELL ENGINEERING, INC	5059	2,432.00	PATRIOT DEVELOP
BURGIS ASSOCIATES, INC	5060	1,125.00	PATRIOT DEVE;OP
TED DEMARIA	5061	<u>400.00</u>	WOLODAR/DEMARIA
TOTAL BUILDERS ESCROW		\$ 3,957.00	
OTHER TRUST I ESCROW			
HAWTHORNE BOYS & GIRLS CLUB	7009	<u>778.85</u>	RESERVE BE
TOTAL OTHER TRUST I ESCROW		\$ 778.85	
TOTAL BILL LIST		<u>\$ 6,679,685.06</u>	

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.

Karen Monda, 132 Cornell Avenue appreciates the Farmer's Market and hopes it continues. She commended the efforts of Council and Administration with regard to the issue of illegal apartments.

She is dissatisfied with the handling of the reconstruction project on Van Winkle Avenue. Damage has occurred on the properties. The contractor on this project told Ms. Monda that he has a financial incentive in completing the project earlier than the required time. In the course of the conversation, the contractor told her that sidewalks replaced by a private contractor had no incentives. She asked what is being saved if property is being damaged. She stated that giving financial incentives in order to get a job completed prior to a projected completion date is not a good idea and believes this is the major reason for the problems being incurred on her property. Council President Bertollo stated the borough does not give financial incentives.

She asked if a study was conducted with regard to the water problem that occurred last year when Florence Avenue was repaved. Prior to the repaving, water would flow from Cornell Ave. to the sewer on Utter Ave., there are no sewers on the corner of Florence and Cornell. When Florence Ave. was paved, a lake formed across entire Cornell Ave to the sidewalks and the water came from Van Winkle. The way the borough chose to solve the problem was to install dry wells on the corners. Ms. Monda's sumps pumps in her basement went on in March and did not turn off until mid June. She again asked if a study was conducted to see where the water is going. Engineer Boswell said that no study was done and the matter will be looked into. Ms. Monda said she has mold in her basement and installed dehumidifiers. All of the owners in this area have issues with water. The developer of the property lives on Victor Avenue and told Ms. Monda that Cornell Ave. use to be a river before the State did a water diversion project. Her neighbors had their basement refinished twice in four year because of flooding. She believes the contractor who repaved Florence Ave. should be held responsible. She thanked Council and Administration.

Council President Bertollo asked Engineer Boswell to look into this matter. Councilman Matthews said there was a solution for the drainage, which was to connect from the sidewalks of Cornell to Utter, but was removed in order for the scope of work to be done. Engineer Boswell said that this will be looked at and a memo will be sent to Council and Administration within one or two days. Council President Bertollo said that Ms. Monda was correct in saying that the road should not be repaved. Councilman Matthews said that Ms. Monda's immediate problem can be corrected by going through the sidewalk on Cornell in between Florence and Utter since paving has been done. Councilman Bennett said the drainage is the bigger problem.

Ms. Monda returned to the podium and asked that if a decision is made that the water needs to be diverted will the dry well be created into a sewer. Council President Bertollo said it would be connected to the storm water system and the dry well would be removed.

Council President Bertollo asked if any one else wished to be heard.

Robert Kurdock, 15 Rhodes Court asked what the maximum fine is for illegal housing. Attorney Pasquale said fine amounts vary and the municipal court's jurisdiction is a \$2,000.00 limit. Additional fines can be imposed for a second offense, which would include discovery of children enrolled in the school system and a fine would be imposed to repay school costs for those children. The Uniform Construction Code fine is separate from our ordinance fines.

Mr. Kurdock stated that an illegal apartment was found, the residents may have been living there for two or more years and the owner is receiving \$750.00 per month. When doing the math, this is not a bad investment when comparing risks to benefits. The fines established are not enough of a deterrent. Attorney Pasquale stated the fines are strictly with regard to one aspect which is the zoning violation. There are building violations that also result in the imposition of UCC fines. When an illegal homeowner is fined, more often than not the fines range from \$5,000.00 to \$15,000.00. We look to make it a very substantial penalty. Mayor Goldberg stated that we want to keep this in municipal court and not send them to Superior Court.

Mr. Kurdock again stated that there is very little risk for a potential high return in owning an illegal apartment, and this is almost an encouragement rather than a deterrent. Attorney Pasquale stated that penalties can be imposed on a daily basis. Nothing states that an on-going violation does not result in daily penalties and there have been a number of situations where this was done. Also, if the person is a repeat offender, there is no reason why the judge cannot send the person to jail, which is a thirty day option.

Mr. Kurdock asked about theft of services. Attorney Pasquale said theft of services concerns the school board. Attorney Pasquale said that we make the fines as stiff as we can, we encourage our people to write the maximum, we cannot tell Judge Meola how to decide cases but we know he has been very severe on illegal two family homes, he is fair but very firm. Mr. Kurdock asked if any one has ended in a negative position by having illegal tenants. Attorney Pasquale said he is aware of some because the UCC violations are very substantial.

Councilman Lane stated there are people who do not know the difference between UCC violations versus zoning law violations. Zoning laws are ordinances that are written by the town and our inspectors enforce these laws. The Uniform Construction Code is written by the State of New Jersey, which governs the Building Department. The Zoning and Building Departments are two separate departments when discussing violations. Mr. Kurdock asked who controls the violation fine amount. Councilman Lane said under the UCC, the State controls the maximum amount a violation can be issued and the State raised this amount several years ago to an amount of up to \$2,000.00. When entering an illegal apartment, there are four jurisdictions which are building, fire, plumbing and electric and each jurisdiction can write summonses as to what the violations are. Each violation, no matter how many there are, can be summonsed to \$2,000.00 per day if the sub-code official or code official deems it. These summonses can be per day, per week or per month, and these officials have control over it. When it comes to zoning, a summons can be issued for one day which would be the day it was found. If summonses

were not issued on a particular item, these summonses can be issued on a daily basis, which would be for a zoning or property maintenance violation. This is the difference between the two, one is controlled by our Building Department which is controlled by the State and the other is controlled by the Zoning Department which is borough law. The town keeps all of the money that is collected.

Mr. Kurdock wants to be assured that if a violation that has been in existence for two or more years, the person receives the maximum penalty for owning an illegal apartment. Councilman Lane said speaking from experience this is something very hard to do since proof cannot be made as to how long the apartment was in existence. Proof of existence can only be made at the time it was witnessed.

Mr. Kurdock believes the deck is stacked toward the violator rather than the citizen. Mr. Kurdock said that incentives for the citizens were discussed during the housing ordinance forum on August 4th. One incentive is to encourage the borough employees to report an illegal apartment and reward the employees. Mayor Goldberg said employees are paid through the salary ordinance and if an employee reported, for example, three illegal apartments, the employee is now earning more than the position calls for under the ordinance.

Mr. Kurdock stated a Prospect Park resident was arrested at our town pool and he wanted to know what the person was doing there, how he got there and will he be fined. Mayor Goldberg said that it is possible that a Hawthorne resident purchased a guest badge whereby you can invite someone from another town as a guest for a day. We assumed that this person came as a guest, was thrown out of the pool which means he lost his fee for the day. It is Mayor Goldberg's understanding that this is the same person that was charged as a disorderly person as well. Mr. Kurdock asked if the Hawthorne resident that brought him as a guest would be held liable. Mayor Goldberg said that would be difficult to do. Council President Bertollo said that when he was on the Board of Recreation, there was a policy that a if guest badge was purchased on a resident's badge and the guest got in trouble, the resident lost his badge. Mayor Goldberg said he would see if this rule still applies.

Mr. Kurdock asked if the paper stock has changed because the paper seems heavier. Clerk Witkowski said the paper has not changed.

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 Councilman Matthews, seconded by Councilman Mele. On roll call, all voted yes.

ADJOURNMENT

Council President Bertollo entertained a motion to adjourn the meeting at 9:16 p.m., moved by Councilman Matthews, seconded by Councilman Mele. On roll call, all voted yes.

Council President Bertollo indicated that the next regular council meeting will be on September 1, 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