

MEETING OF NOVEMBER 3, 2010

MINUTES OF A MEETING OF THE COUNCIL OF THE CITY OF HOBOKEN, NEW JERSEY, HELD IN THE COUNCIL CHAMBERS, CITY HALL, HOBOKEN, NEW JERSEY, WEDNESDAY, NOVEMBER 3, 2010 AT 7:00 PM

President Marsh opened the meeting at 7:00 p.m. and stated, "I would like to advise all those present that notice of this meeting has been provided to the public in accordance with the provisions of the Open Public Meeting Act, and that notice was furnished to The Jersey Journal and The Hoboken Reporter, The Record, The Newark Star - Ledger and also placed on the bulletin board in the lobby of City Hall."

The Council President then called for the Salute to the Flag.

The Clerk then called the roll:

PRESENT: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo and President Marsh.

ABSENT: Lenz.

PUBLIC HEARING and FINAL VOTE ON ORDINANCES

Second Reading / Public Hearing and Final Vote

AN ORDINANCE OF THE COUNCIL OF THE CITY OF HOBOKEN GRANTING AN EASEMENT FOR CERTAIN ENCROACHMENTS WITHIN THE PUBLIC RIGHT OF WAY AT THE SITE OF REAL PROPERTY LOCATED AT 731 BLOOMFIELD STREET, HOBOKEN NEW JERSEY, MORE PARTICULARLY KNOWN AS BLOCK 206, LOT 19 ON THE TAX MAP OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, STATE OF NEW JERSEY.

(Z-64)

President Marsh directed the City Clerk to announce that the Council would consider for final passage the aforesaid ordinance and all persons interested at this time would be given an opportunity to be heard concerning said ordinance of which the heading was read in full.

No other person present desiring to be heard and no written protests or objections received, President Marsh asked for a motion to close the hearing.

President Marsh moved that the hearing be closed.

Motion duly seconded by Councilman Cunningham.

---Adopted by the following vote: YEAS: 8- NAYS: 0 --ABSENT - 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo and President Marsh.

---Nays: None.

---Absent: Lenz

President Marsh then instructed the City Clerk to call the Final Vote for the above Ordinance.

---Adopted by the following vote: YEAS: 8- NAYS: 0 – ABSENT: 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo and President Marsh.

---Nays: None.

---Absent: Lenz.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF HOBOKEN GRANTING AN EASEMENT FOR CERTAIN ENCROACHMENTS WITHIN THE PUBLIC RIGHT OF WAY AT THE SITE OF REAL PROPERTY LOCATED AT 1422-1428 GRAND STREET, HOBOKEN NEW JERSEY, MORE PARTICULARLY KNOWN AS BLOCK 121, LOTS 14, 15, 16 AND 17 ON THE TAX MAP OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, STATE OF NEW JERSEY.

(Z-65)

President Marsh directed the City Clerk to announce that the Council would consider for final passage the aforesaid ordinance and all persons interested at this time would be given an opportunity to be heard concerning said ordinance of which the heading was read in full.

No other person present desiring to be heard and no written protests or objections received, President Marsh asked for a motion to close the hearing.

President Marsh moved that the hearing be closed.

Motion duly seconded by Councilman Cunningham.

---Adopted by the following vote: YEAS: 8- NAYS: 0 – ABSENT - 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo and President Marsh.

---Nays: None.

---Absent: Lenz.

President Marsh then instructed the City Clerk to call the Final Vote for the above Ordinance.

---Adopted by the following vote: YEAS: 8- NAYS: 0 – ABSENT - 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo and President Marsh.

---Nays: None.

---Absent: Lenz.

AN ORDINANCE SUPPLEMENTING ORDINANCE Z-47 ESTABLISHING A SCHEUDLE OF CLASSIFICATIONS AND ALLOCATIONS OF TITLE(S) FOR POSITIONS IN THE CITY OF HOBOKEN AND DESIGNATING THE APPROPRIATE STANDARDIZED TITLE FOR EACH POSITION. **(Z-66)**

President Marsh directed the City Clerk to announce that the Council would consider for final passage the aforesaid ordinance and all persons interested at this time would be given an opportunity to be heard concerning said ordinance of which the heading was read in full.

The speakers who spoke: Scott Siegel, Margaret O'Brien, Patricia Waiters.

No other person present desiring to be heard and no written protests or objections received, President Marsh asked for a motion to close the hearing.

President Marsh moved that the hearing be closed.
Motion duly seconded by Councilman Cunningham.

President Marsh then instructed the City Clerk to call the Final Vote for the above Ordinance.

---Adopted by the following vote: YEAS: 8- NAYS: 0
---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo and President Marsh.
---Nays: None.
---Absent: Lenz.

President Marsh then instructed the City Clerk to call the Final Vote for the above Ordinance.

---**FAILED** by the following vote: YEAS: - 4 NAYS: 4 – ABSENT - 1
---Yeas: Council persons Bhalla, Cunningham, Mello, and President Marsh.
---Nays: Castellano, Giacchi, Mason, Russo.
---Absent: Lenz.

10-679

A PROCLAMATION HONORING VINCENT J. WASSMAN FOR HIS SERVICE ON THE HISTORIC PRESEVATION BOARD.

WHEREAS, Vincent J. Wassman, a highly esteemed and long time Hoboken resident, has served proudly on the Historic Preservation Board for more than twenty years; and

WHEREAS, Vincent J. Wassman, showed his dedication through his hard work on various projects, including the preservation of the Holy Innocents Church, the rededication of Sybil's Cave, and the reconstruction of the Clam Broth House; and

WHEREAS, Vincent J. Wassman, has a true passion for preserving the character and integrity of the architecture in the City of Hoboken, including receiving a Hoboken Heritage Award for the restoration of his own brownstone, ensuring future generations will be able to enjoy Hoboken's unique sense of place; and

WHEREAS, Vincent J. Wassman, was born and raised in Hoboken, married the former Nona Rimmer and are the proud parents of John, Thomas, Barbara, Maryann, and Susan; and

WHEREAS, Vincent J. Wassman, joined the Armed Forces of the United States and proudly served his country during both World War II and the Korean War;

NOW, THERFORE, BE IT RESOLVED, THAT I, DAWN ZIMMER, Mayor of the City of Hoboken do hereby issue this proclamation in honor of Vincent J. Wassman and extend praise and commendations recognizing his many contributions to the City of Hoboken and its citizens.

Received and Filed.

10-680

MEMORANDUM

TO: Hoboken City Clerk James Farina
FROM: Mayor Dawn Zimmer
RE: Historic Preservation Board

Mr. Farina,

I have appointed the following new members to the Historic Preservation Board:

Steve Bauman (to replace Vincent Wassman, Class Co holdover)
Joan Abel (to replace Elayne Nestor, Class B holdover)

Please administer the oaths to the new board members, and take note of these appointments in your records and on the City website.

Received and Filed.

10-681

APPLICATIONS FOR MISCELLANEOUS LICENSES

Vendors-----	2
Raffles-----	2

---Motion duly seconded by Councilwoman Castellano.
---Adopted by the following vote: YEAS: 8 - NAYS: 0 – ABSENT -1
---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo, and President Marsh.
---Nays: None.
---Absent: Lenz

Reports of City Officers

10-682

A communication from the Municipal Tax Collector Sharon Curran for the Affidavit of tax bill mailing.

---Received and Filed.

CLAIMS

10-683

Total for this agenda **\$3,667,908.61.**

Adopted as by the following vote: YEAS: 8 - NAYS: 0 – ABSENT -1

Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo, and President Marsh.

Nays: None.

Absent: Lenz

Councilwoman Mason questions F & S Investments LLC – refund for property?

What about Stan’ s sports, was it a bid item?

Councilwoman Castellano comments on gasoline for 28K and Pier

RailingandMatrix Consulting

B.A. comments yes, matrix is partial payment for a certain percentage for their work

Councilman Cunningham asked the B.A. for an update on Matrix

Consulting.

B.A. will give the council an update tomorrow for the status of Matrix Consulting.

Councilman Cunningham questions about Cali carding?

PAYROLLS

10-684

For the two week period starting August 19 – September 8, 2010

Regular Payroll	O/T Pay	Pay
\$1,484,882.08	\$41,039.35	\$1,684,304.87

Adopted by the following vote: YEAS: 7 - NAYS: 1 – ABSENT - 1

Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mello, and President Marsh.

Nays: Mason, Russo

Absent: Lenz

Councilman Russo questions Director Sacs for parking utility for O/T pay Director Sacs responds to the councilman on his employees.

Councilwoman Castellano asking for Director Maier for O/T

Council President announces that a Closed Session will happen after the Public Portion this meeting

Director Maier responds to Councilwoman Castellano the O/T pertained to the PARIS Grant for Hudson County

Councilwoman Mason requests to see the list of items that are being shredded

City Clerk comments and responds to Councilwoman Mason

Councilwoman Castellano questions Director Pellegrini for O/T

Councilman Mello requests Director Sacs to please explain the Transportation and Parking enforcement officers balance point is 9-20K and parking enforcement officers (PEO’ s).

Councilman Mello questions Councilman Russo about the Transportation and Parking spending in O/T

Councilwoman Mason comments on O/T with Police Department vs. Transportation and Parking, requests a flow chart of hours and how many employees are on board

Director Sacs comments on a sample

Councilman Cunningham requests to have Councilwoman Mason on the Parking and Transportation sub-committee
Director Sacs comments on the O/T
Council President comments on closing and requests Councilman Mello reach out to Councilwoman Mason for the sub-com

RESOLUTIONS

Presented and Read

10-685

---By Councilman Russo

Inserting a Special Item of Revenue into the TY 2010 Municipal Budget

PEDESTRIAN SAFETY EDUCATION GRANT – TY 2010

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 an item of Appropriation for an equal amount, and

WHEREAS, the City of Hoboken has received notice of an award of \$15,000.00 from State of New Jersey, Division of Highway Traffic Safety to amend its TY 2010 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hoboken, in the County of Hudson, State of New Jersey, 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 TY 2010 in the sum of..... \$15,000.00
This is now available as revenue from:

Miscellaneous Revenues:

- Special Items of General Revenue Anticipated
- With Prior Written Consent of the Director of the
- Division of Local Government Services:
- State and Federal Revenues Off-set with
- Appropriations:
- Pedestrian Safety Highway Grant 2010 O/E

NOW, THEREFORE, BE IT RESOLVED that the like sum of: \$15,000.00
Be and the same is hereby appropriated under the caption of:
General Appropriations:

- (a) Operations Excluded from CAPS
- State and Federal Programs Off-Set by
- Revenues:
- Pedestrian Safety Highway Grant 2010 O/E
- Other Expenses

NOW, THEREFORE, BE IT RESOLVED, that the City Clerk forward two certified copies of this resolution to the Director of Local Government Services for approval.

---Motion duly seconded by Councilwoman Castellano.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 – ABSENT: 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo, and President Marsh.

---Nays: None.

---Absent: Lenz.

10-686

---By Councilman Russo

Inserting a Special Item of Revenue into the TY 2010 Municipal Budget

COOPERATIVE HOUSING INSPECTION PROGRAM – TY 2010

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 an item of Appropriation for an equal amount, and

WHEREAS, the City of Hoboken has received notice of an award of \$100,000.00 from State of N.J., Department of Community Affairs to amend its TY 2010 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hoboken, in the County of Hudson, State of New Jersey, 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 TY 2010 in the sum of.....\$100,000.00 This is now available as revenue from:

Miscellaneous Revenues:

- Special Items of General Revenue Anticipated
- With Prior Written Consent of the Director of the
- Division of Local Government Services:
- State and Federal Revenues Off-set with
- Appropriations:
- Housing Inspection Grant O/E

NOW, THEREFORE, BE IT RESOLVED that the like sum of: \$100,000.00 Be and the same is hereby appropriated under the caption of:

General Appropriations:

- (a) Operations Excluded from CAPS
- State and Federal Programs Off-Set by
- Revenues:

Housing Inspection Grant O/E
Other Expenses

NOW, THEREFORE, BE IT RESOLVED, that the City Clerk forward two certified copies of this resolution to the Director of Local Government Services for approval.

- Motion duly seconded by Councilwoman Castellano.
- Adopted by the following vote: YEAS: 8 - NAYS: 0 – ABSENT: 1
- Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo, and President Marsh.
- Nays: None.
- Absent: Lenz.

10-687

---By Councilman Russo

Inserting a Special Item of Revenue into the TY 2010 Municipal Budget

COMMUNITY DEVELOPMENT BLOCK GRANT – TY 2010

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 an item of Appropriation for an equal amount, and

WHEREAS, the City of Hoboken has received notice of an award of \$457,000.00 from Hudson County, Division of Housing & Community Development to amend its TY 2010 Budget to include this amount as revenue and Miscellaneous Program Income \$105,000.00.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hoboken, in the County of Hudson, State of New Jersey, 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 TY 2010 in the sum of..... \$562,000.00
This is now available as revenue from:

- Miscellaneous Revenues:
 - Special Items of General Revenue Anticipated
 - With Prior Written Consent of the Director of the
 - Division of Local Government Services:
 - State and Federal Revenues Off-set with
 - Appropriations:
 - Community Development Block Grant 2010 O/E

NOW, THEREFORE, BE IT RESOLVED that the like sum of: \$562,000.00
Be and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from CAPS

State and Federal Programs Off-Set by
Revenues:

Community Development Block Grant 2010 O/E
Other Expenses

NOW, THEREFORE, BE IT RESOLVED, that the City Clerk forward two certified copies of this resolution to the Director of Local Government Services for approval.

Motion duly seconded by Councilwoman Castellano.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 – ABSENT: 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo, and President Marsh.

---Nays: None.

---Absent: Lenz.

10-688

---By Councilman Russo

RESOLUTION AUTHORIZING THE REFUND OF TAX OVERPAYMENTS

WHEREAS, an overpayment of taxes has been made on property listed below: and

WHEREAS, Sharon Curran, Collector of Revenue recommends that refunds be made;

NOW THEREFORE BE IT RESOLVED, that a warrant be drawn on the City Treasurer made payable to the following totaling **\$ 19,697.23.**

<u>NAME</u>	<u>BL/LT/UNIT</u>	<u>PROPERTY</u>	<u>QTR/YEAR</u>	<u>AMOUNT</u>
FARRELL, THOMAS & MEGAN 636 FIFTH ST #207 HOBOKEN, NJ 07030	66/1/C0207	636 FIFTH ST	1/10	\$ 2,101.47
ZALESKI, BRIAN R 812 GRAND ST #221 HOBOKEN, NJ 07030	91/1.2/C0221	812 GRAND ST	3/09	\$ 1,635.82
GOTTLIEB, MELISSA 812 GRAND ST #505 HOBOKEN, NJ 07030	91/1.2/C0505	812 GRAND ST	2/10	\$ 1,879.46
MORRISON, ROBERT M & KERRY N 1021 GRAND ST #PHH HOBOKEN, NJ 07030	155/3/C0PHH	1021 GRAND ST	1/09 & 2/09	\$ 2,412.85

BATINO, CHARINA 924 WILLOW AVE #2 HOBOKEN, NJ 07030	161/22/C0002	924 WILLOW AVE	3/10	\$ 1,187.05
CIRILLI, CARLOS & MARIA 908 PARK AVENUE HOBOKEN, NJ 07030	171/33/	908 PARK AVE	2/10	\$ 4,828.87
HUDSON CITY SAVINGS BANK WEST 80 CENTURY ROAD PARAMUS, NJ 07652	179/31/C0002	328 GARDEN ST	4/09	\$ 446.60
IOANNOU, STEVEN J 139 BLOOMFIELD ST #1-B HOBOKEN, NJ 07030	200/19/CB001	139 BLOOMFIELD ST	3/10	\$ 1,601.33
CORCORAN, CHRISTOPHER W & MARY C 1500 HUDSON ST #8P HOBOKEN, NJ 07030	268.1/3/C008P	1500 HUDSON ST	1/10 & 2/10	\$3,603.78

Motion duly seconded by Councilwoman Castellano.

---Adopted by the following vote: YEAS: 8 - NAYS: 0 – ABSENT: 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo, and President Marsh.

---Nays: None.

---Absent: Lenz.

ORDINANCES

Introduction and First Reading

10-689

Z-67

AN ORDINANCE TO AMEND AND SUPPLEMENT SECTIONS 141A-2, 190-3, AND 190-28 OF THE GENERAL CODE OF THE CITY OF HOBOKEN TO CREATE PARKING REGULATIONS ON HARRISON STREET

WHEREAS, pursuant to Title 39 of the New Jersey Statutes, the City of Hoboken is entitled to create, repeal and amend ordinances relating to parking on municipal rights of way;

WHEREAS, Harrison Street, between Fifth Street and the Northern Boundary currently does not have any parking regulations;

WHEREAS, the General Code of the City of Hoboken, at Section 141A-2, currently regulates Resident Only parking areas within the City;

WHEREAS, the General Code of the City of Hoboken, at Section 190-3, currently regulates No Parking Anytime areas within the City;

WHEREAS, the General Code of the City of Hoboken, at Section 190-28, currently regulates Alternate Side Parking within the City;

WHEREAS, the City Council seeks to regulate parking on Harrison Street between Fifth Street and the Northern Boundary of the City.

NOW, THEREFORE, BE IT ORDAINED by the Hoboken City Council, County of Hudson, in the State of New Jersey as follows:

Section One: Section 141A-2 Amendments

Section 141A-2 of the General Code of the City of Hoboken, currently titled “ Resident Permits” is hereby amended to incorporate the following addition in Subsection H:

<u>Name of Street</u>	<u>Side</u>	<u>Limits</u>	<u>Location</u>
Harrison Street Northern	East	24 Hours	From Fifth Street to the Boundary

Section Two: Section 190-3 Amendments

Section 190-3 of the General Code of the City of Hoboken, currently titled “ Parking prohibited at all times” is hereby amended to incorporate the following addition:

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Harrison Street	West	From Fifth Street to the Northern Boundary

Section Three: Section 190-28 Amendments

Section 190-28 of the General Code of the City of Hoboken, currently titled “ Alternate Parking Locations” is hereby amended to incorporate the following addition:

<u>Name of Street</u>	<u>Time</u>	<u>Side</u>	<u>Location</u>
Harrison Street Northern	3:00pm to 4:00pm Mondays	East	From Fifth Street to the Boundary

Section Four: Repeal of Inconsistent Provisions

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section Five: Severability

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by

a court of competent jurisdiction, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section Six: Effective Date

This Ordinance shall take effect upon passage and publication as provided by law.

Section Seven: Codification

This Ordinance shall be a part of the code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code.

Proper signs shall be erected in accordance with the current “ Manual on Traffic Control Devices.” The City Clerk shall immediately forward a certified copy of this Ordinance to the New Jersey Department of Transportation.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

---President Marsh moved that the ordinance pass its first reading as read and be laid on the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **NOVEMBER 15, 2010 at 7:00 PM.**

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 5 – NAYS: 3 – ABSENT 1

---Yeas: Council persons Bhalla, Cunningham, Giacchi, Mello, and President Marsh.

---Nays: Castellano, Mason, Russo.

---Absent: Lenz

10-690

Z-68

AN ORDINANCE OF THE COUNCIL OF THE CITY OF HOBOKEN GRANTING AN EASEMENT FOR CERTAIN ENCROACHMENTS WITHIN THE PUBLIC RIGHT OF WAY AT THE SITE OF REAL PROPERTY LOCATED AT 251-259 FOURTEENTH STREET, HOBOKEN, NEW JERSEY, MOR PARTICULARLY KNOWN AS BLOCK 117 LOTS 3,4,5,6,7,8 AND 9 ON THE TAX MAP OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, STATE OF NEW JERSEY

WHEREAS, the applicant, Katerina Scigutano for NDKB Inc., has petitioned the City of Hoboken for the granting of a certain easement over municipal lands at 251-259 Fourteenth Street, Hoboken, New Jersey, (“ the premises”) which premises is more particularly described as Block 117, Lots 3,4,5,6,7, and 8, on the Tax Map of the City of Hoboken, New Jersey, in order to perpetuate an existing and long-standing condition, and to clarify a prior

easement granted April 15, 1998, allowing the continued parking of vehicles at the premises as outlined in the attached drawing. The easements are described as follows:

METES AND BOUNDS

ALL that certain lot, parcel or tract of land, situated and lying in the City of Hoboken, County of Hudson, State of New Jersey, and being more particularly described as follows:

BEGINNING at a point in the northwesterly corner of the property (Lot 5) of Fourteenth Street, running thence:

1. N-23°-00' -00"-E, a distance of 6.25 feet to a point; thence
2. S-67°-00' -00"-E, a distance of 90.00 feet to a point; thence
3. S-23°-00' -0"-W, a distance of 6.25 feet to a point; thence
4. N-67°-00' -0"-W, a distance of 90.00 feet to a point, said point being the place of beginning; and

BEGINNING at a point on the southeasterly corner of the property (Lot 9) of Park Avenue, running thence:

1. N-23°-00' -00"-E for a distance of 100.00 feet to a point; thence
2. S-67°-00' -00"-E for a distance of 7.50 feet to a point; thence
3. S-23°-00' 00"-W for a distance of 100.00 feet to a point; thence
4. N-67°-00' -00"-W for a distance of 7.50 feet to a point, said point being the place of beginning.

The above being known as a portion of the public right of way of Fourteenth Street adjacent to Lots 3 through 8, and a portion of the public right of way of Park Avenue adjacent to Lots 8 and 9 of Block 117, as shown on the Official Tax Assessment Map for Hoboken, Hudson County, New Jersey.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE COUNCIL OF THE CITY OF HOBOKEN THAT THE CITY OF HOBOKEN HEREBY GRANTS NDKB, Inc., THE AFORMENTIONED EASEMENT SUBJECT TO THE FOLLOWING CONDITIONS AND REQUIREMENTS:

1. The following recitals are incorporated herein as though fully set forth at length.
2. The City of Hoboken expressly reserves the right to require the removal of any projections or encumbrances, under or upon any street, sidewalk or public easement, for any reason including but not limited to destruction of premises by fire.
3. The applicant shall immediately remove any or all projections or encumbrances that are improperly maintained and thus present a public hazard.
4. The applicant shall indemnify the City of Hoboken, for any and all damages or money loss occasioned by the City of Hoboken or its officers or agents by any neglect, wrongdoing, omissions or commissions by the applicant arising from the making of improvements referred to herein and the construction, use and maintenance of the

property described herein, and shall hold harmless the Mayor and Council of the City of Hoboken, its officers, agents and employees, against all claims, charges, judgments, costs, penalties, remediation or counsel fees arising from such damages or loss, including but not limited to death and injury, to any person or damage to property of any person, firm or corporation occasioned wholly or in part from the construction, use and maintenance of the property described herein, and the applicant shall maintain liability insurance with respect thereto, in and amount of one million (\$1,000,000.00) dollars with a policy to be issued by an insurance company approved by the Office of the Corporation Counsel, naming the City of Hoboken, the Mayor and the City Council as additional insured.

5. These easements shall run with the land and inure to the benefits of the applicant's successors and assigns in title and interest to the property served by these easements. The covenants and conditions set forth herein shall similarly be the obligation of the applicant's successors and assigns in title and interest to the property served by the within easements.
6. The permission granted herein is conditioned upon and shall be effective only upon the applicant obtaining any and all other necessary permits and consent that may be required by local or state law, including but not limited to approval by the Hudson County Planning Board.
7. This ordinance shall take effect as provided by law.

--President Marsh moved that the ordinance pass its first reading as read and be laid on the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **NOVEMBER 15, 2010 at 7:00 PM.**

--Motion duly seconded by Councilman

--Adopted by the following vote: YEAS: 8 – NAYS: 0 – ABSENT - 1

--Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, Russo and President Marsh.

--Nays:None.

--Absent: Lenz

10-691
Z-69

AN ORDINANCE AMENDING CHAPTER 196 "ZONING" ARTICLE IX "GENERAL SUPPLEMENTARY REGULATIONS" TO INCLUDE A NEW SECTION 196-35.1 ENTITLED "SOLAR INSTALLATION

WHEREAS, the City of Hoboken, the Administration and the Governing Body wish to encourage the use of alternative energy sources and to advance the City of Hoboken as a sustainable community; and

WHEREAS,

Now **THEREFORE**, be it ordained by the City Council of the City of Hoboken, County of Hudson, State of New Jersey, as follows:

SECTION ONE: ADDITION

The following Section is hereby added to the Municipal Code of the City of Hoboken:

ARTICLE IX
General Supplementary Regulations

196-35.1 Solar Installation

196-35.1-1. Definitions.

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

ARRAY – A linked collection of photovoltaic modules which are in turn made of multiple interconnected solar cells.

GROUND MOUNTED INSTALLATION – Installations that are free standing or attached to framework that is at grade.

NON-HABITABLE BUILDING INSTALLATION – Non-Habitable building installations include but are not limited to; shade structures, carports, solar trellises, and the like.

PHOTOVOLTAIC (PV) – Capable of producing a voltage, usually through photoemission, when exposed to radiant energy, especially light. Collectively used to refer to solar panels.

SOLAR ENERGY SYSTEM – A complete design or assembly consisting of a solar energy collector, and energy storage facility (where used), and components for the distribution of transformed energy.

196-35.1-2. Roof Installation.

- A. Installation type shall meet or exceed the minimum design load for wind speeds established by the American Society of Civil Engineers (ASCE) for Hoboken, New Jersey of one hundred ten miles per hour (110 mph).
- B. A ten (10) foot setback is required from any frontage that is accessible from the public right-of-way by a fire department aerial ladder truck, except:
 - (1) Buildings over seventy-five (75) feet are exempt from the setback requirements.
 - (2) Corner buildings where access to one frontage is obstructed by electrical lines, utility poles, or other immovable objects, shall provide a ten (10) foot set back on the frontage side that is least encumbered.
- C. Three (3) feet of clearance must be provided around all fire escape ladders, and/or other points of emergency access.
- D. Installations on a flat roof shall not exceed six (6) feet in height above the surface of the roof.
- E. Access and spacing requirements shall be observed in order to ensure safe passage for egress from the roof, maintenance of equipment, and to provide smoke ventilation opportunity areas.
- F. No solar photovoltaic array or related equipment shall be attached to a common or adjoining wall between two buildings.
- G. Remote disconnect. DC circuits shall be equipped with a means for remote disconnect located downstream from the photovoltaic array. Control of the remote

disconnect shall be located within five (5) feet of the building' s main electrical panel and shall meet all requirements of the New Jersey Electrical Code.

- H. For installation on a multiple ownership or condominium building, a letter from the owners association stating their acquiescence shall be required.

196-35.1-3. Non-Habitable Building Installation.

- A. Non-habitable building installations include but are not limited to; shade structures, carports, solar trellises, and the like.
- B. Non-habitable solar array structures shall not be applied as lot coverage, however, no lot shall be covered more than 85% by structures including solar.
- C. Solar shade structures or trellises may be incorporated into a roof deck structure provided the roof deck meets the safety set back standards listed in -1-2 above, and provided the shade or trellis structure does not exceed twenty percent (20%) of the total area of the roof.
- D. Minimum standards for installation shall be the same as for roof installations. (196-35.1-2.A,B)

196-35.1-4. Ground Mounted Installation.

- A. Setback requirements do not apply to ground-mounted, free standing photovoltaic arrays, except as stated in C below.
- B. Ground mounted arrays shall not be applied as lot coverage, however, no lot shall be covered more than 85% by structures including solar.
- C. Ground mounted installations exceeding six (6) feet in height as measured from grade, shall be set back from any lot line two (2) feet for each additional foot in height.

196-35.1-5. Signage Requirements

Marking is needed to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. This will facilitate identifying energized electrical lines that connect the solar panels to the inverter, as these should not be cut when venting for smoke removal.

All signs shall be made of reflective weather resistant material suitable for the environment; UL 969 shall be used as a standard for weather rating. All CAUTION signs shall have a red background with white lettering; a minimum 1/2” letter height, all capitals in Arial or similar font, unless otherwise specified. The “ PV” sign shall be of the same color and weather resistant material, but shall be 5’ x 5’ square and shall have a letter height of 3”.

- A. **PV** - Signage signifying the presents of a solar photovoltaic array shall be posted at the main entry door of the structure, and at all other points of access to the roof.
- B. **CAUTION: SOLAR ELECTRICAL SYSTEM CONNECTED** – For residential applications the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking shall be placed on the outside cover. For commercial applications the marking

shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

- C. **CAUTION: SOLAR ELECTRIC CIRCUIT** – Marking is required on all interior and exterior DC conduit, raceways, enclosures, cable assemblies, and junction boxes to alert emergency responders to avoid cutting them. Markings shall be placed every ten (10) feet, at turns and above and/or below penetrations, and at all DC combiner and junction boxes.
- D. **CAUTION: SOLAR CIRCUIT DISCONNECT** - Signage shall be located immediately next to the remote disconnect control.
- E. **CAUTION: SOLAR ARREY DISCONNECT** – Signage shall be located immediately next to, or on the array disconnect.

196-35.1-6. Approval and Permitting.

- A. No installation of solar energy systems shall be permitted without a First Certificate of Zoning Compliance and a Building Permit.
- B. The Zoning Officer is hereby authorized to issue First Certificates of Zoning Compliance for the purposes of erecting or maintaining solar energy systems.
- C. The Construction Official shall issue the necessary building permit(s) provided that:
 - (1) All safety and installation requirement listed in -1-2 or -1-3 above have been met; and
 - (2) All Uniform Construction Code (UCC) provisions as set forth in N.J.A.C. 5:23 et al, and National Fire Protection Standards (NFPA) have been met.

196-35.1-7. Location in the Historic District.

In the event that an application is made pursuant to the terms of this Article for premises that are located in the Hoboken Historic District, or on a designated historic site or structure, approval must be obtained from the Hoboken Historic Preservation Commission (HPC). Applicants shall submit preliminary plans to the Zoning Officer for review, and if appropriate, a letter of pending approval shall be issued by the Zoning Officer to the HPC, prior to their review. Upon approval by the HPC, a First Certificate of Zoning Compliance shall be issued, and construction permits may be sought from the Building Department.

196-35.1-8. Enforcement.

- A. The Construction Official, Fire Code Official, and/or Zoning Officer of the municipality are authorized to investigate suspected violations of any section of this ordinance and pursue enforcement activities.
- B. Violation of any provision of this ordinance shall be cause for the revocation of the First Certificate of Zoning Compliance and/or Construction Permit(s).
- C. Violation of any provision of this ordinance shall be subject to a civil penalty for each offense of not more than \$3,000. If the violation is of a continuing nature, each day during which it occurs shall constitute and addition, separate, and distinct offense.

196-35.1-9. Right to require removal.

The City of Hoboken expressly reserves the right to require the removal of any solar energy system, or portion thereof, which is improperly constructed or maintained, or which poses an imminent public safety hazard.

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

---President Marsh moved that the ordinance pass its first reading as read and be laid on the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **NOVEMBER 15, 2010 at 7:00 PM.**

---Motion duly seconded by Councilman Bhalla.

---Adopted by the following vote: YEAS: 7 – NAYS: 1 – ABSENT - 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, and President Marsh.

---Nays: Russo.

---Absent: Lenz

10-692
Z-70

AN ORDINANCE AMENDING CHAPTER 168 OF THE CODE OF THE CITY OF HOBOKEN DELETING ARTICLES II AND V IN THEIR ENTIRETY AND REPLACING THEM WITH A NEW ARTICLE II ENTITLED "SIDEWALK CAFES"

WHEREAS, the language, rules and regulations of Articles II and V of Chapter 168 of the current Municipal Code of the City of Hoboken lack sufficient detail and have become outdated for the licensing and governance of operations of the City's sidewalk cafes; and

WHEREAS, it is in the best interest of the City to update the Municipal Code to reflect modern issues and conditions; and

WHEREAS, the City wishes to ensure the quality of life of its residents, and promote a positive environment for economic development that services both residents and businesses alike.

Now **THEREFORE**, be it ordained by the City Council of the City of Hoboken, County of Hudson, State of New Jersey, as follows:

SECTION ONE: DELETION

The current ARTICLE II entitled "Sidewalk Cafes" and ARTICLE V entitled "Limited Sidewalk Cafes" of Chapter 168 of the Municipal Code of the City of Hoboken are hereby deleted in their entirety.

SECTION TWO: ADDITION

The following Section is hereby added to the Municipal Code of the City of Hoboken:

ARTICLE II
Sidewalk Cafes

§168-29. Definitions.

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

BAR -- A place of business whose primary function is the on-premises sale and consumption of alcoholic beverages. Food may be prepared and consumed on site but is incidental to the purpose of the establishment.

RESTAURANT -- Any establishment primarily for the serving of food and drink and offering tables and chairs for the use of dining patrons, where the tables and chairs utilize more than 50% of the customer service area.

RESTAURANT, CLASS I -- A restaurant which is designed for and whose primary function and operation is the preparation and service by employees of food and drink to a customer or customers seated at the counter, bar or table at which the meal is consumed. A category one restaurant operates without substantial carry-out service and/or delivery service.

RESTAURANT, CLASS II -- A restaurant whose primary function is the preparation and service by employees of food and drink to customers as part of an operation designed to

include substantial carry-out service; delivery service; self-service, and which may also include on-premises consumption.

RETAIL FOOD ESTABLISHMENT -- A grocery store, convenience store, or market in which food or drink is sold for off-premises preparation and/or consumption.

SIDEWALK -- That portion of the public easement which lies between the building line and the curb.

SIDEWALK CAFÉ -- Partitioned sidewalk space beyond the building line used to accommodate tables, chairs, and the serving of food and drink to patrons of a restaurant fronting on that space.

TAVERN / PUB -- An establishment in which alcoholic beverages are served, primarily by the drink, and where food is also prepared and served, but where tables and chairs utilize less than 50% of the customer service area.

§168-30. Projection into Streets.

- A. No person may operate a sidewalk café without obtaining a license from the Zoning Officer of the City of Hoboken.
- B. No sidewalk café shall be permitted to project into a sidewalk more than half the width of said sidewalk or eight (8) feet, whichever is less, but in no case shall it extend so far as to leave less than six (6) feet for pedestrian traffic; except in areas where the sidewalk is twenty (20) feet or more wide from the building line to the curb, then a sidewalk café may be permitted to project into a sidewalk a maximum of ten (10) feet.
- C. Where an operating restaurant is located on a corner, both the front and side sidewalk areas fronting the restaurant may be used for the sidewalk café.
- D. Sidewalk cafes shall only be permitted in front of an operating restaurant, or tavern that is a permitted conforming use under the City's zoning ordinances. Locations seeking to expand a prior nonconforming or conditional use shall be required to obtain the appropriate variance from the City of Hoboken Planning Board.
- E. Sidewalk cafes shall not be permitted in front of bars or retail food establishments as defined herein.

§168-31. General Requirements.

- A. All establishments licensed to operate a sidewalk café shall display the license in an unobstructed location on the door or a window of the primary business which faces onto the sidewalk.
- B. No permanent form of space delineation or construction for the sidewalk café will be permitted within the public right-of-way.
- C. The sidewalk café area shall be partitioned on three sides, by a movable structure separating the sidewalk café from the public portion of the sidewalk, and which is no less than thirty (30) inches in height and no more than thirty-six (36) in height, providing one opening for entrance and exit which is no less than forty-two (42) inches in width and no more than sixty (60) inches in width, and whose boundaries allow patrons and pedestrians to clearly ascertain the entrance and exit to the sidewalk café area.
- D. At no time shall the sidewalk café partition, tables, chairs, and other café furniture block any residential entrance.

- E. The sidewalk café shall have an overhead covering, consisting of either an individual umbrella over each table or a retractable awning covering all tables and chairs. Covering must have a minimum clearance of eight (8) feet from the sidewalk to the bottom of the awning/umbrella.
- F. The sidewalk café partition and overhead covering shall be appropriate in style to the façade of the building and shall not contain advertising.
- G. The sidewalk café shall be at the same elevation as the sidewalk. Paint, carpet, platforms, or any other surface cover or treatment of any kind shall not be permitted in the area of the sidewalk café, unless expressly permitted by variance.
- H. Commercial wall mounted electric heating units are permitted provided that all Uniform Construction Code and Electrical Subcode requirements for installation are met and a Certificate of Approval has been issued by the Construction Code Official. Heating units must be mounted not less than eight (8) feet above sidewalk grade and shall not project more than twelve (12) inches from the façade. Heating units must be mounted in such a way that they may be removed when not in use. Operating controls must be located within the interior of the restaurant or in a secure location not accessible to the general public.
- I. Musical instruments, outside speakers or other sound reproduction devices shall not be operated or used within a sidewalk café for any reason.
- J. The sidewalk café partition, overhead covering, and all tables, chairs, and other café furniture shall be removed from the sidewalk at the close of business each day. Where planters have been approved as a part of the movable structure, those planters shall be placed against the storefront façade over night.
- K. The entire sidewalk area in front of the premises, including eighteen (18) inches into the street, must be maintained by sweeping or washing daily or more frequently, as needed, by the licensee.
- L. No preparation of food or beverages shall take place outdoors but shall be restricted to the inside of the licensed establishment.
- M. Food service shall be available during all times in which the sidewalk café is open for business.
- N. Restaurants which hold a liquor license, and who wish to extend service area to the sidewalk café shall have completed a “Place to Place Transfer” with the Alcoholic Beverage Control Board. Licensees not covered for the sidewalk area shall not be permitted to serve alcoholic beverages in the sidewalk café.
- O. Sidewalk cafés that permit patrons to bring their own beer or wine shall adhere to all laws governing B.Y.O.B. as set forth in N.J.S.A. and City of Hoboken Municipal Code, Chapter 68.
- P. Alcoholic beverages, when permitted under this article, shall not be served or consumed on any sidewalk or any other public area which is outside the partitioned area of the sidewalk café.
- Q. The number of patrons served in the sidewalk café shall be limited to the maximum number indicated on the sidewalk café license. No persons other than those being served and restaurant personnel shall be within the sidewalk café area except for those persons passing through the sidewalk café to enter or exit the restaurant proper.
- R. Holes drilled into the sidewalk for the support of movable partitions shall be capped when not in use.

- S. Class II restaurants that do not have table service, shall provide waste receptacle(s) for all used containers, wrappers, bottles, cans and other waste materials. The waste receptacles shall be located within the sidewalk café partitioned area, and shall be removed from the sidewalk along with other café equipment each day.

§168-32. Terms of License, Dates and Hours of Operation.

- A. The sidewalk café license shall be personal to the applicant and may not be sold, leased or transferred and shall be deemed revoked by the sale or transfer of lease or title to the building to which the sidewalk café is related.
- B. Any and all licenses issued pursuant to this article shall permit sidewalk café operations beginning on March 1 and terminating on December 31 of each year.
- C. Hours of operation shall be between 8:00 a.m. and 10:00 p.m. Sunday through Wednesday; 8:00 a.m. and 11:00 p.m. Thursday; and between 8:00 a.m. and 12:00 midnight Friday and Saturday; except that no alcoholic beverages, when permitted under this article, shall be served in a sidewalk café before 11:00 a.m.

§168-33. Application and Fees.

- A. Applicants for a sidewalk café shall submit the following documents;
 - 1. A completed application form to be issued by the Zoning Officer and available through the Zoning Office and on the City' s web site.
 - 2. A copy of the restaurant' s certificate of liability insurance.
 - 3. A letter of consent from the property owner stating that the restaurant and its operator, by name, are permitted to operate a sidewalk café in front of their property.
 - 4. A letter from the City of Hoboken Health Department confirming that the applicant restaurant is in good standing.
 - 5. A letter from the City of Hoboken ABC Board confirming that the applicant restaurant, where applicable, is licensed to sell alcoholic beverages and permitted to extend the service area of their license to the sidewalk café.
 - 6. First time applicants shall submit scale drawings of the proposed sidewalk café by a licensed architect or engineer and photos of the property.
 - a. All buildings, trees and street furniture within ten (10) feet of the proposed café must be included in the plans.
 - b. All tables, chairs and accessory equipment must also be shown.
 - 7. Applicants for renewal of a previously licensed café shall submit a photo and sketch of the location and dimensions of the sidewalk café, the number and placement of tables and chairs, and all other accessory equipment and information deemed necessary by the Zoning Officer. Scaled architectural plans shall not be required for renewal, unless the sidewalk café is located on a street that has had obstructions added or removed since its last licensing, or in front of a building that has been significantly altered since the last licensing.
- B. Any person submitting an application for a sidewalk café shall pay an application fee of fifty (\$50) dollars.

- C. Upon approval, any successful applicant for a sidewalk café shall pay an annual license fee, with no proration for a partial year, as provided below:

Base fee, all cafes:	\$300
Cafes with 13 or more seats:	+\$25/seat over 12

§168-34. Insurance Required.

- A. The applicant shall file with the Zoning Officer, a certificate of liability insurance in the minimum amount of one million (\$1,000,000) dollars, naming the City of Hoboken and its agents, servants, and employees as additional insured, which policy shall be kept in full force during the operation of the sidewalk café. The policy of insurance must be occurrence based coverage.
- B. Laps in insurance coverage will result in the immediate suspension of the café license.
- C. In addition to obtaining the insurance coverage, the applicant/owner of the sidewalk café shall execute a hold harmless agreement in which the applicant/owner of the sidewalk café agrees to save, defend, keep harmless and indemnify the City and all of its officials and employees from and against any and all claims, loss, damages, injury cost, liability or exposure arising out of the granting of this license or the operation of the sidewalk café.

§168-35. Enforcement.

- A. The Zoning Officer and the Police Department of the City of Hoboken shall have the authority to enforce this article.
- B. The City of Hoboken, through its duly authorized agent, shall revoke the license of any sidewalk café licensee who, upon receipt of notice of violation of city or state law or any of the requirements set fourth herein, fails to cure the violation within five (5) days of said notice.
- C. The City of Hoboken may require the immediate closure and removal of all sidewalk cafes or other projections or encumbrances upon any street, sidewalk or public easement which are improperly constructed or maintained, or which otherwise create a hazard to the public.
- D. A licensee aggrieved by any decision to revoke a license, or to close or remove a sidewalk café, shall be afforded a hearing before the Planning Board, or its designee. Such request for hearing shall be in writing and delivered to the Planning Board, attn. Board Secretary, 94 Washington Street, Hoboken, New Jersey, 07030.
- E. The rules and regulations set forth herein shall be applied to all sidewalk café licensees, effective upon adoption of this amended section. Prior conditions that are noncompliant must be abated or approved by variance issued by the Planning Board before a license shall be issued for the next following calendar year.

SECTION THREE: AMENDMENTS

The following section of Chapter 196, entitled “Zoning” the Municipal Code of the City of Hoboken, is hereby amended to conform with the new language in Chapter 168; ~~deletions shall be noted by strikethrough~~ and additions shall be noted by underline:

§196-38. Standards for particular use.

Q. Sidewalk café. The utilization of sidewalk space beyond the building line to accommodate the serving of food and drink to patrons of a restaurant fronting on that space shall be subject to the following conditions:

- (1) Conformity with ~~the Building Code and all applicable state and local Health Department standards.~~ the rules and regulation set forth in Chapter 168, Article II of the Code of the City of Hoboken.
- (2) ~~A renewable annual contract between the restaurant management and the Mayor and Council of the City of Hoboken setting forth the annual fee to the city, the hours and conditions of operation and such circumstances as will void renewal of the annual contract.~~ Qualification and retention of a renewable annual license administered by the Zoning Officer.
- (3) ~~No more than half the sidewalk or six (6) feet, whichever is less, shall be utilized for sidewalk cafes. In no case shall less than four (4) feet of sidewalk be available for pedestrian traffic.~~
- (4)(3) Site plan review and approval by the Planning Board, when matters of compliance are outside of those expressly permitted in Chapter 168, Article II.

SECTION FOUR: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION FIVE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION SIX: EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

SECTION SEVEN: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and

the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

---President Marsh moved that the ordinance pass its first reading as read and be laid on the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **NOVEMBER 15, 2010 at 7:00 PM.**

---Motion duly seconded by Councilman Bhalla.

---Adopted by the following vote: YEAS: 7 – NAYS: 1 – ABSENT - 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Mason, Mello, and President Marsh.

---Nays: Russo.

---Absent: Lenz

NEW BUSINESS

Councilwoman Castellano comments

Councilwoman Mason comments on passing

Councilman Russo thanks Councilman Lenz on his service to the City of Hoboken and wishes him all the best

Councilman Russo wants to congratulate Tim Occhipinti for a job well done and looks forward with working with him

Councilman Giacchi comments

Councilman Cunningham comments on the Zoning, Planning and Economic Subcommittee update on 3 proposals

Meeting next week on 83 Willow and ask the property owners on what the next steps are

Councilman Mello comments and commends Councilman Russo and

Councilwoman Castellano for the Haunted House, but discusses tombstones that were placed at the Haunted House and took offensive, juvenile and inappropriate

Councilwoman Castellano comments and responds to Councilman Mello

Councilman President comments and requests the Councilmen to stop

Councilman Russo comments

Councilman Mello comments

Councilman Bhalla comments and is thankful for Mr. Lenz' s service to the Governing Body and congratulates Tim Occhipinti

Councilwoman Castellano responds to Councilman Bhalla

PUBLIC PORTION

All regular business concluded the following members of the public spoke at the "Public Portion" of the meeting: Helen Hirsch, Margaret O'Brien, Scott Siegel, Mo DeGennaro, David Liebler, Lane Bajardi.

Corporation Counsel comments and reads out why the Council is needed to go into Closed Session

---Motion duly Councilman Russo seconded by the Council at 8:27 PM

Motion to go into Closed Session at 8:27 P.M.

At 8:32 P.M. The Governing Body entered into a closed session.

CLOSED SESSION

10-692A

Resolution authorizing Executive Session for Attorney Client privilege pertaining to the Waterfront.

At 8:51 P.M. the Governing Body on a motion by Council President Marsh --- duly seconded by the Governing Body.

President Marsh then adjourned the meeting at 8:51 P.M.

PRESIDENT OF THE COUNCIL

CITY CLERK