

**THE COUNCIL OF THE CITY OF HOBOKEN**  
**MINUTES FOR MEETING OF WEDNESDAY NOVEMBER 2, 2011**

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President Bhalla opened the meeting at 7:01 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 published in the Jersey Journal, City website, copies were provided in 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 Castellano, Cunningham, Giattino, Marsh, Mason, Mello, Occhipinti, Russo and President Bhalla

**Council President addresses the below ordinance.**

Second Reading/Public Hearing and Final Vote

AN ORDINANCE TO ACQUIRE THREE ROADS AS MUNICIPAL ROADS AND ACCEPT THE COUNTY OF HUDSON'S ACTIONS TO CEDE JURISDICTION AND CONTROL TO THE CITY OF HOBOKEN PURSUANT TO N.J.S.A. 27:16-28 (**Z-140**) (**will be carried to the November 14, 2011 city council meeting**)

The speakers who spoke: Scott Siegel.

AN ORDINANCE TO AMEND ARTICLE IX OF CHAPTER 39 OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN (**Z-141**)

---**Motion to TABLE** the above ordinance to the next City Council meeting by the following vote: ---YEAS: 8 - NAYS: 1

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason, Mello, Occhipinti Russo.

---Nays: President Bhalla

**11-203**

**APPLICATIONS FOR MISCELLANEOUS**

Vendor-----2

Raffles-----1

---Councilman Cunningham moved that the licenses be granted.

---Motion duly seconded by Councilman Mello

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

---Yeas: Councilpersons Castellano, Cunningham, Giattino, Marsh, Mello, Occhipinti, Russo and President Bhalla.  
---Nays: None.  
---Abstain: Mason.

**11-204**

---By Councilman Cunningham

**CLAIMS**

Total for this agenda **\$1,727,068.24**

---Motion duly seconded by Councilman Mello  
---Adopted by the following vote: YEAS: 6 - NAYS: 4  
---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mello, and President Bhalla  
---Nays: Castellano (on CY – 03946 \$131,473.47), Mason, Occhipinti and Russo.

**11-205**

---By Councilman Cunningham

**PAYROLLS**

**For the two week period starting September 28, 2011 – October 12, 2011**

<b>Regular Payroll</b>	<b>O/T Pay</b>	<b>Other Pay</b>	
\$1,423,621.63	\$39,436.30		\$81,631.09
<b>Total</b>			

---Motion duly seconded by Councilman Mello  
---Adopted by the following vote: YEAS: 9 - NAYS: 1  
---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason, Mello, Occhipinti, Russo and President Bhalla  
---Nays: Mason (O/T)

**RESOLUTIONS**

**11-206**

---By Councilwoman Marsh

**RESOLUTION FOR THE JUSTICE ASSISTANCE GRANT (JAG)**

**Inserting a Special Item of Revenue into the CY 2011 Municipal Budget**

**JUSTICE ASSISTANCE GRANT (JAG) – CY 2011**

**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 Appropriations for an equal amount, and

**WHEREAS**, the City of Hoboken has received notice of an award of \$19,227.60 from Hudson County Prosecutor's Office to amend its CY 2011 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, Hudson County Prosecutor's Office 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 CY 2011 in the sum of- \$19,227.60

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:

Justice Assistance Grant 2011 O/E/	\$19,227.60
City Match	\$ 642.60

**NOW, THEREFORE, BE IT RESOLVED** that the like sum of: \$19,227.60

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:

Justice Assistance Grant Off-Set by Revenues:	
Justice Assistance Grant 2011 O/E	\$18,585.00
City Match	642.60

**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 Giattino

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason Mello, Occhipinti, Russo and President Bhalla

---Nays: None.

**11-207**

---By Councilwoman Giattino

**A RESOLUTION PLEDGING MUNICIPAL SUPPORT OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF FISH AND WILDLIFE, STATE-LEVEL PRIORITY CONSERVATION GOALS AND STRATEGIES AND FOR NEW JERSEY'S WILDLIFE ACTION PLAN**

**WHEREAS**, the Mayor and Council of the City of Hoboken recognize that animals are an integral and valuable part of all communities and believe concern for the well being of wild animals and wild species is a hallmark of a sustainable natural community the City of Hoboken Municipalities pledges its support of the New Jersey Wildlife Action Plan as outlined; and

**WHEREAS**, New Jersey is home to a rich diversity of wildlife and ecologically significant natural communities; and

**WHEREAS**, New Jersey's wildlife and wild places are under threat from development, fragmentation, invasive species and the impacts of people; and

**WHEREAS**, the population of mammals, birds, invertebrates, fish, reptiles and amphibians that live in and migrate through New Jersey find themselves clinging to smaller and smaller pieces of wild clean lands and aquatic habitats; and

**WHEREAS**, it is more cost-effective to prevent species from becoming imperiled than it is to recover them once their populations have declined; and

**WHEREAS**, a naturally functioning and healthy ecosystem represents a healthy environment for New Jersey wildlife and our citizens; and

**WHEREAS**, the New Jersey Division of Fish and Wildlife, other state and federal agencies, and many partners in conservation have worked together to develop a state Wildlife Action Plan for the benefit of biologists wildlife experts, municipal leaders, land stewards, non-profit organizations, educators, planners, researchers, outdoor recreation enthusiasts, landowners and all the people who know the wild places of New Jersey State; and

**WHEREAS**, the New Jersey Wildlife Action Plan is a comprehensive action agenda for the conservation of native wildlife, the restoration of important lands and water, and public education targeting the needs of rare wildlife in New Jersey; and

**WHEREAS**, the residents of, and visitors to, New Jersey also enjoy and benefit from New Jersey's wildlife and wild spaces.

**NOW, THEREFORE**, the mayor, the Council and the Municipality of the City of Hoboken resolve to take the following steps with regard to our municipal land-use decisions with the intent of making the City of Hoboken an ecologically sustainable community. It is our intent to include these principles in our public lands management, our environmental resources to include these principles in our public land management, our environmental resources inventory, to inform the next master plan revision and update our zoning accordingly.

- (1) We will identify imperiled species, critical habitat and unique ecosystems in our Environmental Resource Inventory.
- (2) Acknowledging that it is more cost effective to protect species that recover species, we will protect populations of rare and imperiled species that live and breed in, and migrate through, the municipality and the habitats they depend upon.
- (3) Because habitat integrity is critical to healthy biodiversity we will manage publicly owned lands in accordance with wildlife management actions laid out in the New Jersey Wildlife Action Plan and will promote the management of all protected lands to promote biodiversity.

- (4) We will protect wildlife habitats and maintain connectivity of habitat when formulating an open space acquisition strategy, open space stewardship plans and through the municipal master plan including planning and zoning ordinances.
- (5) We will seek to minimize disturbance of critical wildlife populations and their habitats from human activities, subsidized predators and invasive species.
- (6) When possible and appropriate, we will work with neighboring municipalities to implement the aforementioned principles across municipal boundaries.
- (7) When possible and appropriate, we will strive to monitor and implement appropriate management and municipal easements to ensure native vegetation and wildlife take precedence over invasive and/or exotic species.

---Motion duly seconded by Councilwoman Castellano

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason Mello, Occhipinti, Russo and President Bhalla

---Nays: None.

#### **11-208**

---By Councilman Mello

### **A RESOLUTION OF SUPPORT FOR THE ADOPTION OF GREEN BUILDING PRACTICES FOR CIVIC, COMMERCIAL AND RESIDENTIAL BUILDINGS**

**WHEREAS**, buildings account for 39% of CO2 emissions; more than either the transportation or industrial sectors. In addition, buildings account for nearly 12% of potable water use, 65% of waste output, and 71% of electricity consumption in the United States (U.S. Green Building Council; ) and

**WHEREAS**, green building; also referred to as sustainable or high-performance buildings, is a collection of better design, construction, and operating practices that have the potential to reduce or eliminate the negative impacts of development on the environment and on human health. There are many examples of green building programs and guidelines that have been propagated at national, state and municipal levels. They commonly address energy efficiency and carbon emissions reduction, water conservation, waste reduction, health and sustainably produced materials, indoor air quality, occupant productivity and health, and other components of green building and sustainable development; and

**WHEREAS**, the purpose of this resolution is to enhance the public welfare and assume that commercial, residential and civic development is consistent with the City of Hoboken's desire to create a more sustainable community by incorporating green building measures into the design, construction, operation and maintenance of buildings; and

**WHEREAS**, the City of Hoboken additionally wishes to support green building in the private sector through a combination of voluntary actions (e.g., including a green building scorecard as a discussion item within the Site Plan Approval process), actions that may be required in the future although not at the time of the adoption of this resolution (e.g., amending the Site Plan approval checklist to directly incorporate those green building standards available to a municipality), and educational actions (e.g., making available information on green building programs, guidelines, rebates, etc to residents of the municipality).

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Hoboken hereby implements a Green Building Policy that:

Will consider opportunities to incorporate green building measures into the design, construction, operation and maintenance of municipal buildings and facilities; and

Will encourage green design for commercial and residential buildings; and

**BE IT FURTHER RESOLVED** that the Council of the City of Hoboken supports the development of new building and sustainable development guidelines and best practices.

The speakers who spoke: Helen Hirsch, Vic Zarish.

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 9 - NAYS: 0

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

---Nays: None.

**11-209**

---By Councilman Mello

**RESOLUTION TO AUTHORIZE REIMBURSEMENT OF APPLICATION FEES TO APPLICANTS DENIED HANDICAP PARKING ZONES**

**WHEREAS**, the Subcommittee for Handicap Parking denied approval of the below referenced handicapped parking applications; and,

**WHEREAS**, the City Code requires reimbursement of application fees for those applicants which are denied reserved handicapped parking.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Hoboken, that warrants be drawn on the City Treasure to the order of the following sum(s) opposite the name(s) herein, as reimbursement for handicap parking application fees:

<b>NAME/ADDRESS</b>	<b>AMOUNT</b>
Joan Ann Bauer 76 Bloomfield Street	\$125.00
Domemico Allegretta 15 Church Towers Apt. 1L	\$125.00
Sasha Gibbons 1043 Bloomfield Street	\$125.00
Riccardo Annunziata 119 Willow Avenue	\$125.00
Grisel Lopez 909 Clinton Street	\$125.00
Francesso Tammacco 305 Monroe Street	\$125.00
Frank Mussara 116 Jefferson Street	\$125.00
Cesar H. Sanchez 63 Bloomfield Street Apt. 5L	\$125.00

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason Mello, Occhipinti, Russo and President Bhalla

---Nays: None.

**11-210**

---By Councilman Cunningham

**RESOLUTION TO AUTHORIZE THE TAX ASSESSOR TO CORRECT AN ASSESSMENT ON REAL ESTATE FOR 2011 TO EFFECTUATE A SETTLEMENT PREVIOUSLY APPROVED**

**WHEREAS**, the Tax Assessor with legal counsel had negotiated a Settlement Agreement with the owner of Block 61, Lot 15 CC002B, which is attached hereto; and

**WHEREAS**, the Settlement agreement negotiated on or about June 16, 2010 required the Tax Assessor to reduce the tax assessment on the aforesaid property for the tax year 2011 to \$150,000.00; and

**WHEREAS**, due to the volume of tax appeals of 2010, the Tax Assessor's Office did not correct its records to reflect the negotiated settlement assessment for 2011; and

**WHEREAS**, the governing body has the authority to direct the Tax Assessor's Office to correct mistakes entered and assessed against real property; and ,

**WHEREAS**, the governing body considered a resolution dealing with this issue on October 19, 2011, and this resolution repeals and revokes, by correction, Resolution No. 12 of the October 19, 2011 Hoboken City Council.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Hoboken as follows:

- A. The Tax Assessor shall correct the assessment for 2011 on Block 61, Lot 15 C002B and reflect same as \$150,000.00 consistent with the Settlement Agreement.
- B. The Collector of Revenue is herein directed to calculate any refunds due for 2011 based on the corrected assessment of \$150,000.00.
- C. This resolution shall take effect immediately upon passage.

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason Mello, Occhipinti, Russo and President Bhalla

---Nays: None.

**11-211**

---By Councilman Cunningham

**RESOLUTION AUTHORIZING THE CITY TO PLACE MUNICIPAL LIENS ON PROERTY COMMONLY KNOWN AS 417 JACKSON STREET (BLOCK 57, LOT 9)**

**WHEREAS**, the City of Hoboken, pursuant to Hoboken Code Section 110-10 and the New Jersey Uniform Construction Code, N.J.A.C. 5:23-2.32(b), has incurred costs associated with abating public health hazards from properties within the City of Hoboken; and

**WHEREAS**, the Construction Code Official and Purchasing Agent have requested liens be placed on the properties for which the City incurred abatements costs; and

**WHEREAS**, the City Council, pursuant to Hoboken Coe Section 110-10 and N.J.A.C. 5-23-2.32(b)(5), hereby authorizes the placement of municipal liens on the properties:

<i>Property</i>	<i>Address</i>	<i>Owner</i>	<i>Amount</i>
Block 57, Lot 9	417 Jackson Street	Richard Arcos	\$111,779.70

**BE IT FURTHER RESOLVED**, that the City Clerk forward the within Resolution to the Tax Collector take any action necessary to effectuate this Resolution.

The speakers who spoke: Scott Siegel.

---Motion duly seconded by Councilman Mello  
 ---Adopted by the following vote: YEAS: 9 - NAYS: 0  
 ---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason Mello, Occhipinti, Russo and President Bhalla  
 ---Nays: None.

**11-212**  
 ---By Councilman Cunningham

**THIS RESOLUTION AUTHORIZES THE TRANSFER OF FUNDS WITHIN ACCOUNTS IN THE CY 2011 CURRENT FUND APPROPRIATIONS.**

**BE IT RESOLVED**, that the following CY 2011 budget Current Fund appropriation transfers are hereby authorized for the City of Hoboken:

<b>CURRENT FUND</b>	<b>FROM</b>	<b>TO</b>
Operations - Within "Caps"		
Personnel & Health S&W		\$5,000.00
Mayors Office S/W		\$11,000.00
City Council S&W		\$1,250.00
Alcoholic Bev Control S&W		\$1,000.00
Revenue & Finance S&W		\$22,000.00
Tax Collection S&W		\$6,000.00
Assessor's Office S&W		\$1,000.00
Corporation Counsel S&W		\$4,500.00
Special Counsel		\$500,000.00
Zoning Administration S&W		\$42,000.00
Housing Inspection S&W		\$7,000.00
Uniform Construction OE		\$25,000.00
Emergency Management S&W		\$45,000.00
Fire Dept S&W		\$900,000.00
Environmental Services OE		\$70,000.00
Legal Advertising OE		\$15,000.00
Central Garage S&W		\$31,000.00
Human Services S&W		\$2,000.00
Rent Leveling S&W		\$4,000.00
Public Property S&W		\$55,000.00
Salary Settlements		\$260,000.00

Municipal Court S&W		\$67,000.00
Public Defender S&W		\$600.00
Business Administrator S&W		
Community Development S&W	\$10,750.00	
Zoning Board of Adjustments	\$45,000.00	
	\$10,000.00	
Uniform Construction S&W	\$75,000.00	
Police Division S&W	\$1,235,000.00	
Environmental Services S&W	\$100,000.00	
Sanitation S&W	\$30,000.00	
Sanitation OE	\$30,000.00	
Health S&W	\$10,000.00	
Recreation OE	\$20,000.00	
Parks S&W	\$40,000.00	
Electricity	\$20,000.00	
Water & Sewer	\$100,000.00	
Salary Adjustments	\$304,000.00	
Municipal Court OE	\$30,000.00	
Public Defender OE	\$600.00	
Group Health Insurance OE	\$15,000.00	
	<b>\$2,075,350.00</b>	<b>\$2,075,350.00</b>

---Motion duly seconded by Councilman Mello  
---**FAILED** by the following vote: YEAS: 5 - NAYS: 4  
---Yeas: Council persons Cunningham, Giattino, Marsh, Mello, and President Bhalla  
---Nays: Castellano, Mason, Occhipinti, Russo.

**11-213**

---By Councilman Cunningham

**RESOLUTION AUTHORIZING THE REFUND OF TAX APPEALS STATE TAX COURT**

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

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

**NOW THEREFORE BE IT RESOLVED**, that a warrant be drawn that a warrant be drawn on the City Treasurer made payable to the following totaling **\$ 6,842.30**

<b><u>NAME</u></b>	<b><u>BL/LOT/UNIT</u></b>	<b><u>PROPERTY</u></b>	<b><u>YEAR</u></b>	<b><u>AMOUNT</u></b>
<b>Nathan P Wolf Esq. 673 Morris Avenue Springfield, NJ 07081</b>	<b>268.1/1/C005G</b>	<b>1501 Garden/1500 Bloom</b>	<b>2010</b>	<b>\$2,481.64</b>

Nathan P Wolf Esq.            268.1/1/C006G            1501 Garden/1500 Bloom    2010            \$2,481.64  
673 Morris Avenue  
Springfield, NJ 07081

Nathan P Wolf Esq.            268.1/1/C010C            1501 Garden/1500 Bloom    2010            \$1,879.02  
673 Morris Avenue  
Springfield, NJ 07081

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason Mello, Occhipinti, Russo and President Bhalla

---Nays: None.

**11-214**

---By Councilwoman Castellano

**RESOLUTION EXTENDING THE AUTHORIZATION OF THE LOCATION OF THE DOWNTOWN HOBOKEN FARMER'S MARKET ON TUESDAYS THROUGH THE MONTH OF NOVEMBER**

**WHEREAS**, by Resolution No. 11-50, approved June 15, 2011, a farmers' market was approved along the east side of Washington Street between Newark Street and Observer Highway; and

**WHEREAS**, the Hoboken Farmers' market was originally approved to take place every Tuesday, beginning June 28, 2011 and ending no earlier than Tuesday, October 25, 2011; and

**WHEREAS**, the Environment Committee of Hoboken has requested the City Council expressly extend the downtown farmer's market through November and terminate on November 30, 2011; and

**WHEREAS**, the Environment Committee of Hoboken and City of Hoboken request that the Council of the City of Hoboken continue to suspend parking meter rules on that section of the East side of Washington Street just South of Newark Street so that the farmers can park their trucks to unload and sell their goods.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hoboken that:

1. The above recitals are incorporated herein as though fully set forth at length.
2. The Council hereby authorizes the Mayor or her designee to complete and receive the intent and purpose of this resolution.
3. The parking meters along the east side of Washington Street just South of Newark Street are hereby suspended on every Tuesday from 12:00 P.M. to 9:00 P.M. through November 30, 2011.
4. The sidewalk along the East side of Washington Street between Newark Street and Observer Highway shall be cleared of loiterers every Tuesday from 12:00 P.M. to 9:00 P.M. beginning at 12:00 P.M. on Tuesday, June 28, 2011 and ending at 9:00 P.M. on Tuesday, November 29, 2011.
5. The Police Division shall take action to effectuate and enforce these regulations.

6. A certified copy of this resolution shall be provided to Mayor Dawn Zimmer, Interim Director Thomas E. Atkins, Police Chief Anthony Falco, Supervisor Fred Moret, and Director Ian Sacs.

- 7.

This Resolution shall take effect immediately.

---Motion duly seconded by Councilman Russo

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason Mello, Occhipinti, Russo and President Bhalla

---Nays: None.

## ORDINANCES

### Introduction and First Reading

#### 11-215

#### Z-143

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 192 OF THE GENERAL CODE OF THE CITY OF HOBOKEN ENTITLED "PARKING FOR HANDICAPPED" TO ADD APPROVAL FOR DESIGNATED HANDICAPPED PARKING AT 204 BLOOMFIELD STREET AND 532 GARDEN STREET

**NOW THEREFORE**, the City Council of the City of Hoboken does hereby **ORDAIN** as follows:

**SECTION 1:** City Code Section 192-4 (A) is hereby amended to add the following restricted handicapped parking spaces (additions noted in underline, deletions noted in strikethrough):

**Shirin Navani Raval 204 Bloomfield Street:** west side of Bloomfield Street, beginning at a point of 57 feet north of the northerly curblineline of Second Street and extending 22 feet northerly therefrom.

**George Denaris 532 Garden Street:** west side of Garden Street, beginning at a point of 3 feet south of the southerly curblineline of Sixth Street and extending 22 feet southerly therefrom.

**SECTION 2:** This ordinance shall be part of the General Code of the City of Hoboken as though codified and fully set forth therein.

**Section 3:** The City Clerk shall have this ordinance codified and incorporated in the official copies of the Hoboken code. All ordinance and parts of ordinances inconsistent herewith are hereby repealed.

**Section 4:** This ordinance shall take effect as provided by law.

President Bhalla 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 14, 2011** at 7:00 PM.

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason, Mello, Occhipinti Russo and President Bhalla

---Nays: None.

**11-216**  
**Z-144**

AN ORDINANCE TO DELETE CERTAIN SECTIONS OF THE HOBOKEN CITY CODE DUE TO UNCONSTITUTIONALITY, PREEMPTION, REPEAL BY CASE LAW, AND/OR REPEAL BY INCONSISTENCY

**WHEREAS**, multiple sections of the Hoboken City Code should be deleted due to those sections being unconditional, preempted, and/or repealed by case law and/or inconsistency; and,

**WHEREAS**, the City Council seeks to bring the Hoboken City Code into compliance with federal regulations, state statutes, case law, and internal consistency.

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

**Section One: Deletions**

The following Chapters and/or Sections of the Hoboken City Code are deleted for reasons of constitutionality, preemption, precedent, and/or inconsistency (deletions noted in ~~strike through~~ -- or as otherwise described herein, additions noted in underline):

Chapter 36: Historic District Commission (*entire Chapter is deleted*)

Section 68-11(B): Allow, permit or suffer in or upon the licensed premises any prostitute, ~~female impersonator~~, pickpocket, swindler, confidence man or any notorious criminal, gangster, racketeer, or other person of ill repute, or allow, permit or suffer the licensed premises or the licensed business to be used in furtherance or aid of, or in connection with, any illegal activity or enterprise resulting in a conviction in a criminal prosecution.

Section 145-1: Disturbing the Peace (*entire Section is deleted*)

Section 145-13: Intoxication (*entire Section is deleted*)

Section 145-18: Disorderly House (*entire Section is deleted*)

Section 145-23(A): No person shall have in their possession an opened container of any alcoholic beverage in a glass, bottle, can or any type of container on a public street, highway, avenue, alley or road of the city, or upon any public grounds, parks, or sidewalks ~~or marine basins or in any automobile, vehicle or in any other means of transportation~~ on said public street, highway, alley, avenue, sidewalk, park or marine basin in said municipality.

Section 145-23(B): The drinking of alcoholic beverages on the public streets of Hoboken is hereby prohibited. No person shall serve, sell, dispense, drink or consume any alcoholic beverage on a public street, highway, avenue, alley or road of the city, or upon any public grounds, parks, or sidewalks ~~or marine basins or in any automobile, vehicle or in any other means of transportation~~ on said public street, highway, alley, avenue, sidewalk, park or marine basin in said municipality.

Section 146-11(E): ~~No licensee shall park his vehicle or dispensing container for a period longer than the time it takes to make a sale to a customer.~~

## **Section Two: 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 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 affect 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 Bhalla 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 14, 2011** at 7:00 PM.

---Motion duly seconded by Councilman Mello

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

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mello, Occhipinti Russo and President Bhalla.

---Nays: None.

---Present: Mason.

**11-217**

**Z-145**

REFUNDING BOND ORDINANCE PROVIDING FOR THE REFINANCING OF ALL OR A PORTION OF THE CITY'S OUTSTANDING PARKING UTILITY GENERAL OBLIGATION BONDS, SERIES 2002A, DATED DECEMBER 15, 2002; AUTHORIZING THE ISSUANCE OF UP TO \$19,100,000 OF GENERAL OBLIGATION REFUNDING BONDS (PARKING UTILITY) OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, TO FINANCE THE COSTS THEREOF; MAKING CERTAIN DETERMINATIONS AND COVENANTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

**BE IT ORDAINED** by the City Council of the City of Hoboken, County of Hudson, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), and the Municipal Qualified Bond Act, Chapter 38 of the Laws of 1976 of the State of New Jersey, as amended and supplemented ("Act"), as follows:

**Section 1.** The City of Hoboken, County of Hudson, New Jersey ("City"), is hereby authorized to refinance, from time to time, all or any portion of its outstanding Parking Utility General Obligation Bonds, Series 2002A, dated December 15, 2002 (collectively, the "2002 Bonds").

The exact principal amount of 2002 Bonds to be refunded (which may be less than all of the 2002 Bonds) shall be determined pursuant to a resolution adopted by the City Council by not less than two-thirds of all the members thereof.

**Section 2.** To effectuate the refinancing of all or any portion of the 2002 Bonds, negotiable general obligation refunding bonds of the City are hereby authorized to be issued in one or more series, from time to time, in an aggregate principal amount not to exceed \$19,100,000 ("Refunding Bonds"), pursuant to the Local Bond Law. The maximum principal amount of Refunding Bonds to be issued and other terms thereof shall be determined pursuant to a resolution adopted by the City Council by not less than two-thirds of all the members thereof.

**Section 3.** An aggregate amount not exceeding \$250,000 for the items of expense listed in and permitted by Section 51.b. of the Local Bond Law, N.J.S.A. 40A:2-51.b., has been included in the aggregate principal amount of the Refunding Bonds authorized herein.

**Section 4.** The purpose of the Refunding Bonds is to refinance all or any portion of the 2002 Bonds.

**Section 5.** Each Refunding Bond authorized herein shall be designated, substantially, "City of Hoboken, County of Hudson, New Jersey, General Obligation Refunding Bond (Parking Utility) Series 201\_" and shall be in the form prescribed and permitted by the Local Bond Law, as Bond Counsel may advise, and as the City shall approve.

**Section 6.** The Refunding Bonds may be sold at public or private sale pursuant to and in accordance with the requirements of the Local Bond Law.

**Section 7.** General obligation refunding notes (Parking Utility) in the principal amount of up to \$19,100,000 ("Notes") are authorized to be issued by the City in anticipation of the Refunding Bonds; provided, however, such Notes are issued and amortized within the limitations set forth by Local Bond Law and the New Jersey Local Finance Board. Pursuant to the Local Bond Law, the Chief Financial Officer and/or Director of Finance is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer and/or Director of Finance is hereby directed to report in writing to the City Council at the meeting next succeeding the date when any sale or delivery of the Notes is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

**Section 8.** Pursuant to Section 4(a) of the Act, *N.J.S.A.* 40A:3-5(a), any bonds issued pursuant to this Bond Ordinance shall be entitled to a final maturity of thirty (30) years or less from their date of issuance, without regard to any limitations as to maturities or amounts of annual installments for bonds as provided in Title 40 or Title 40A of the New Jersey Statutes.

**Section 9.** The purpose authorized in this Bond Ordinance is in the public interest and is for the health, welfare, convenience or betterment of the inhabitants of the City. The amounts to be expended for this purpose pursuant to this Bond Ordinance will not materially impair the credit of the City or substantially reduce its ability to pay punctually the principal of and the interest on its debts and to supply other essential

public improvements and services. The Local Finance Board in the Division of the Local Government Services of the Department of Community Affairs of the State of New Jersey has heretofore made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this Bond Ordinance as passed upon first reading.

**Section 10.** The supplemental debt statement provided for in Section 10 of the Local Bond Law, N.J.S.A. 40A:2-10, was duly filed in the office of the Clerk prior to the passage of this refunding bond ordinance on first reading and a complete executed duplicate original thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey.

**Section 11.** A certified copy of this refunding bond ordinance as adopted on first reading has been filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey prior to final adoption, together with a complete statement in the form prescribed by the Director and signed by the Chief Financial Officer and/or Director of Finance of the City.

**Section 12.** This refunding bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law, provided that the consent of the Local Finance Board has been endorsed upon a certified copy of this refunding bond ordinance as finally adopted.

President Bhalla 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 14, 2011** at 7:00 PM.

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 5 - NAYS: 4

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

---Nays: Castellano, Occhipinti, Russo and Mason

### **NEW BUSINESS**

Councilman Russo comments on the closing of the Hospital

Councilman Russo comments that the next meetings please look at the Ordinance for 2<sup>nd</sup> reading for the Municipal Garage parking fees

Councilman Mello comments

Council President comments

Councilwoman Castellano comments on the Hospital

Councilwoman Castellano comments on St. Patrick's day regarding public safety committee

Councilwoman Mason comments and the status of the Monarch

Councilwoman Marsh comments on the completion date of the Monarch Project : Encourages public attendance and comments on limits of the planning board role.

Councilman Mello comments

BA Liston comments

Councilwoman Marsh comments on the completion date of the Monarch Project.

Councilwoman Mason requests copies regarding to DEP matter

Councilwoman Castellano comments and thanks Director Liston for the quick response

Councilwoman Mason comments on the Parks meeting as for timing on when it would occur

Director Pellegrini commented on which parks

Councilwoman Mason commented 1600, Harboside, 1200 Willow and a number of parks

Director Pellegrini commented

Councilwoman Mason requested a time to have the Director

Council President commented that please include the sub-committee on it

Councilwoman Giattino commented on Church Square Park status

Director Pellegrini commented that a design plan/RFP in the coming month  
Councilman Occhipinti comments on the SW Study and Graffiti on 1<sup>st</sup> Street, Nardine's wall, status on the shared service agreement with Mama Johnson Field and hopefully the Housing Authority will pass it on Nov. 10<sup>th</sup> and hopefully pass in the City Council  
Corporation Counsel commented on a letter from Director Garcia on a few tweaks  
BA Liston comments on graffiti  
Councilman Occhipinti commened on the application process for the Hudson Country Trust Fund on Oct. 26  
Director Forbes commented that the County only has \$3 M throughout the County and if Grants are submitted along with acquisitions, but pushing for development and redevelopment on Parks

Councilwoman Mason has left the table at 8:35 PM  
Councilwoman Mason has returned to the table at 8:38 PM

Councilman Occhipinti comments on Hoboken Volunteers will have an event on Saturday, November 19<sup>th</sup> at the Hoboken Elks Lodge  
Councilman Mello commented on the pre-submission with the County and what funding resources  
Director Forbes commented that it was a half cent tax  
Councilman Mello asked BA Liston on the tree being cut off on 1<sup>st</sup> and Jackson  
BA Liston comments and responded that some of the conditions of the trees needed to be completed  
Councilman Occhipinti comments that the Shade Tree Commission had a trained professional to advise the City to remove them  
Councilman Mello commented on Tax Lien on the property  
BA Liston comments  
Councilman Mello commented on the Redevelopment law

Councilwoman Castellano has left the table at 8:45 PM  
Councilwoman Castellano has returned to the table at 8:46 PM

Councilman Cunningham commented on the next Revenue and Finance sub-committee meeting at 6 PM next Wed. (11/9) to discuss vendor report and a general improvement report from Mr. Liston  
BA Liston comments  
Councilman Cunningham comments and thanks Director Pellegrini for cleaning 1600 Park  
Council President commented on the last Thursday, Oct. 27<sup>th</sup> BAR Association at the Elk's Lodge, Cataldo Fazio exiting and the new attorney inducted was Brian Nearhy as the new President and congratulate Judge Fazio and the incoming President, thank Director Pellegrini and Gerri Fallo to make the Ragamuffin Parade an annual success  
Council President commented that the next Council meeting will be Monday, November 14<sup>th</sup> at 7:00 PM

### **PUBLIC PORTION**

All regular business concluded the following members of the public spoke at the Public Portion" of the meeting: Helen Hirsch, Scott Siegel, Vic Zarish, Nick Callichchio.

**11-218**

### **CLOSED SESSION**

---By President Bhalla

**RESOLUTION AUTHORIZING CLOSED SESSION, PURSUANT TO N.J.S.A. 10:4-12(7)  
AND ATTORNEY CLIENT PRIVILEGE TO DISCUSS PENDING LITIGATION**

**WHEREAS**, the Council of the City of Hoboken is authorized to go into closed executive session for the reasons set forth in the Open Public Meetings Act, including the discussion of matters relating to pending litigation pursuant to N.J.S.A. 10:4-12(7) and to protect matters that fall within attorney-client privilege; and,

**WHEREAS**, the City Council has been called upon to make decisions regarding the City's position in pending litigation known as Unitronics, Inc. v. City of Hoboken (Civil Action No. 10-02041), and wishes to obtain legal advice and counseling thereto pursuant to N.J.S.A. 10:4-12(7); and,

**WHEREAS**, the Council, therefore, has determined that it is necessary to go into closed executive session for the foregoing purpose.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Hoboken that it enter into closed session for said purpose; and,

**BE IT FURTHER RESOLVED**, formal action may be taken in an open public session subsequent to the closed session; and,

**BE IT FURTHER RESOLVED** that when the need for confidentiality no longer exists the decisions made therein will be made available to the public.

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---YEAS: Council persons Castellano, Cunningham, Giattino, Marsh, Mason, Mello, Occhipinti, Russo and President Bhalla

---Nays: None

At 9:20 P.M. The Governing Body entered into a closed session.

Roll call for Closed Session: Council persons Castellano, Cunningham, Giattino, Marsh, Mason, Mello, Occhipinti, Russo and President Bhalla

Corporation Counsel  
Administrator Arch Liston

At 9:32 PM The City Council came out of Closed Session and Council President reads the resolution below:

**11-219**

---By Councilman Cunningham

**RESOLUTION TO APPROVE THE ATTACHED SETTLEMENT AGREEMENT AND MUTUAL RELEASE IN THE MATTER OF UNITRONICS, INC. V. CITY OF HOBOKEN (CIVIL ACTION NO. 10-02041)**

**WHEREAS**, THE City has negotiated a settlement agreement and mutual release with Unitronics, Inc., which is attached hereto; and,

**WHEREAS**, legal counsel for the municipality has represented that the attached settlement agreement and mutual release provides the City of Hoboken with best terms possible under the circumstances.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Hoboken as follows:

- A. This resolution approves the attached Settlement Agreement and Mutual Release between Unitronics, Inc. and the City of Hoboken, attached hereto;
- B. The Mayor or her agent is hereby authorized to enter into the attached Agreement and Release, or modified Agreement and Release with substantially similar terms which do not have any substantive changes;
- C. This resolution shall take effect immediately upon passage.

---Motion duly seconded by Councilman Mello.

---Adopted by the following vote: YEAS: 9 - NAYS: 0

---Yeas: Council persons Castellano, Cunningham, Giattino, Marsh, Mason, Mello, Occhipinti, Russo and President Bhalla

---Nays: None

At 9:35 P.M. Councilman Russo on a motion duly seconded by the Councilwoman Marsh.

Council President Bhalla then adjourned the meeting at 9:35 P.M.

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PRESIDENT OF THE COUNCIL

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CITY CLERK