

**MEETING OF FEBRUARY 16, 2011**

**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, FEBRUARY 16, 2011 AT 7:00 PM**

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President Mason opened the meeting at 7:05 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, Marsh, Mello, Occhipinti, Russo and President Mason.

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**PUBLIC HEARING and FINAL VOTE ON ORDINANCES**

**Second Reading / Public Hearing and Final Vote**

AN ORDINANCE AMENDING THE PREVIOUSLY ADOPTED CHAPTER 133  
"NOISE CONTROL" ADDRESSING REVISIONS REQUIRED BY THE STATE OF  
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (**Z-84**)

President Mason 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 Mason asked for a motion to close the hearing.

President Mason moved that the hearing be closed.  
Motion duly seconded by Councilman Russo.

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

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

---Nays: None.

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

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

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

---Nays: None.

AN ORDINANCE TO AMEND AND SUPPLEMENT ARTICLE IV "STOP STREETS" OF CHAPTER 190 OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED "VEHICLES AND TRAFFIC" (**Z-85**)

**No vote taken will be considered for Second and Final Reading at the March 2, 2011 Meeting**

AN ORDINANCE TO AMEND CHAPTER 179A ENTITLED "TAXIS" TO MAKE A CORRECTIVE CHANGE TO THE LANGUAGE OF SECTION (**Z-86**)

President Mason 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 Mason moved that the hearing be closed.

Motion duly seconded by Councilman Russo.

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

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

---Nays: None.

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

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

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

---Nays: None.

### **PETITIONS AND COMMUNICATIONS**

#### **11-851A**

#### **PROCLAMATION RECOGNIZING THE PAL FOOTBALL LEAGUE AND THEIR COACHES**

**WHEREAS**, the City of Hoboken is not only the birthplace of baseball, but also has deep ties to the sport of football; and

**WHEREAS**, the **PAL Middleweight Division Football team** completed the season undefeated, going 8-0 in the Hudson County Youth Football League; and

**WHEREAS**, the Mayor and City Council would like to congratulate the following players on their stellar performance: **Baltazar Gonzalez, Cesar Flores, Martin Perez, Amir Goodwin, Mathew Knopke, Josean Diaz, Ameer Wheeler, Adrian Rivera, Alfredo Vera, Khashawn Decker, Jeremiha Campoverde, Adam Scaguarini, Kyeise Lopez, Karim Salem, Noah Mercado, Angelo Roldan, Ayan Castro, William Ithier, Arain Pineiro, Xavier Rivera, Keith Boyd, Ricardi Colon Jr., Zhayre Gaddis, Henry Posso, Lenny Roman, Henry Andino, Oscar De LaRosa, Elijah Neelon, Edward Broderick, Andrew Alonso, Brian Caraballo, Christopher Durso, Juan Cajia, Victor Aguilar, Jacob Mirlas, Samuel Pellot**; and

**WHEREAS**, the City appreciates the commitment and dedication the volunteer coaches have provided our youth football players and thanks **Vinny Johnson, Willie Rosa, Eddie Rivera**, and the late **Rey Benito**;

**NOW, THEREFORE, BE IT PROCLAIMED**, that I, **DAWN ZIMMER, Mayor of the City of Hoboken**, do hereby commend the commitment and dedication of **PAL Football** and all the players on their accomplishment.

Dawn Zimmer

Received and Filed.

**11-851B**

**PROCLAMATION FROM MAYOR ZIMMER RECOGNIZING RENALDO “RAY” BENITO, JR. FOR HIS DEDICATION TO HIS COMMUNITY AS COACH TO THE HOBOKEN HOUSING AUTHORITY GIRLS SOFTBALL TEAM.**

**WHEREAS**, The City of Hoboken honors its employees who have devoted their lives to their community and to public service;

**WHEREAS, Renaldo “Ray” Benito, Jr.** graduated from Hoboken High School in 1977 and served in the U.S. Army where he was stationed at Fort Dix; and

**WHEREAS, Ray Benito** was the proud father of five children, Randy, Amanda, Avion, Ava, and Mario and is also survived by his wife Renee Johnson; and

**WHEREAS, Ray Benito** was active in and dedicated to his community where he coached the Hoboken Housing Authority girls Softball Team, the Hoboken Recreation and Hoboken Girls Traveling Softball Team, and loved to referee sports for the children of Hoboken; and

**WHEREAS, Ray Benito** dedicated himself to the City of Hoboken in his work at the Hoboken Parking Utility since 1999 where he served as a Parking Enforcement Officer for 11 years until his passing on December 26, 2010; and

**WHEREAS, Ray Benito** possessed a sincere, compassionate, and faithful personality that made him loved by all his peers in the Hoboken Parking Utility; and

**NOW, THEREFORE, BE IT PROCLAIMED**, that I **DAWN ZIMMER** Mayor of the City of Hoboken, do hereby commend and honor the work of **Renaldo “Ray” Benito, Jr.** and on

behalf of all our residents thank his family for his dedication and commitment to serving our community.

Received and Filed.

**11-851C**

**PROCLAMATION FROM MAYOR ZIMMER PROCLAIMING MARCH 1, 2011 AS “RED, WHITE AND BLUE DAY” THROUGHOUT THE CITY OF HOBOKEN**

WHEREAS, the City of Hoboken encourages the spirit of patriotism amongst our residents at certain times throughout the year, during holidays and at times when national unity is needed as we face a conflict at home or abroad; and

WHEREAS, in this time of war we take time to honor the sacrifice and dedication of our veterans, active armed forces members and to appreciate the liberty we enjoy as Americans; and

WHEREAS, the students from **Ms. Kathleen Temple’s 5<sup>th</sup> Grade Class** at the **Wallace Primary School** gather together here in Wallace Primary School, requesting that the City declare the **Tenth Annual “Red, White and Blue Day”** throughout Hoboken, in honor of our country, our armed forces and our efforts to preserve and promote democracy throughout the world;

**NOW, THEREFORE, BE IT RESOLVED** that I, **DAWN ZIMMER** Mayor of the City of Hoboken, do hereby proclaim **Tuesday, March 1, 2011** as **“Red, White and Blue Day”** throughout the City of Hoboken and urge all of our residents to display our American Flag on **Tuesday, March 1, 2011** in observance of this day, and wear the colors of “Old Glory” as a symbol of democracy for all people.

Received and Filed.

**11-852**

Communication from Council President Mason to Mayor Dawn Zimmer.

**11-853**

**COMMUNICATION FROM MAYOR ZIMMER TO COUNCIL PRESIDENT MASON**

February 11, 2011

Dear Council President Mason:

My Administration has been extremely conscious of the importance of making Directors available to play an active role at subcommittee meetings. When I was a Councilperson directors were rarely, if ever, in attendance at subcommittee meetings, and my Administration has changed that. While we believe that the subcommittee process has been

an effective way to work with the Council, we ask for your cooperation to improve the working relationship:

1. Please ask each Chair to develop an agenda in advance of the subcommittee meeting and provide the directors that you would like to attend with the opportunity to add items to the agenda. This agenda should be coordinated through the City Clerk's office.
2. Please ask each chair to provide follow-up action items from the meeting in writing to the City Clerk and the Business Administrator, with a copy to the Director that attended the meeting.

Thank you for your cooperation on this matter.

**Separation of Powers:**

Some Council members have continued to direct employees to work directly for them. Not only is this a violation of the Faulkner Act, but it also circumvents the legally required oversight of the Business Administrator, making it difficult for him to ensure the all expenditures are within budget. I must state again that no Council member has the authority to direct City employees on work to be done. Please be on notice that Councilpersons that continue to direct City employees put those employees in an untenable and unfair position and potentially place those employees at risk of disciplinary action.

**Working together/Resolving major issues:**

Three weeks ago, we had a meeting in which you advised me that you would not permit the Administration to put items onto the Council agenda unless it "had the votes," I asked, in the interest of facilitating a cooperative working relationship, that you provide a written explanation of how the Council President and Vice President believe the Administration should work with the City Council on the agenda. You agreed to do so (see attached), but I have not yet received anything. Please provide your views in writing as soon as possible so we can evaluate your position legally and develop a process that is both legal and that facilitates an efficient and fully transparent legislative process.

**Appointment of auditor:**

This is a Mayoral appointment subject to the advice and consent of the City Council. At this time, given's Hoboken financial history, I firmly believe that Ferraioli, Wielkocz, Cerullo & Cuva, our current auditor, best meets our needs. They have done an excellent job, and I am confident that they will continue to do so. I ask that this appointment receive an up or down vote, and I urge the Council to support this appointment. Please be advised that the firm has reduced its price by \$13,000.

**Pay to Play/Wheeling Ordinance:**

I have been advised that you instructed the Clerk to remove the Pay-to-Play ordinance from the agenda for the upcoming meeting because it did not go through committee. The Council's rules clearly state that sponsors of legislation have the right to put items on the agenda. I have been advised that Councilman Cunningham and Bhalla wish to have a revised version of the Pay-to-Play ordinance placed on the agenda that they will try to discuss in committee before the Council meeting on Wednesday. Since they are entitled to do so under the Council Rules, the item has been returned to the agenda.

**Budget Surplus:**

*What do you believe the surplus should have been last year?*

This is a simple question about an issue that you have spoken out about numerous times including an e-mail to constituents a few days ago, but these statements have little substantive meaning without an understanding of the surplus level that you believe a municipality such as ours should strive to maintain. By simply providing a clear answer to this question, you could demonstrate your commitment to moving forward with the budget process in a constructive, non-political manner.

**Cost reductions:**

I am very open to any Council members' suggestions for ways that we should reduce the budget. Please provide any suggestions you may have as soon as possible.

Best regards,

Mayor Dawn Zimmer  
Cc: City Council

**11-854**

**COMMUNICATION FROM MAYOR ZIMMER TO COUNCIL REGARDING SINGLE STREAM RECYCLING**

February 11, 2011

Dear Council Members,

I am writing to ask you to support moving Hoboken to a "single stream" recycling system that is both good for the environment and good for our budget. As you know, it costs the City much more to dispose of a ton of garbage than a ton of recycling. By increasing, we could in turn save the City significantly on these fees.

Thanks to new technology that is able automatically separate recyclables, single stream recycling will allow Hoboken residents to put all of their unsorted recycling in one can, two nights a weeks. This new system will also allow residents to recycle more types of plastics than we are currently able to accept. In fact, plastics #1-#7, hard plastics, mixed paper and cardboard, glass and junk mail can all be put into one can with this new system.

These are multiple advantages to single stream recycling:

- Reduced sorting effort by residents mean more recyclables are placed at the curb and more resident participate in recycling. Estimated 30% increase in recycling tonnage and a decrease in tipping fees which have been increasing annually.
- Two nights of recycling pick up for all recyclables instead of paper/cardboard one night and glass/plastic another night. Residents don't have to wait a full week if they miss a night.
- Recycling volume per household typically increases due to the simplicity of single stream recycling.
- Changing to single stream provides an opportunity to update the collection and processing system and to add new materials such as plastics #1 to #7 and hard plastics to the list of recyclables accepted.

- Reduces environmental impact by reducing materials going to landfill.

My Administration will be rolling out an education campaign to educate the public about these changes, and I hope you will join me in that effort. The more our residents participate, the more money we can save for taxpayers.

Sincerely,

Mayor Dawn Zimmer

Received and Filed.

**11-855**

Communication from Council President Mason to Councilwoman Marsh as Chair of Special Ad-Hoc Subcommittee.

**11-856**

**EXECUTIVE ORDER FROM MAYOR DAWN ZIMMER (8)**

**11-857**

**APPLICATIONS FOR MISCELLANEOUS LICENSES**

Taxi,Livery/LimoDrivers .....	9
Vendors.....	4

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

**REPORTS OF CITY OFFICERS**

**11-858**

A report from the Municipal Tax Collector Sharon Curran for taxes collected for the month of January 2011 **\$9,868,176.52** (Abatement Totals -\$25,373.70)

**11-859**

A report of the Municipal Court indicating receipts for the month of January 2011 as **\$308,796.14**

**11-860**

A report from Boswell Engineering regarding the Status Report-Waterfront Inspections

**11-860A**

A communication from Director Sacs on the proposed ordinance amendments to remove resident parking on certain streets in Hoboken.

**11-860B**

Quarterly report on Pay-to-Play Compliance of City Contractors

**11-860C**

Resignation from Tejal Desai from Board of the Hoboken Municipal Hospital Authority.

**11-860D**

Communication from Chief Financial Officer George DeStefano regarding 2011 Annual Financial Statement and 2011 Annual Debt Statement.

**11-861**

---By Councilman Russo

**CLAIMS**

Total for this agenda \$1,635,184.54

Motion duly seconded by Councilwoman Castellano

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

Yeas: Councilpersons Bhalla, Castellano, Cunningham, Giacchi, Marsh, Mello, Occhipinti, Russo and President Mason

Nays: None.

**11-862**

---By Councilman Russo

**PAYROLLS**

**For the two week period starting January 20, 2011 – February 02, 2011**

<b>Regular Payroll</b>	<b>O/T Pay</b>	<b>Pay</b>	
\$1,417,244.41	\$78,185.60		\$1,602,660.34

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

**RESOLUTIONS**

**Presented and Read**

**11-863**

---By Councilwoman Marsh

**RESOLUTION AUTHORIZING A PROFESSIONAL SERVICE CONTRACT WITH FERRAOILI, WIELKOTZ, CERNILO & CUVA, P.A. FOR GENERAL MUNICIPAL AUDITING SERVICES FROM JANUARY 1, 2011 TO DECEMBER 31, 2011 IN AN AMOUNT TO EXCEED EIGHTY THOUSAND (\$80,000.00) DOLLARS.**

**WHEREAS**, the City put out an RFP for auditing services, pursuant to Article I of Chapter 20A of the Hoboken City Code, which Ferraioli, Wielkocz, Cernilo & Cuva P.A. responded to by proposal dated January 20, 2011; and

**WHEREAS**, Ferraioli, Wielkocz, Cernilo & Curva, P.A. is hereby required to abide by the "pay-to-play" requirements of the Hoboken Public Contracting Reform Ordinance, #DR-154 (codified as §20A-11 et. seq. Of the Code of the City of Hoboken); and,

**WHEREAS**, said service is a professional service as defined by N.J.S.A. 40A:11-1 et. seq. and as such, is exempt from public bidding requirements pursuant to N.J.S.A. 40A:11-5; and ,

**NOW, THEREFORE, BE IT RESOLVED** that a professional services contract to be authorized in an amount not to exceed Eighty Thousand (\$80,000.00) Dollars with the firm of Ferraioli, Wielkocz, Cernilo & Cuva P.A. for general auditing services for one year term commencing January 1, 2011 and expiring December 31, 2011; and,

**BE IT FURTHER RESOLVED**, that this firm shall build the City in accordance with its proposal, dated January 20, 2010, attached hereto; and,

**BE IT FURTHER RESOLVED**, the City Clerk shall publish this resolution as required by law and keep a copy of the resulting contract on file in accordance with N.J.S.A. 40A:11-1 et. seq. and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution shall be provided to Mayor Dawn Zimmer for action in accordance therewith and to take any other action necessary to complete and realize the intent and purpose of this resolution, and,

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately.

---Motion duly seconded by Councilman Cunningham

---**FAILED** by the following vote: YEAS: 4 - NAYS: 5

---Yeas: Council persons Castellano, Giacchi, Occhipinti, Russo, and President Mason.

---Nays: Bhalla, Cunningham, Marsh, Mello.

**11-864**

--- By Councilman Russo

**RESOLUTION AUTHORIZING APPOINTMENT OF WALLACE ROBERTS AND TODD, LLC AS PROFESSIONAL PLANNER FOR THE REDEVELOPMENT AT HOBOKEN TERMINAL AND RAIL YARDS**

**WHEREAS**, the City put out an RFP for professional redevelopment planning services, pursuant to Article I of Chapter 20A of the Hoboken City Code, which Wallace Roberts and Todd, LLC responded to by proposal dated September 27, 2010; and,

**WHEREAS**, Wallace Roberts and Todd, LLC is hereby required to abide by the “pay-to-play” requirements of the Hoboken Public Contracting Reform Ordinance, #DR-154 (codified as §20A-11 et seq. of the Code of the City of Hoboken) prior to the City entering into any binding contract for said services; and,

**WHEREAS**, said service is a professional service as defined by N.J.S.A. 40A:11-1 et seq. and as such, is exempt from public bidding requirements pursuant to N.J.S.A. 40A:11-5; and,

**WHEREAS**, funds have not been appropriated by the City Council for said services, but the City Council wishes to appoint the above mentioned planner subject to appropriation of funds.

**NOW THEREFORE, BE IT RESOLVED** that the City Council hereby appoints Wallace Roberts and Todd, LLC as the professional redevelopment planner for the redevelopment plans at Hoboken Terminal and Rail Yards, and a professional services contract shall be authorized when and if the City Council appropriates the necessary funds to fund these professional services;

**BE IT FURTHER RESOLVED**, that the City Council shall authorize a contract consistent with Wallace Roberts and Todd, LLC’s proposal and any subsequent negotiations upon certification, which may occur only after the City Council appropriates the necessary funds to finance the project; and

**BE IT FURTHER RESOLVED** the City Clerk shall publish this resolution as required by law and keep a copy of the resulting contract on file in accordance with N.J.S.A. 40A:11-1 et seq.; and,

**BE IT FURTHER RESOLVED** that a certified copy of this resolution shall be provided to Mayor Dawn Zimmer for action in accordance therewith and to take any other actions necessary to complete and realize the intent and purpose of this resolution; and,

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately.

---Motion duly seconded by Councilwoman Castellano

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

--Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Marsh, Mello, Occhipinti, Russo, and President Mason.  
--Nays: None.

**11-865**

---By Councilman Bhalla

**RESOLUTION TO INVOKE THE “DOCTRINE OF NECESSITY” TO ALLOW CONFLICTED MEMBERS OF THE CITY COUNCIL TO VOTE ON AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 155 OF THE CITY CODE, ENTITLED “RENT CONTROL”**

**WHEREAS**, the New Jersey Local Government Ethics Law (the “Law”), *N.J.S.A. 40A:9-22.2 to 22.25*, provides that no local government officer shall take official action in any matter in which said member may have or has a conflict of interest from voting on the matter before the governmental agency; and

**WHEREAS**, a majority of the City Council members have or may have conflicts of interest as defined by the Law relative to the Rent Control Ordinance, as disclosed herein:

1. Council member Angelo Giacchi owns rental property within the City.
2. Council member Peter Cunningham owns rental property within the City.
3. Council member Theresa Castellano owns rental property within the City.
4. Council member Elizabeth Mason owns rental property which may become subject to the Rent Control Ordinance; and, she has a family member that rents property within the City.
5. Council member Michael Russo’s family member owns rental property within the City.
6. Council member Timothy Occhipinti rents property within the City.

**WHEREAS**, as a result of the foregoing, the listed Council members are prohibited from voting on whether or not the City Council will accept the proposed changes to the Rent Control Ordinance; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Hoboken hereby invokes the Doctrine of Necessity for the purpose of permitting all Council members to vote on whether or not the City Council will accept the proposed changes to the Rent Control Ordinance; and

**BE IT FURTHER RESOLVED** that this Resolution be read at the regularly scheduled public Council meeting, posted where the City Council normally posts public notices for thirty (30) days and forwarded to the Department of Community Affairs by the City Clerk.

---Motion duly seconded by Councilwoman Marsh

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

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

---Nays: None.

**11-866**

---By Councilman Russo

**RESOLUTION AUTHORIZING THE HOBOKEN ITALIAN FESTIVAL, INC. TO CONDUCT ITS 85<sup>th</sup> ANNUAL FEAST IN HONOR OF MADONNA DE MARTIRI**

**WHEREAS,** The Hoboken Italian Festival, Inc., with offices at 332 Adams Street, Hoboken has requested permission to conduct their annual Feast in honor of their patron saint, Madonna Dei Martiri for four consecutive days starting on Thursday, September 8, 2011 through and inclusive to Sunday, September 11, 2011 on Sinatra Drive and Sinatra Park; and,

**WHEREAS,** Hoboken Italian Festival, Inc. has indicated its agenda and requirement to successfully conduct the feast as follows:

- (1) To solicit contributions from the general public, to be used solely to pay part of the expenses and religious contributions.
- (2) To have a procession with the statue of “Madonna Dei Martiri” – “Mother of Martyrs” through the streets of Hoboken.
- (3) To install electric lights on Sinatra Drive from the corner of Fourth Street and River Street up to the Union Dry Dock Property.
- (4) To erect a bandstand in Sinatra Park to hold nightly concerts between Thursday, September 8, 2011 through Sunday, September 11, 2011. The hours of live music will be limited to the following schedule: Thursday, September 8<sup>th</sup> from 5:00 pm to 10:00 pm, Friday, September 9<sup>th</sup> from 5:00 pm to 11:00 pm, Saturday, September 10<sup>th</sup> from 12:00 noon to 11:00 pm and Sunday, September 11<sup>th</sup> from 12:00 noon to 10:00 pm. Recorded music will be permitted at moderate levels and speakers positioned not to disturb area residents and will be discontinued at 11:00 pm. The bandstand will be directed in a northern direction in an effort to minimize the noise levels in the southern waterfront residential areas.
- (5) To erect concession stands and trucks on Sinatra Drive, for vendors of food, novelties, games and rides.
- (6) To hold a raffle to be drawn on Sunday, September 11<sup>th</sup>, 2011.
- (7) To have a procession through sections of Hoboken which is led by the feast committee, the guest of honor, the band, the statue of the saint and the members of the society and devotees on Saturday, September 10<sup>th</sup>, 2011 to begin at 10:00 am.
- (8) On Saturday, September 10<sup>th</sup>, 2011 at about 9:00 pm to shoot a special pyrotechnic fireworks show on the riverfront at Pier A Park, subject to the approval of the U.S. Coast Guard and local Fire Permits.
- (9) To have the streets cleared of all vehicles and traffic, and
- (10) To maintain two lanes of traffic with a minimum of 12 feet for each lane of travel when streets are to be open to traffic.

**WHEREAS,** the City Council of the City of Hoboken endorses this program, provided the Hoboken Italian Festival, Inc. secure all the necessary permits, licenses and insurance in a form to be approved by Corporation Counsel;

**NOW THEREFORE, BE IT RESOLVED,** The City Council hereby grants permission to the Hoboken Italian Festival, Inc. to conduct its feast and fireworks display on the above dates subject to the applicant’s compliance with all State and Federal laws, City ordinances, and all requirements regarding permits, licenses and insurance and further subject to the approval of the U.S. Coast Guard; and,

**BE IT FURTHER RESOLVED,** the City’s Signal & Traffic Division shall prepare the necessary traffic regulations.

---Motion duly seconded by Councilman Castellano

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

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

---Nays: None.

**11-867**

---By Councilman Russo

**RESOLUTION AUTHORIZING THE ADMINISTRATION TO APPLY FOR STATE RECYCLING GRANT**

**WHEREAS**, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which a tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

**WHEREAS**, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

**WHEREAS**, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

**WHEREAS**, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

**WHEREAS**, a resolution authorizing the City of Hoboken to apply for such tonnage grants will memorialize the commitment of the City of Hoboken to recycling and to indicate the assent of the Mayor and Council of the City of Hoboken to the efforts undertaken by the City of Hoboken and the requirements contained in the Recycling Act and recycling regulations; and

**WHEREAS**, such a resolution should designate the individual authorized to ensure the application is properly completed and filed in a timely manner.

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

The above recitals are incorporated herein as though fully set forth at length.

The Council hereby authorizes the Mayor or his designee to execute any and all documents and take any and all actions necessary to complete and receive the intent and purpose of this resolution.

The Mayor or his designee is authorized to execute and submit a recycling tonnage grant application to the New Jersey Department of Environmental Protection for tonnage of recyclables collected in CY 2010 and designates the Director of the Department of Environmental Services to ensure that the application is timely filed.

The monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purpose of recycling.

Furnish such documents as may be required.

Act as authorized correspondent of the City of Hoboken.

Execute necessary contracts, if funding is awarded.

This Resolution is effective immediately.

---Motion duly seconded by Councilwoman Castellano

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

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

---Nays: None.

**11-868**

---By All Council Members

**APPROVAL OF LOCATION AND CONCEPTUAL DESIGN OF A SEPTEMBER 11 MEMORIAL TO BE LOCATED ON PIER A**

**WHEREAS**, the City of Hoboken has been awarded a grant from the Department of Community Affairs for the Construction of a September 11<sup>th</sup> Memorial; and

**WHEREAS**, a design had been selected by the September 11<sup>th</sup> Committee which would have constructed a walkway from Pier A to a newly constructed Pier on which the Memorial would be constructed of tempered glass with the names of the 57 Hoboken residents lost on 9/11; and

**WHEREAS**, preliminary cost estimates received by the Committee to construct such walkway and new Pier would far exceed the remaining available grant funds of \$250,000; and

**WHEREAS**, due to the original concept being cost-prohibitive, the City of Hoboken September 11<sup>th</sup> Committee desires the placement of a modified Memorial on Pier A; and

**WHEREAS**, the City Council desires to make the decision on the final location of the memorial, being respectful of the September 11<sup>th</sup> Committee's public process on such; and

**WHEREAS**, the City Ordinance DR-363 requires that a public hearing be held for a change in purpose or use of parkland; and

**WHEREAS**, the public hearing was held on Tuesday, November 30, 2010 at 7:00 p.m.; and

**WHEREAS**, in compliance with City Ordinance DR-363, following the public hearing the City Council Quality of Life Subcommittee discussed the public comments and recommendations at a meeting open to the public held on Wednesday, January 26, 2011 at 5:00 p.m. and subsequently presented recommendations at the new business portion of the City Council agenda at the next regularly scheduled meeting on Wednesday, February 2, 2011; and

**WHEREAS**, per City Ordinance DR-363, said recommendations are required to be presented as a Resolution advising of the same.

**NOW THEREFORE BE IT RESOLVED**, that the Council of the City of Hoboken does hereby approve the attached proposed conceptual design and placement of the September 11 Memorial to be located on Pier A; and

**BE IT FURTHER RESOLVED** by the Council of the City of Hoboken in the County of Hudson that this resolution shall take effect immediately.

---Motion duly seconded by Councilwoman Castellano

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

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

---Nays: None.

**11-869**

---By Councilman Russo

**RESOLUTION AUTHORIZING ENVIRONMENTAL SERVICES, CENTRAL GARAGE, FIRE DEPARTMENT AND TAX COLLECTOR TO MAINTAIN PETTY CASH AND CHANGE FUNDS**

**WHEREAS,** N.J.S.A. 40A:5-21 authorizes the establishment of petty cash and change funds in any county or municipality; and

**WHEREAS,** various petty cash and change funds were previously established by resolution of the City Council and approval of the Director of the Division of Local Government Services; and

**WHEREAS,** the departments listed herein wish to continue the use of petty cash and change funds under the supervision of the Chief Finance Officer.

**NOW, THEREFORE, BE IT RESOLVED,** by the Council of the City of Hoboken, County of Hudson, State of New Jersey that the following petty cash and change funds be and are hereby authorized for use during the CY 2011:

<u>Department</u>	<u>Amount</u>	<u>Use</u>	<u>Custodian</u>
Environmental Services	\$150.00	Miscellaneous	Director Environmental Services
Central Garage	\$500.00	Miscellaneous	Director Environmental Services
Fire Department	\$300.00	Miscellaneous	Fire Chief
Tax Collector	\$300.00		Change Fund Tax Collector

---Motion duly seconded by Councilwoman Castellano

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

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

---Nays: None.

**11-870**

---By Councilman Russo

**RESOLUTION DESIGNATING DEPOSITORIES FOR THE CITY OF HOBOKEN FUNDS**

**WHEREAS,** the following were by resolution heretofore adopted by the governing body of the City of Hoboken designated as legal depositories of said City of Hoboken for CY 2011:

Bank of America	BCB Community Bank
Capital One	Citi Bank
Haven Savings Bank	J P Morgan Chase Bank
PNC Bank	Provident Savings Bank
Sovereign Bank	TD Bank
Valley National Bank	Wachovia

Now, therefore, be it

**RESOLVED,** that said legally designated depositories be and they are hereby requested, authorized and directed to honor checks, drafts, or other orders for the payment of money drawn in the corporate name of the City of Hoboken, including those payable to the individual order of any person or persons whose names appear thereon as signer or signers thereof, when bearing or purporting to bear the facsimile signature or signatures of any of the following:

Dawn Zimmer, Mayor  
George DeStefano, CMFO

and, be it further -

**RESOLVED**, that said legal depositories as above stated shall be entitled to honor and charge to the specified accounts of the City of Hoboken such checks, drafts, or other regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto if such signature or signatures resemble the facsimile specimens duly certified to or filed with the depositories; and, be it further –

**RESOLVED**, that all previous authorizations for the signing and honoring of checks, drafts, and other orders for the payment of money drawn on said City of Hoboken and signed by

Dawn Zimmer, Mayor  
George DeStefano, CMFO

are hereby ratified and confirmed and are hereby continued in full force and effect as amplified hereby; and, be it further –

**RESOLVED**, that all previous authorization for the signing and honoring of checks, drafts and other orders for the payment of money drawn on said City of Hoboken are hereby continued in full force and effect as amplified hereby; and, be it further –

**RESOLVED**, that the banks mentioned in the first paragraph hereof be furnished with a certified copy of this resolution.

---Motion duly seconded by Councilwoman Castellano

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

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

---Nays: None.

**11-871**

--- Councilman Cunningham

**RESOLUTION ADOPTING CASH MANAGEMENT PLAN FOR THE CITY OF HOBOKEN**

**WHEREAS**, N.J.S.A. 40A:5-14 of the Local Fiscal Affairs Law requires that every local unit shall adopt a "Cash Management Plan," and,

**WHEREAS**, the City must deposit its funds pursuant to the plan;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Hoboken, County of Hudson and State of New Jersey, hereby adopts the following "Cash Management Plan" to be utilized by the City of Hoboken for the CY 2011; and,

**BE IT FURTHER RESOLVED** that certified copies of this resolution shall be filed with the Director of the Division of Local Government Services, City Auditor, and the Chief Financial Officer of the City of Hoboken (Hudson County).

CASH MANAGEMENT PLAN OF THE CITY OF HOBOKEN, COUNTY OF HUDSON AND STATE OF NEW JERSEY

**I. STATEMENT OF PURPOSE**

This Cash Management Plan (the “Plan”) is prepared pursuant to the provisions of N.J.S.A. 40A:5-14 in order to set forth the basis of deposits (“Deposits”) and investment (“Permitted Investments”) of certain public funds of the City of Hoboken, pending the use of such funds for the intended purposes. The Plan is intended to assure that all public funds identified herein are deposited in interest bearing Deposits or otherwise invested in Permitted Investments hereinafter referred to.

The intent of the plan is to provide that the decisions made with regard to the Deposits and the Permitted Investments will be done to insure the safety, the liquidity, (regarding its availability for the intended purposes), and the maximum investment return within such limits. The Plan is intended to ensure that any Deposit or Permitted Investment matures within the time period that approximates the prospective need for the funds deposited or invested so that there is not a risk to the market value of such Deposits or Permitted Investments.

## **II. DEFINITIONS**

“Arbitrage” refers to the rules and regulations governing the issuance of bonds or notes and the reinvestment of the proceeds at higher yield. These regulations are promulgated by the Internal Revenue Service, Regulation 1.103.

“Certificate of Eligibility” is the certification issued by the New Jersey Department of Banking and Insurance, Division of Banking that a Public Depository is eligible to act as a depository for public funds and qualifies as a participant in the New Jersey Governmental Unit Deposit Protection Act, GUDPA.

“GUDPA” requires a bank that accepts public funds to be a public depository. A “Public Depository” is defined as a state bank, a national bank, a savings bank or association that is located in the State of New Jersey, the deposits of which are insured by the Federal Deposit Insurance Corporation, and which received or holds public funds on deposit. A local unit may make deposits in, or purchase certificates of deposit from, banks that are located in New Jersey and which meet the requirements of the GUDPA.

“The New Jersey Cash Management Fund.” The New Jersey Division of Investment is authorized pursuant to N.J.S.A. 52-18A-90.4 to establish, maintain and operate, with the approval of the State Investment Council and the State Treasurer, a common trust fund known as the State of New Jersey-New Jersey Cash Management Fund (the “Fund”). The Fund is authorized to accept deposits from all Local Units of government. The Fund is a “common trust” fund pursuant to the statute that created such funds within the jurisdiction of the Division of Investment. According to the enabling legislation, monies of Local Units deposited in the Fund must be invested in obligations and bonds that meet the investment requirements of the statute. These obligations include, among other things, evidences of indebtedness of U.S. corporations. These obligations are less secure than those permitted to Local Units under the Act. Thus, the Fund is riskier than direct investments in federal securities or GUDPA-protected deposits by Local Units.

## **III. IDENTIFICATION OF FUNDS AND ACCOUNTS TO BE COVERED BY THE PLAN**

A) The Plan is intended to cover the deposit and/or investment of the following funds and accounts of the City:

- Current Fund
- Grant Fund
- Trust Assessment Fund
- General Trust Fund
- Animal Control Fund
- Unemployment Insurance Trust Fund
- Serial Bonds Refunding Trust Fund
- General Capital Fund
- Parking Utility Operating Fund

Parking Utility Capital Fund  
Public Assistance Fund  
Bond & Interest Fund  
Affordable Housing Trust Fund  
Open Space Trust Fund  
Acquisition and Preservation of Historical Structures Account  
Green Acres Trust Account  
Employee Payroll Deduction Account  
Municipal Court General Account  
Municipal Court Bail Account  
Tax Collector's Revenue Account  
Tax Collector's PILOT Account  
Tax Collector's Lien Redemption Account  
Payroll Account  
Workers Compensation Account  
Claims Account  
Developers Escrow Account

B) The Plan is not intended to cover the deposit and/or investment of the following Funds and Accounts of the City:

1. Petty Cash Funds
2. Cash drawn from a Federal Agency under a letter of credit which cash has to be paid out within 5 working days to a vendor?
3. Deposit, retainage, or amounts posted by way of bond, held by the City for such things as faithful performance, if the City would be required by law to pay back any interest earned to the provider of the deposit, except where the City is required by law or court decision to invest the fund.
4. Amounts derived from the sale of bonds or notes, only to the extent that a specific written opinion of counsel states that the earning of (full) interest would result in the bonds or notes being classified as an arbitrage (not Federally Tax Exempt) issue pursuant to federal regulations. To the extent that some interest is allowable, it shall be deposited at the most favorable rate obtainable.

#### **IV. DESIGNATION OF OFFICIALS OF THE CITY OF HOBOKEN AUTHORIZED TO MAKE DEPOSITS AND INVESTMENTS**

The Chief Financial Officer and the Business Administrator (the "Designated Officials") are hereby authorized and directed to deposit and/or invest the Funds referred to in the Plan.

#### **V. STANDARDS OF CARE**

1. The Designated Officials involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.
2. The Designated Officials shall disclose any material interests in the financial institutions with which business is conducted and they shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the City.
3. The Chief Financial Officer, under the direction of the Business Administrator, is responsible for establishing and maintaining internal control. The controls should ensure that the assets of the City are protected from loss, theft, or misuse.

#### **VI. PROCEDURES FOR THE RECEIPT OF MONIES**

#### A. Department Procedures

1. A receipt shall be issued in duplicate for all transactions involving the receipt of money. A copy of the receipt shall be given to the paying party and the receiving department shall maintain the duplicate. All payments and receipts must be recorded.
2. All monies collected or received from any source by or on behalf of the Township shall be deposited within forty eight (48) hours of receipt to the designated bank pursuant to N.J.S.A. 40A:5-15.
3. All monies received shall be placed in a secured place until forwarded for deposit.
4. No department, division or agency shall engage in the practice of cashing checks with public funds. Cashing of employee paychecks is prohibited.

#### B. Chief Financial Officer (Designated Official)

##### 1. The Chief Financial Officer shall:

- a. Deposit all monies collected or received from any source by or on behalf of the City within forty eight (48) hours of receipt to the designated bank pursuant to N.J.S.A. 40A: 5-15.
- b. Ensure that all monies deposited are in interest bearing accounts.
- c. Make recommendations of legal public depositories to the City Council who shall by resolution designate said depositories at the first meeting of the calendar year.
- d. Ensure that each of the various accounts for which there is a separate bank statement is reconciled with that bank statement by the end of the following month.
- e. Verify that designated official depositories submit to the Chief Financial Officer a copy of the State of New Jersey, Department of Banking and Insurance, Governmental Unit Deposit Protection Act notification of Certificate of Eligibility, which must be filed semi-annually in the Department of Banking as of January 1 and December 31 of each year.

### **VII. DESIGNATION OF DEPOSITORIES**

The City Council approved a resolution on January 19, 2011, which designated the following banks and financial institutions as official depositories for the Deposit of all public funds referred to in the Plan, including any certificates of Deposits which are not otherwise invested in "Permitted Investments" as provided for in this Plan:

BANK OF AMERICA  
CAPITAL ONE  
COMMERCE BANK  
HSBC  
JP MORGAN CHASE  
PROVIDENT  
TD BANKNORTH  
WACHOVIA  
WELLS FARGO  
BCB COMMUNITY  
CITIBANK  
FIRST AMERICANO  
HAVENS SAVINGS

PNC  
SOVEREIGN  
VALLEY NATIONAL  
WASHINGTON MUTUAL

### **VIII. AUTHORIZED INVESTMENTS**

Except as otherwise specifically provided for herein, the Designated Official is hereby authorized to invest the public funds covered by this Plan, to the extent not otherwise held in Deposits, in the following Permitted Investments:

1. Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America.
2. Government Money Market Mutual Funds.
3. Any Obligations that a Federal Agency or a Federal Instrumentality has issued in accordance with an Act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligation bears a fixed rate of interest not dependent on any index or other external factor.
4. Bonds or other obligations of the Local Unit or bonds or other obligations of school districts of which the Local Unit is a part or within which the school district is located.
5. Bonds or other obligations, having a maturity date not more than 397 days from the date of purchase, approved by the Division of Investment of the Department of the Treasury for investment by Local Units.
6. Local Government Investment pools.
7. Deposits with the State of New Jersey Cash Management Fund established pursuant to Section 1 of P.L. 1977, c. 281 (C.52:18A-90.4).
8. Agreements for the repurchase of fully collateralized securities if:
  - a. The underlying securities are permitted investments pursuant to paragraphs “1” and “3” of this subsection a;
  - b. The custody of collateral is transferred to a third party;
  - c. The maturity of the agreement is not more than 30 days;
  - d. The underlying securities are purchased through a public depository as defined in section 1 of P.L. 1970, c.236 (c.17:9-41); and
  - e. A master repurchase agreement providing for the custody and security of collateral is executed.

For purposes of the above language, the terms “Government Money Market Mutual Fund” and “Local Government Investment Pool” shall have the following definitions:

**“Government Money Market Mutual Fund”**

An Investment company or Investment Trust:

- a. Which is registered with the Securities and Exchange Commission under the “Investment Company Act of 1940,” 15 U.S.C. Sec. 80a-1 et seq., and operated in accordance with 17 C.F.R. sec, 270. 2a-7 and

b. The portfolio of which is limited to U.S. Government securities that meet the definition of any eligible security pursuant to 17 C.F.R. sec. 270.2a-7 and

c. Repurchase agreements that are collateralized by such U.S. Government Securities; and

d. Which has:

- (i) Attained the highest ranking or the highest letter and numerical rating of a nationally recognized statistical rating organization; or
- (ii) Retained an investment advisor registered or exempt from registration with the Securities and Exchange Commission pursuant to the "Investment Advisors Act of 1940," with experience investing in U.S. Government Securities for at least the most recent past 60 months and with assets under management in excess of \$500 million.

#### **"Local Government Investment Pool"**

An investment pool:

a. Which is managed in accordance with 17 C.F.R. sec. 270.2a-7;

b. Which is rated in the highest category by a nationally recognized statistical rating organization?

c. Which is limited to U.S. Government securities that meet the definition of "eligible security" pursuant to 17 C.F.R. sec. 270.2a-7 and repurchase agreements that collateralized by such U.S. Government securities;

d. Which is in compliance with rules adopted pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (c.52:14B-1 et seq.) by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs, which rules shall provide for disclosure and reporting requirements, and other provisions deemed necessary by the board to provide for the safety, liquidity and yield of the investments;

e. Which does not permit investments in instruments that: are subject to high price volatility with changing market conditions; cannot reasonably be expected, at the time of interest rate adjustment, to have a market value that approximates their par value; or utilize an index that does not support a stable net asset value; and

f. Which purchases and redeems investments directly from the issuer, government money market mutual fund, or the State of New Jersey Cash Management Fund, or through the use of a National or State bank located within this State, or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L. 1967, c.9 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in borrowing on such U.S. Government securities.

#### **IX. SAFEKEEPING CUSTODY PAYMENT**

To the extent that any Deposit or Permitted Investment involves a document or security which is not physically held by the City of Hoboken, then such instrument or security shall be covered by all custodial agreements with an independent third party, which shall be a bank or financial institution in the State of New Jersey. Such institution shall provide for the designation of funds or the Permitted Investments or Deposits. Purchase of any Permitted Investments that involve securities shall be executed by a "delivery versus payment" method to insure that such Permitted Investments are either received by the City of Hoboken or by a third party custodian prior to or upon the release of the City of Hoboken's funds.

## **X. CITY AUDITOR**

The City investment practices (including compliance with N.J.S.A. 40A:5-14) and the agreement for banking services and compensation thereof shall be reviewed by the City Auditor as part of the annual audit, as required by N.J.S.A. 40A:5-4. Where a conflict exists between this Cash Management Plan and State Statute, the applicable State Statute shall apply.

## **XI. SURETY BONDS**

- a. The Chief Financial Officer shall be covered by a surety bond. During the annual audit, the City Auditor shall examine said bond to determine that proper coverage has been obtained.
- b. Staff members of the Chief Financial Officer's office, who are employees of the City, shall be covered by a public employee's faithful performances bond in the minimum amount of \$10,000.

## **XII. TERM OF PLAN**

This Plan shall be in effect from July 1, 2010 to December 31, 2010. Attached to this Plan is a resolution of the City Council of the City of Hoboken approving this Plan for such period of time, which may be amended from time to time? To the extent that the Council adopts any amendment, the Designated Official is directed to supply copies of the amendments to all of the parties who otherwise have received the copy of the originally approved Plan, which amendment shall be acknowledged in writing in the same manner as the original Plan was so acknowledged.

## **CERTIFICATION**

I, George DeStefano, Chief Financial Officer of the City of Hoboken, have prepared this plan and submitted same to Corporation Counsel and City Council for approval.

---Motion duly seconded by Councilwoman Marsh.

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

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

---Nays: None.

**11-872**

---By Councilman Mello

## **A RESOLUTION APPROVING PARTICIPATION WITH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION THROUGH THE NEW JERSEY DIVISION OF HIGHWAY TRAFFIC SAFETY'S FY2012 PEDESTRIAN SAFETY GRANT PROGRAM.**

**WHEREAS**, the City of Hoboken is interested in participating in a program with the N.J. Division of Highway Traffic Safety to reduce pedestrian injuries through education, enforcement, and engineering, and

**WHEREAS**, the City of Hoboken wishes to receive approved funding for a project under the New Jersey Division of Highway Traffic Safety in an undetermined amount **for the FY2012 Walk Safe Hoboken Program.**, and

**WHEREAS**, the Hoboken City Council has reviewed and supports the application process for the above mentioned Pedestrian Safety Grant, and

**WHEREAS**, the project is a joint effort between the Division of Highway Traffic Safety and the **City of Hoboken** for the purpose described in the application;

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

- 1) The Mayor or his designee is authorized to execute the above referenced grant application, and all other documents to fulfill the intent of the application.
- 2) As a matter of public policy the **City of Hoboken**, wishes to participate to the fullest extent possible with the N.J. Division of Highway Traffic Safety.

---Motion duly seconded by Councilman Cunningham.

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

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

---Nays: None.

**11-873**

---By Councilman Russo

**AUTHORIZING THE SUBMISSION OF A PROPOSAL FOR INCLUSION IN THE 2011 URBAN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM APPLICATION TO HUD**

**WHEREAS**, Title 1 of the Housing and Community Development Act of 1974 provides for substantial Federal funds being made available to certain urban counties for use therein; and

**WHEREAS**, this act establishes certain criteria which must be met in order for a county and its participating communities to be the recipient of said funding; and

**WHEREAS**, the City of Hoboken and the County of Hudson entered into an agreement in cooperation with other municipalities in Hudson County for the carrying out of the Hudson County Community Development Urban County Program under the provisions of the Interlocal Services Act; and

**WHEREAS**, the City of Hoboken and the County of Hudson have further agreed to cooperate in the carrying out of Community Development Block Grant activities and to undertake or assist in the implementation of programs and projects that better the community; **now therefore** –

**BE IT RESOLVED**, by the Mayor and the Council of the City of Hoboken that the 2011 proposal for the City of Hoboken’s continued participation in the Urban County CDBG Program is hereby approved for submission to the Hudson County Office of Community Development; **and be it** –

**FURTHER RESOLVED**, that the Mayor or her designee is hereby authorized and directed to transmit the City’s proposal for funding to the County of Hudson and the City Clerk of the City is hereby authorized and directed to attest the same and affix the City Seal; **and be it** –

**FURTHER RESOLVED**, that Mayor or her designee is hereby authorized to:

- (a) make application for such a grant
- (b) provide additional application information and furnish such documents as may be required
- (c) act as the authorized correspondent of the City of Hoboken; **and be it further** –

**RESOLVED**, that:

1. Should funding be awarded, the Mayor or her designee is hereby authorized to execute an agreement thereto with the County of Hudson
2. The City Clerk is authorized to affix the City seal to documents related to this application
3. This resolution shall take effect immediately.

---Motion duly seconded by Councilwoman Castellano.

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

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

---Nays: None.

**11-874**

---By Councilman Bhalla

**RESOLUTION APPOINTING A FUND COMMISSIONER AND ALTERNATE FUND COMMISSIONER FOR THE GARDEN STATE MUNICIPAL JOINT INSURANCE FUND**

**WHEREAS**, the City of Hoboken is a member of the Garden State Municipal Joint Insurance Fund; and

**WHEREAS**, it is required for the City of Hoboken to have representation on the Board of Commissioners for Fund year January 1, 2011 to December 31, 2011.

**NOW, THEREFORE, BE IT RESOLVED**, on this 16<sup>th</sup> day of February 2011 by the City Council of the City of Hoboken, County of Hudson, State of New Jersey that:

1. Michael J. Korman is hereby re-appointed as Fund Commissioner representing the City of Hoboken on the Garden State Municipal Joint Insurance Fund Board of Commissioners; and
2. Arch Liston is hereby appointed as Alternate Fund Commissioner representing the City of Hoboken on the Garden State Municipal Joint Insurance Fund Board of Commissioners.

---Motion duly seconded by Councilman Cunningham

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

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

---Nays: None.

**11-875**

---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 **\$ 15,278.97**

<u>NAME</u>	<u>BL/LT/UNIT</u>	<u>PROPERTY</u>	<u>QTR/YEAR</u>	<u>AMOUNT</u>
Met Life Home Loans c/o Total Mortgage Solutions LP 1555 W. Walnut Hill Lane Ste 200A Irving, Tx 75038	28/27/C0004	116 Madison St	4/10\$	7,058.95
N V E Bank 75 Engle Street Englewood, NJ 07631	78/31/C0008	604-606 Grand	4/10\$	8,220.02

**11-876**

---By Councilman Russo

**RESOLUTION APPROVING MINUTES FOR THE HOBOKEN CITY COUNCIL MEETINGS**

RESOLVED, that filed minutes for the Hoboken City Council regular meetings of January 5, 2011, Special meeting on January 10, 2011, and the regular meeting of January 19, 2011 have been reviewed and approved as to legal form and content.

---Motion duly seconded by Councilwoman Castellano

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

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

---Nays: None.

**11-877**

---By Councilman Cunningham

**RESOLUTION TO ADOPT THE MINUTES FROM CLOSED EXECUTIVE SESSIONS OF THE CITY COUNCIL OF THE CITY OF HOBOKEN DATED: MAY 5, 2010; MAY 19, 2010; JUNE 16, 2010; AND, JUNE 22, 2010**

**WHEREAS**, the Council of the City of Hoboken went into closed executive sessions for the reasons set forth in the Open Public Meetings Act, pursuant to N.J.S.A. 10:4-12 on the following dates: May 5, 2010; May 19, 2010; June 16, 2010; and, June 22, 2010; and

**WHEREAS**, minutes from each of these closed executive sessions were created, and those minutes are now complete and ready for adoption; and

**WHEREAS**, the Council must vote to adopt said minutes as true and accurate minutes of the discussions held during each closed session.

**NOW THEREFORE, BE IT RESOLVED** that the Council of the City of Hoboken hereby adopts the minutes of the following closed executive sessions as true and accurate minutes of the discussion held: May 5, 2010; May 19, 2010; June 16, 2010; and, June 22, 2010; and

**BE IT FURTHER RESOLVED** that when the need for confidentiality no longer exists, the minutes for each of the above mentioned meetings shall be made available to the public according to OPRA.

---Motion duly seconded by Councilwoman Marsh.

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

--Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Marsh, Mello, Occhipinti, Russo, and President Mason.  
---Nays: None.

**ORDINANCES**

Introduction and First Reading

11-878  
Z-87

**AN ORDINANCE TO AMEND AND SUPPLEMENT ARTICLE XXIII ENTITLED “PARKING FOR SNOWPLOWING, SNOW REMOVAL” WITHIN CHAPTER 190 OF THE GENERAL CODE OF THE CITY OF HOBOKEN ENTITLED “VEHICLES AND TRAFFIC”**

**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; and,

**WHEREAS**, the recent snow storms have demonstrated the City’s current parking regulations during snow are inadequate to effectuate proper and efficient clean-up efforts; and,

**WHEREAS**, the Administration, in conjunction with police and fire officials, conducted an evaluation of existing Snow Emergency Routes in order to provide efficient safety measures for the City; and,

**WHEREAS**, the General Code of the City of Hoboken, at Article XXIII of Chapter 190 deals specifically with snow emergencies and specific parking regulations during snow emergencies; and,

**WHEREAS**, the Administration has requested the City Council to amend the Snow Emergency Routes to better regulate vehicle parking during snow emergencies to increase efficiency in snow clean-up efforts.

**NOW, THEREFORE, BE IT ORDAINED** by the Hoboken City Council, County of Hudson, in the State of New Jersey as follows (deletions noted by ~~strike through~~, additions noted by underline):

**Section One: Article XXIII of Chapter 190 – Amendments**

*ARTICLE XXIII Parking for Snowplowing, Snow Removal*

**§ 190-36. Snow emergencies.**

- A. Whenever snow has fallen and the accumulation is such that it covers the street or highway, or whenever a snow emergency has been declared by the municipality, an emergency shall exist and no vehicle shall be parked on the following street or highways or portion thereof.

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Fifth Street	South	Clinton Street to <del>Hudson Street</del> <u>River Street</u>
Fourth Street	South	River Street to Jackson Street
Third Street	North	Jackson Street to River Street
Thirteenth Street	North	Washington Street to Willow Avenue

Washington Street	Both	Observer Highway to northern boundary
Willow Avenue	West	Observer Highway to Eleventh Street
<u>Ninth Street</u>	<u>North</u>	<u>Jackson Street to River Street</u>
<u>Seventeenth Street</u>	<u>Both</u>	<u>Willow Avenue to Jefferson Street</u>

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

**§ 190-37. Removal.**

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

**§ 190-38. Erection of signs.**

The effectiveness of this Article is contingent upon signs being erected as required by law.

**§ 190-39. Violations and penalties.**

In addition to any vehicle owner’s responsibility for the payment of costs related to the removal and storage of the vehicle, ~~U~~unless another penalty is expressly provided by New Jersey Statute, every person convicted of a violation or provision of this Article or any supplement thereto shall be liable to a penalty of not more than fifty-one dollars (\$51.).

**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.

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.

Councilman Mello 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 **MARCH 2, 2011 at 7:00 PM.**

---Motion duly seconded by Councilwoman Castellano

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

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

---Nays: None.

#### **11-879**

#### **Z-88**

### **ORDINANCE TO AMENDING CERTAIN PROVISIONS CHAPTER 155 OF THE CITY CODE, ENTITLED "RENT CONTROL"**

WHEREAS, the City Council Committee on Rent Control & Affordable Housing has conducted public hearings over the course of the past eighteen months in an effort to identify substantive and procedural deficiencies in the legislative and regulatory controls of residential rents through the City's Rent Regulations Office and Rent Leveling and Stabilization Board; and

WHEREAS, this amendatory ordinance is intended to address some of those concerns, recognizing that the work of the Committee is ongoing and intended to address other issues;

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

**Section 1.** Code Section 155-4, entitled "Controls; increase restrictions" is hereby amended and supplemented to read as follows:

#### **§ 155-4 Controls; increase restrictions.**

All rents for rental of housing space and services in dwellings to which this act is applicable are hereby controlled at the base rent level received by the landlord as of October 1, 1985, and no rental increases shall be hereinafter demanded, paid or accepted, except as provided in this chapter. Any rent increases imposed after October 1, 1985, to the extent that such increases are in excess of the rent increases allowed under this ordinance, are hereby declared to be null and void, and subject to the limitations and repose period set forth herein, such excess rents shall be refunded or credited to the tenant by the landlord forthwith. All rents may be rounded up or down to the nearest dollar after making the computations. Landlords shall report all increases of rents imposed after October 1, 1985, to the Rent Leveling and Stabilization Board. Any landlord seeking an increase shall notify the tenant in writing at least thirty (30) days prior to the effective date of the increase and explain in detail the reason for the increase. Determinations under this section shall be made by the Rent Regulation Officer.

A. Two (2) Year Statute of Limitations/Two (2) Year Period of Repose

A refund and/or credit of excess rents shall be barred if the tenant's request for a legal rent calculation is not made within two (2) years of the start of his or her tenancy. In no instance shall a tenant be allowed to collect rental overcharges for a period in excess of two (2) years as determined by the Rent Leveling Officer or the Board. Nothing in this provision shall bar a tenant from requesting a legal rent calculation, nor prohibit the Rent Regulation Officer or Board from rendering a determination as to whether the rent of the dwelling is in excess of those permitted under this Chapter.

B. Disclosure Statement.

Every landlord subject to the provisions of this Chapter shall provide to each tenant a Disclosure Statement, on Board approved forms, available through the Rent Regulation Office or by download from the City's web site. The Disclosure Statement shall include a detailed description of the tenant's rights under this Chapter, including but not limited to the right to request a legal rent calculation to determine the legal base rent; notice that a failure to request a legal rent calculation within two (2) years upon the signing of a lease or onset of tenancy without a lease will result in a bar of a refund and/or credit of an excess or overpayment of rents; notice that a copy of the Landlord's Registration Statement will be on file with the Rent Regulation Office and available to a tenant upon request; and an acknowledgment by the Landlord advising the tenant of the Truth-In-Renting Act N.J.S.A. 46:8-43 et seq., and the Statement/Booklet prepared therein, which can be obtained from the New Jersey Department of Community Affairs Division of Codes and Standards Landlord tenant information service P.O. Box 805 Trenton 08625; the Disclosure Statement is to be signed and dated by the tenant and filed by the landlord with the Rent Regulation Officer. The Rent Regulation Officer shall be authorized to prepare and revise the Disclosure Statement as needed in an effort to comply with the intention and purpose of this section.

C. Alternative Proofs of Rents and Vacancies

For the purpose of calculating the earliest date of a verifiable rent and determining the legal rent of the dwelling, including but not limited to the consideration of a vacancy of a dwelling, and in the absence of a filed and timely submitted Registration Statement and/or the absence of a filed and timely submitted vacancy decontrol certificate, a landlord shall be permitted to submit credible alternative proofs for consideration by the Rent Regulation Officer or the Rent Leveling and Stabilization Board to determine the earliest date of a verifiable rent, the legal rent of the dwelling and/or whether vacancies occurred. These alternative proofs may consist of, but are not limited to, leases for comparable housing space, leases showing vacancies, and/or statements under oath from reliable sources. In presenting alternative proofs for a vacancy, a certified statement from the Landlord should be submitted indicating that the tenant vacated the apartment voluntarily without harassment, duress, or unreasonable pressure from the landlord or his agents. The Rent Regulation Officer and/or the Rent Leveling and Stabilization Board shall have absolute discretion to determine the reliability of any such alternative proofs.<sup>1</sup>

**Section 2. Inconsistency**

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 in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**Section 3. 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 4. Effective Date**

This Ordinance shall take effect after final adoption and approval thereof as provided by law.

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Council President Mason 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 **MARCH 2, 2011 at 7:00 PM.**

---Motion duly seconded by Councilmen Bhalla, Russo.

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

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

---Nays: None.

**11-880**

**Z-89**

**AN ORDINANCE AMENDING CHAPTER 20A OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED “PROFESSIONAL SERVICE CONTRACTS”; CHAPTER 20C OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED “REDEVELOPMENT PAY-TO-PLAY REFORM”; AND, CHAPTER 20B OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED “CONTRIBUTION DISCLOSURE STATEMENTS”**

**WHEREAS**, Pay-to-Play reform was initiated by the State Legislature in 2005; and,

**WHEREAS**, the City of Hoboken followed suit and created location legislation dealing with Pay-to-Play issues for professional service contracts and redevelopment contracts with the City government, pursuant to N.J.S.A. 40:48-2; and,

**WHEREAS**, the Council of the City of Hoboken amended Chapter 20A and adopted Chapter 20C in 2007; and,

**WHEREAS**, it has now been shown that amendments to and clarification of the current language of Chapters 20A and 20C is necessary to help maintain compliance, put contributors on proper notice of the regulations regarding their contributions, and enable proper enforcement of the Chapters; and,

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

**SECTION ONE: AMENDMENT TO CHAPTER 20A**

Chapter 20A of the Hoboken City Code is hereby amended as follows (additions noted in underline and deletions noted in ~~strikethrough~~):

***ARTICLE III Public Contracting Reform Ordinance***

**§ 20A-11. Preamble.**

Large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents as to their trust in government and its business practices.

Pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and bylaws as necessary and proper for good government, as well as the public health, safety and welfare.

Pursuant to P.L. 2005, c.271 (codified at N.J.S.A. 40A:11-51) a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to business entities that have made political contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract.

In the interest of good government, the people and the government of the City of Hoboken desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections.

It shall be the policy of the City of Hoboken to create such a regulation which states that a business entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Hoboken.

**§ 20A-12. Prohibition on awarding public contracts to certain contributors.**

- A. To the extent that it is not inconsistent with state or federal law, the City of Hoboken and any of its departments, instrumentalities or ~~purchasing agents~~ any independent authority created thereby, shall not enter into any agreement or otherwise contract to procure "professional services" as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking, insurance brokerage or other consulting service (hereinafter "professional services"), nor "extraordinary ~~unspecified~~ unspecifiable services" as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-59(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "extraordinary ~~unspecified~~ unspecifiable services") from any ~~business~~ entity, including non-emergency contracts awarded by N.J.S.A. 40A:11 et seq. or the "Fair and Open" Process pursuant to N.J.S.A. 19:44A-20 et seq., if such ~~business~~ entity has solicited for or made any "contribution" (~~as such term is defined at N.J.A.C. 19:25-1.7, reportable by the recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (N.J.S.A. 19:44A-1 et seq.), which definition includes loans and transfers of money or other thing(s) of value, all pledges or other commitments or assumptions of liability to make any such transfers, pledges and in-kind contributions~~) (hereinafter "contribution"), to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken or any person serving in an elective municipal office in the Hoboken ~~a holder of public office having ultimate responsibility for the award of a contract~~, or (ii) to any Hoboken or Hudson County political committee or political party committee, or (iii) to any continuing political committee or political action committee that ~~regularly engaged~~ in the support of Hoboken municipal or Hudson County elections and/or Hoboken municipal or Hudson County candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds specified in Subsection D within one (1) calendar year immediately preceding the date of the contract or agreement. "Contributions" will be considered to have occurred on the date of deposit, execution, or transfer of rights.
- B. No ~~business~~ entity or vendor who submits a proposal for, enters into negotiations for, or ~~agrees~~ enters into any contract or agreement (including non-emergency contracts awarded by N.J.S.A. 40A:11-1 et seq. or the "Fair and Open" Process pursuant to N.J.S.A. 19:44A-20 et seq.) with the City of Hoboken or any of its departments, ~~or~~ instrumentalities, or independent authorities created thereby, for the rendition of "professional services" or "extraordinary ~~unspecified~~ unspecifiable services" shall knowingly solicit or make any contribution, to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken, or ~~a holder of public office~~ any person serving in an elective municipal office in Hoboken ~~having ultimate responsibility for the award of a contract~~, or (ii) to any Hoboken or Hudson County political committee or political party committee, or (iii) any "PAC" which meets the requirements set forth in Section 20A-12A(iii), between the time of first communication between that business entity or vendor and the municipality regarding a specific agreement for "professional services" or

"extraordinary ~~unspecified~~ unspecifiable services," and the ~~later latest~~ of the following: (1) termination of negotiations; (2) ~~or rejection of any proposal;~~ or, (3) ~~the completion of the performance or specified time period of that~~ termination of the contract or agreement.

- C. For purposes of this Article, ~~a business entity~~ entities whose contributions are regulated by this Article means: (i) an individual including the individual's spouse, and any child~~/~~ or children; or (ii) any sole proprietorship, firm, corporation, professional corporation, partnership and any partner thereof, limited liability company, limited liability partnership and any partner thereof, organization, association, and or any other manner and kind of business entity legal commercial entity organized under the laws of the State of New Jersey or of any other state or foreign jurisdiction; (iii) any principal, stakeholder, partner, or other person who owns or controls ten percent (10%) or more of the equity, profits, assets, stock, or ownership, or income interests in a person or entity as defined in sections (i) and (ii) above, and any determination of percentage, ownership or control will combine the individual interests as well as those of the individual's their spouses and child/ or children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child~~/~~ or children; and (v) all persons who are an "affiliate" of a person as defined in sections (i) and (ii) above, as such term is used in 11 U.S.C. § 101(2) any subsidiaries directly or indirectly owned or controlled by the business entity, person, or individual; or, (iv) any political organization organized under Section 527 of the Internal Revenue Code (26 U.S.C. §527) that is directly or indirectly controlled by the business entity, person or individual, other than a candidate committee, election fund, or political party committee.
- D. The monetary thresholds of this Article are: (i) a maximum of three hundred dollars (\$300.) each for any purpose to any candidate or candidate committee for elective municipal office in Hoboken or any holder of elective municipal office in Hoboken, Mayor and Governing Body, or five hundred dollars (\$500.) to any joint candidates committee for elective municipal office in Hoboken or any holder of elective municipal office in Hoboken, Mayor or Governing Body, or three hundred dollars (\$300.) to a any political committee or political party committee of the City of Hoboken; (ii) five hundred dollars (\$500.) to any Hudson County political committee or political party committee; (iii) five hundred dollars (\$500.) to any "PAC" which meets the requirements set forth in Section 20A-12A(iii). However, any individual or group of persons meeting the definition of entity provided in Subsection C. above of business entity may shall not annually contribute for any purpose in excess of two thousand five hundred dollars (\$2,500.) to all City of Hoboken candidates, candidate committees, joint candidate committees, and holders of public elective municipal office having ultimate responsibility for the award of a contract, and all City of Hoboken or Hudson County political committees and political party committees, and all "PAC's," combined, without violating Subsection A. of this section.
- E. ~~For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (i) the City of Hoboken Mayor or Governing Body, if the contract requires approval or appropriation from the Mayor or Governing Body, or (ii) the Mayor or the City of Hoboken, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.~~

#### **§ 20A-13. Contributions and Contracts made prior to the effective date.**

~~No contribution~~ Contributions or solicitations of contributions made prior to the effective date of the most recent amendment to this Article shall be governed by the language of the Article effective at the time of contribution. Contributions or solicitations of contributions made on or after the effective date of the most recent amendment to this Article shall be governed by the current Article. Any contract in effect at the time of any amendment to this article shall be governed by the current Article.

#### **§ 20A-14. Contribution statement by professional business entity.**

- A. Every contract, Request for Proposals, Request for Qualifications and bid specification covered by this Article shall contain:

1. A provision describing the requirements of this Article or reference to this Article and directions for obtaining the requirements of this Article;
2. A statement that compliance with this Article shall be a material term and condition of any contract awarded;
3. A statement indicating that the requirements of this Article shall create a continuing obligation on the contractor;
4. A description of the penalties for which the contractor will be liable in the event of a failure to comply with the provisions of this Article; said description shall state that unless remedied in accordance with Section 20A:15 of this Article, a violation of this Article shall be considered a material breach of the contract which shall result in enforcement of the penalties described in Section 20A:17 of this Article.

AB. Prior to awarding any contract or agreement to procure "professional services" or "extraordinary ~~unspecified unspecifiable~~ services" from any ~~business~~ entity, the City of Hoboken or its ~~purchasing agents and departments, instrumentalities, or authorities~~ as the case may be, shall receive a ~~sworn statement written certification~~ from the intended recipient of said contract, made under penalty of perjury, that he/she/it has not made any contributions in violation of ~~Section 20A-12~~ of this Article. The City of Hoboken, its ~~purchasing agents and departments, instrumentalities, or authorities~~ shall be responsible for informing the City Council that the aforementioned ~~sworn statement written certification~~ has been received and that the ~~business~~ entity is not in violation of this Article, prior to awarding the contract or agreement.

BC. The recipient of said contract or agreement shall have a continuing duty to report any violations of this Article that may occur during the ~~negotiation, proposal process, negotiations, duration of the contract period,~~ or the completion of the performance ~~or specified time period~~ of that contract or agreement. The certification required under this section shall be made prior to entry into the contract or agreement with the City of Hoboken, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

#### **§ 20A-15. Return of excess contributions.**

- A. A recipient of a contract for "professional services" or "extraordinary ~~unspecified unspecifiable~~ services" may cure a violation of Section 20A-12 of this Article, if, within ~~thirty (30)~~ forty-five (45) days after the ~~general election which follows the~~ date of the contribution, the contract recipient notifies the municipality in writing and seeks and, within forty-five (45) days after the date of the contribution, receives reimbursement of the contribution from the recipient of such excess contribution.
- B. Except that it shall be presumed that any contribution that violate this Article, made within sixty (60) days of an election of candidates for elective office in the City of Hoboken, was not made inadvertently and such contributions shall not be eligible for reimbursement; thereby, the entity making such contributions cannot remedy the violation of Section 20A-12 of this Article.

#### **§ 20A-16. Exemptions.**

The contribution limitations prior to entering into a contract in Section 20A-12A do not apply to contracts which (i) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6. There ~~is~~ shall be no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 et seq.

#### **§ 20A-17. Penalty.**

- A. It shall be a material breach, by the vendor, of the terms of a ~~City of Hoboken~~ the agreement or contract for "professional services" or "extraordinary ~~unspecified unspecifiable~~ services," as the

term is defined in Section 20A-12, when a recipient of such agreement or contract ~~has:~~ (i) ~~made~~ makes or solicited solicits a contribution in violation of this Article; (ii) knowingly ~~concealed~~ conceals or misrepresented misrepresents a contribution given or received; (iii) ~~made~~ makes or solicited solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) ~~made~~ makes or solicited solicits any contribution on the condition or with the agreement that it will be recontributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken, or any holder of public elective municipal office in the City of Hoboken ~~having ultimate responsibility for the award of a contract,~~ or any Hoboken or Hudson County political committee or political party committee, or any "PAC;" (v) ~~engaged~~ engages or employed employs a lobbyist or consultant with the intent or understanding that such lobbyist or consultant ~~would~~ will make or solicit any contribution, which if made or solicited by the ~~professional business~~ entity itself, would subject that entity to the restriction of this Article; (vi) ~~funded~~ fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) ~~engaged~~ engages in any exchange of contributions to circumvent the intent of this Article; or (viii) directly or indirectly, through or by any other person or means, ~~done~~ any act which ~~if done directly~~ would subject that entity to the restrictions of this Article.

- B. Furthermore, any business entity that violates Section 20A-17A(ii)-(viii) shall be disqualified from eligibility for future contracts with the City of Hoboken, its departments, instrumentalities, or any independent authority created thereby ~~contracts~~ for a period of four (4) calendar years from the date of the violation.

#### **§ 20A-18. Citizens private right of action.**

Notwithstanding any other common right of law, any Hoboken citizen or citizen's group shall have the right to sue any or all entities in violation of this Article, including the business entity awarded a contract or agreement to provide "professional services" or "extraordinary ~~unspecified~~ unspecifiable services," as defined in Section 20A-12, the candidate or committee as specified in Section 20A-12A above, and/or the City of Hoboken, in order to compel those entities to comply with this Article.

#### **§ 20A-19. Severability.**

If any provision of this Article or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Article to the extent it can be given effect or the application of such provision to persons or circumstances other than those which it is held invalid shall not be affected thereby, and to this extent the provisions of this Article are severable. The drafters of this Article, the persons signing the petition in support of this Article, and the persons who cast votes in favor of the Article, declare that they would have supported the Article and each section, subsection, sentence, clause, phrase, or provision or application thereof irrespective of the fact that any one (1) or more other sections, subsections, sentences, clauses, phrases, or provisions or applications thereof may be held invalid.

#### **§ 20A-20. Repealer.**

All ordinances or parts of ordinances which are inconsistent with any provisions of this Article are hereby repealed as to the extent of such inconsistencies.

#### **§ 20A-21. Effective date.**

This Article, and any amendments thereto, shall take effect immediately upon passage and publication as provided by law, ~~twenty (20) days following the earlier of (a) final adoption thereof by the Municipal Council of the City of Hoboken or (b) the date on which the passage of this Article as a public question is certified pursuant to N.J.S.A. 19:20-9 or other applicable law, and shall be published as required by law.~~

**§ 20A-22. "Pay-to-Play" Compliance Officer.**

- A. There is hereby established the position of Compliance Officer, who shall be responsible for enforcement of the Public Contracting Reform Ordinance and Redevelopment Pay-to-Play Reform Ordinance.
- B. The Compliance Officer shall create and update monthly a list of business entities engaged in professional services contracts or extraordinary unspecifiable service contracts as defined in Section 20A-12A. of the Public Contracting Reform Ordinance. Included on the list will be the names of any entity, partners, officers, and/or any person who owns ten percent (10%) or more of the equity or ownership or income interests of each business entity. In any case where an entity is listed as having a ten percent (10%) or greater interest in the entity, the interested entity shall provide a secondary list of the names of all entities, partners, officers, and/or any other person who owns ten percent (10%) or more of the interested entity. The Compliance Officer shall provide an updated list to the City Council ~~each month~~ quarterly and shall make the list available to the public at the City Clerk's office and on the City's official website.
- C. The Compliance Officer shall create and update monthly a list of redevelopers with redevelopment agreements with the City as defined in Section 20C-2C of the Redevelopment Pay-to-Play Reform Ordinance. Included on the list will be the names of any entity, partners, officers, and/or any person who owns ten (10%) percent or more of the equity or ownership or income interests of each business entity. In any case where an entity is listed as having a ten percent (10%) or greater interest in the entity, the interested entity shall provide a secondary list of the names of all entities, partners, officers, and/or any other person who owns ten percent (10%) or more of the interested entity. The Compliance Officer shall provide an updated list to the City Council ~~each month~~ quarterly and shall make the list available to the public at the City Clerk's office and on the City's official website.
- D. ~~The City shall request that all~~ All candidates for local municipal office in Hoboken submit to the Compliance Officer copies of all campaign financial activity reports they file with the New Jersey Election Law Enforcement Commission (ELEC) concurrently with the filing of those reports with ELEC. If a candidate does not submit the reports to the Compliance Officer, the Compliance Officer shall post the list of non-compliant candidates on the City's official website, and submit the list of non-compliant candidates to the City Council, and the City Clerk. ~~obtain copies of the reports from ELEC at such time as they become available.~~
- E. The Compliance Officer shall inspect all copies of campaign financial activity reports submitted by candidates or obtained from ELEC for Compliance with the Public Contracting Reform Ordinance and Redevelopment Pay-to-Play Reform Ordinance.
- F. The Compliance Officer shall be the designated official for receiving complaints alleging violations of the Public Contracting Reform Ordinance or Redevelopment Pay-to-Play Reform Ordinance.
- G. The Compliance Officer shall submit quarterly reports to the City Council and the Mayor regarding all complaints of violations of the Public Contracting Reform Ordinance or Redevelopment Pay-to-Play Reform Ordinance. The reports shall include the following for each such complaint: the status of the investigation of the complaint; the outcome of the investigation if it has been completed; and, the actions, if any, taken as a result of the investigation. The report shall also include the same information of any investigation taken by the Compliance Officer based upon his own review of campaign financial activity reports. The Compliance Officer shall create and make available to the public at the City Clerk's office and on the City's official website all final determinations made with respect to any complaints.

**SECTION TWO: AMENDMENT TO CHAPTER 20C**

Chapter 20C of the Hoboken City Code is hereby amended as follows (additions noted in underline and deletions noted in ~~striketrough~~):

**§ 20C-1. Preamble.**

It has become more frequent for developers, sometimes at the request of candidates for local elected office or political party officials, to make substantial political contributions to the election campaigns for local government offices, and to the political parties which support them.

The local government officials are, once elected, responsible for deciding the terms of a redevelopment agreement.

Political contributions from developers entering into agreements for redevelopment projects approved by the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers and residents as to their trust in the process of local redevelopment, including but not limited to redevelopment decisions on tax abatements, zoning densities, publicly funded infrastructure improvements, and acquisition of property rights pursuant to eminent domain.

The Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. provides a mechanism to empower and assist local governments in efforts to promote programs for redevelopment.

N.J.S.A. 40A:12A-8 allows municipalities or a designated redevelopment entity to enter into agreements with redevelopers for planning, replanning, construction or undertaking of any project or redevelopment work without public bidding and at such prices and upon such terms as it deems reasonable within areas designated for redevelopment.

N.J.S.A. 40A:12A-11 provides that redevelopment entities are instrumentalities of the municipality.

Both the exceptions to the Open Public Meetings Act, more specifically N.J.S.A. 10:4-12b and N.J.S.A. 40A:12A-8, provide that negotiations for such agreements can be conducted in executive session, provided the full terms of any such agreements are discussed and approved in open session.

The City of Hoboken has previously or may declare certain areas of Hoboken to be Areas in Need of Redevelopment under the Local Redevelopment and Housing Law, and has or may adopt a Redevelopment Plan.

Given the potential of negotiating with private parties or redevelopers and the entering into agreements with such redevelopers without a formal public bidding process, as permitted by the Local Redevelopment and Housing Law, it is necessary to establish certain limitations on political contributions which may undermine public confidence in any redevelopment effort.

The restriction against local political contributions contained herein does not impair in any way the remaining opportunities for such redevelopers to speak, write and publish their sentiments about local elections and candidates or to volunteer or associate with campaigns of their own choosing.

The Policy of the City of Hoboken will be to create such a regulation which states that any entity or individual seeking to enter into a redevelopment agreement or amendment thereto, or is otherwise seeking to obtain rights to develop pursuant to a redevelopment agreement who makes political contributions to Hoboken City elected officials and local and county political committees, will be ineligible to receive such agreements, or rights from the City of Hoboken.

**§ 20C-2. Prohibition of entering into or amending redevelopment agreements with certain contributors.**

- A. ~~Any other provision of law to the contrary notwithstanding,~~ To the extent that it is not inconsistent with state or federal law, the City of Hoboken and its designated redevelopment agency ~~or any of its purchasing agents or agencies or those of its independent authorities, as the case may be,~~ shall not enter into any agreement, amend any agreement, or otherwise contract with any redeveloper, as defined in Subsection C. below, for the planning, replanning, construction or undertaking of any redevelopment project including the acquisition or leasing of any public property in conjunction with the redevelopment of any area within the City of Hoboken pursuant to the Local

Redevelopment and Housing Law, P.L.1992, c.79 (N.J.S.A. 40A:12A-1 et seq.), if that redeveloper has solicited for or made any "contribution" reportable by the recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (N.J.S.A. 19:44A-1 et seq.), which definition shall include all loans and transfers of money or other things of value, all pledges or other commitments or assumptions of liability to make any such transfer (as such term is defined at N.J.A.C. 19:25-1.7, which, definition includes loans, pledges and in-kind contributions) (hereinafter "contribution"), to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken or any person serving in an elective municipal office in the City of Hoboken ~~a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Hoboken,~~ or (ii) to any Hoboken or Hudson County political committee or political party committee, or (iii) to any continuing political committee or political action committee that ~~regularly~~ engaged in the support of Hoboken municipal or Hudson County elections and/or Hoboken municipal or Hudson County candidates, candidate committee, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), during the applicable time period which, for purposes of this section, shall be defined as the time period between the date that the property which is the subject of the redevelopment project has been included in a memorializing resolution adopted by the Governing Body directing the Planning Board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and the later of (a) the termination of negotiations or rejection of any proposal, or (b) the termination of the redevelopment agreement. "Contributions" will be considered to have occurred on the date of deposit, execution, transfer of rights, or guarantee, as the case may be for particular types of contributions. ~~the date of entering into the redevelopment agreement, amended agreement, or contract (hereinafter "agreement").~~

B. All development agreements or amendments thereto entered into by the City of Hoboken shall contain a provision prohibiting redevelopers, as defined in Subsection C below, to solicit or make any contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken or any person serving in an elective municipal office in the City of Hoboken ~~a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Hoboken,~~ or (ii) to any Hoboken or Hudson County political committee or political party committee, or (iii) to any "PAC," as the term is defined in Section 20C-2A, herein, between the time of first communication between that redeveloper and the municipality regarding a redevelopment project between the date that the property which is the subject of the redevelopment project has been included in a memorializing resolution adopted by the Governing Body directing the Planning Board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and the later of (a) the termination of negotiations or rejection of any proposal, or (b) the completion of all matters or time period specified in the termination of the redevelopment agreement.

C. As defined in N.J.S.A. 40A:12A-3, a "redeveloper" means: (i) an individual including the individual's spouse and any child or children; or (ii) sole proprietorship, any person, firm, corporation, partnership and any partner thereof, limited liability company, limited liability partnership and any partner thereof, business trust, organization, association, or public body, or any other legal commercial entity organized under the laws of the State of New Jersey or of any other state or foreign jurisdiction, including any principal; or (iii) any individual, partner, principal, stakeholder, or other entity which owns or control ten percent (10%) or more of the profits, assets, equity, stock, ownership, or income interest in a person or entity, as defined in sections (i) or (ii) above, and any determination of percentage, ownership or control will combine the individual's interest with those of the individual's spouse and child or children; or (iv) all partners or officers of

such an entity, in the aggregate, and their spouses and child or children; (v) any subsidiary directly or indirectly controlled by the redeveloper, as the term is defined herein; and (vi) any political organization organized under Section 527 of the Internal Revenue Code (26 U.S.C. §527) that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; that shall enter into or propose to enter into an agreement with the City of Hoboken a municipality or other any redevelopment agency of the City of Hoboken, or any other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project within the City of Hoboken. For the purposes of this Chapter the definition of a redeveloper, redevelopment and any related terms, generally defined by the "Local Redevelopment and Housing Law," P.L.1992, c.79 (N.J.S.A. 40A:12A-1 et seq.) shall include and incorporate areas in need of rehabilitation and all related terms, as defined in the "Local Redevelopment and Housing Law," P.L.1992, c.79 (N.J.S.A. 40A:12A-1 et seq.). For the purposes of this Chapter, the definition of redeveloper includes all principals who own ten percent (10%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the provider as well as any affiliates or subsidiaries directly controlled by the redeveloper. Spouses and any child/children shall also be included.

- ~~D. For the purposes of this section, the office that is considered to have responsibility for arranging and entering into the redevelopment agreement under the Act shall be (i) the Hoboken City Council if the redevelopment agreement requires approval or appropriation from the Council or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Council, or (ii) the Mayor of Hoboken if the redevelopment agreement requires the approval of the Mayor or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Mayor, or (iii) a designated redevelopment entity, if the redevelopment agreement requires the approval of the redevelopment entity.~~

**§ 20C-3. Contributions and Contracts made prior to the effective date.**

~~No contribution~~ Contributions or solicitations of contributions made prior to the effective date of the most recent amendment to this Chapter Article shall be governed by the language of the Chapter effective at the time of contribution. Contributions or solicitations of contributions made on or after the effective date of the most recent amendment to this Chapter shall be governed by the current Chapter Article. Any contract in effect at the time of any amendment to this Chapter shall be governed by the current Chapter.

**§ 20C-4. Contribution statement of redeveloper; notice given by municipality.**

- A. Prior to arranging and entering into ~~the a~~ redevelopment agreement with any redeveloper, the City of Hoboken or any of its ~~departments, purchasing agents, or~~ agencies or independent authorities, as the case may be, shall receive a written certification made under penalty of perjury sworn statement from the redeveloper that the redeveloper has not made any contribution in violation of Section 20C-2A ~~above~~. The City of Hoboken, through any appropriate redevelopment agent, agency, officer, authority, or department, shall be responsible for informing the City Council that the written certification ~~mentioned sworn statement~~ has been received and that the redeveloper is not in violation of this Chapter, prior to awarding or entering into the agreement. Furthermore, the redeveloper shall have a continuing duty to report any violations of this Chapter that may occur between the time of ~~while~~ arranging and entering into the redevelopment agreement, and termination of the agreement. ~~until all specified terms or time period of the agreement have been completed.~~ The certification required under this subsection shall be made prior to entry into the agreement with the municipality and shall be in addition to any other certifications that may be required by any other provision of law.
- B. It shall be the municipality's continuing responsibility to give notice of this Chapter when the municipality gives notice of redevelopment pursuant to 40A:12A-6, ~~and~~ when the municipality

adopts a resolution directing the Planning Board to prepare a redevelopment plan, upon memorializing a resolution adopted by the Governing Body directing the Planning Board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and at the time that the municipality adopts the ordinance to implement the redevelopment plan.

**§ 20C-5. Contribution restrictions and disclosure requirement applicability to consultants.**

- A. The contribution and disclosure requirements in this Chapter, and Chapter 20B, shall apply to all redevelopers as well as professionals, consultants or lobbyists contracted, ~~or employed,~~ or otherwise engaged by the business entity ultimately designated as the designated redeveloper to provide services related to the: (i) lobbying of government officials in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of the redevelopment plan; (ii) obtaining the designation or appointment as redeveloper; (iii) negotiating the terms of a redevelopment agreement or any amendments or modifications thereto; and (iv) performing any related ~~the~~ terms of a redevelopment agreement (such individuals shall be defined hereinafter as "professionals").
- B. It shall be a breach of the professional's consultant's contract, and shall require immediate termination, for a professional consultant to violate the contribution limits and disclosure requirements in this Chapter.
- C. A redeveloper who participates in, or facilitates, the circumvention of the contribution restrictions through professionals consultants or professionals shall be deemed to be in breach.

**§ 20C-6. Return of excess contributions.**

- A. A redeveloper ~~or municipal candidate or officeholder or municipal or county party committee or "PAC" referenced in this Chapter~~ may cure a violation of Section 20C-2 of this Chapter, if within forty-five (45) thirty (30) days after the ~~general election which follows~~ the date of the contribution, the redeveloper notifies the municipality Municipal Council in writing, and seeks and, within forty-five (45) days after the date of the contribution, receives reimbursement of the a contribution from the recipient of such contribution.
- B. Except that it shall be presumed that any contribution that violates this Chapter, made within sixty (60) days of an election of candidates for elective office in the City of Hoboken, was not made inadvertently and such contributions shall not be eligible for reimbursement; thereby, the entity making such contributions cannot remedy the violation of this Chapter 20C.

**§ 20C-7. Penalty.**

- A. It shall be a breach of terms of the City of Hoboken redevelopment agreement for a redeveloper to: (i) make or solicit a contribution in violation of this Chapter 20C; or, (ii) knowingly conceal or misrepresent a contribution give or received; or, (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; or, (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a candidate, candidate committee or joint candidates committee of any candidate of elective municipal office in Hoboken, or any holder of municipal elective office in the City of Hoboken a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Hoboken, or any Hoboken or Hudson County political committee or political party committee, or any "PAC," ; or, (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the redeveloper itself, would subject that entity to the restrictions of this Chapter; or, (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; or, (vii) engage in any exchange of contributions to circumvent the intent

of this Chapter; or, (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this Chapter.

- B. Furthermore, any redeveloper who violates Subsection A, (ii)–(viii) shall have any current redevelopment agreement with the City of Hoboken or its redevelopment agencies terminated, and be disqualified from eligibility for future Hoboken redevelopment agreements for a period of four (4) calendar years from the date of the violation.

**§ 20C-8. Citizens private right of action.**

Notwithstanding any other common right of law, any Hoboken citizen or citizen's group shall have the right to sue any or all entities in violation of this Chapter, including the redeveloper, the candidate or committee as specified in Section 20C-2A above, and/or the City of Hoboken, in order to compel those entities to comply with this Chapter.

**§ 20C-9. Severability.**

If any provision of this Chapter, or the application of any such provision to an person or circumstances, shall be held invalid, the remainder of this Chapter to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Chapter are severable. The drafters of this Chapter, the persons signing the petition in support of this Chapter, and the persons who cast votes in favor of the Chapter, declare that they would have supported the Chapter and each section, subsection, sentence, clause, phrase, or provision or application thereof, irrespective of the fact that any one (1) or more other sections, subsections, sentences, clauses, phrases, or provisions or applications thereof may be held invalid.

**§ 20C-10. Repealer.**

All ordinances or parts of ordinances which are inconsistent with any provisions of this Chapter are hereby repealed as to the extent of such inconsistencies.

**§ 20C-11. Effective date.**

This Chapter, and any amendments thereto, shall take effect immediately upon passage and publication as provided by law. ~~twenty (20) days following the earlier of (a) final adoption thereof by the Municipal Council of the City of Hoboken or (b) the date on which the passage of this Article as a public question is certified pursuant to N.J.S.A. 19:20-9 or other applicable law, and shall be published as required by law.~~

**SECTION THREE: AMENDMENT TO CHAPTER 20B**

Chapter 20B of the Hoboken City Code is hereby amended as follows (additions noted in underline and deletions noted in ~~striketrough~~):

**LAND USE APPLICANT CONTRIBUTION DISCLOSURE STATEMENTS**

**§ 20B-1. Short title.**

Contribution Disclosures Ordinance.

**§ 20B-2. Purpose.**

Municipal Master Plans include well thought out, long-term decisions about the development capacity of the community.

Municipal Master Plans are implemented through the enactment of local land use ordinances.

Deviations from these local ordinances by way of variances pursuant to N.J.S.A. 40:55D-70d and N.J.S.A. 40:55D-70c, as well as exceptions and waivers pursuant to N.J.S.A. 40:55D-51, provide opportunities for significant private gain.

The redevelopment process currently underway within the City of Hoboken also provides opportunities for significant private gain.

Openness in government and a fair and impartial variance, waiver and exception application process is crucial to assuring the continuing integrity of the municipal Master Plan, its implementing ordinances and the integrity of the application process.

Disclosure of political contributions by property owners, developers, redevelopers and professionals will enhance the City's existing commitment to openness in government and provide further guarantees for a fair and impartial application and approval process.

Disclosure of political contributions by property owners, developers, redevelopers and professionals will effectuate the purposes of the Municipal Land Use Law to promote morals and the general welfare.

The Mayor and City Council of the City of Hoboken, having considered the foregoing, believe that it is in the best interests of the residents of the City of Hoboken to enact the within chapter.

It is accordingly found and determined that the paramount public interest in enhancing the City's commitment to openness in government, and in providing further guarantees for a fair and impartial variance, waiver and exception application process, and in promoting morals and the general welfare, requires the disclosure of political contributions by property owners, developers, redevelopers and professionals within the City as a component of making application to the City for certain approvals, and requires the supplementation of the municipal application checklists to mandate the listing of specified political contributions made by property owners, developers, redevelopers and the professionals whose services they use.

### **§ 20B-3. Definitions.**

**APPLICATION CHECKLIST** — The list of submission requirements adopted by ordinance and provided by municipal agencies to a developer pursuant to N.J.S.A. 40:55D-10.3.

**CONTRIBUTION** — Every loan, gift, subscription, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee and any pledge, promise or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the chapter, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed.

**CONTRIBUTION DISCLOSURE STATEMENT** — A list specifying the amount, date, and the recipient of any and all contributions made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee of, or pertaining to, the City of Hoboken, made prior to filling the application with or seeking approval from the City, and required to be reported pursuant to N.J.S.A. 19:44A-1, et seq. The disclosure shall include all such contributions made during the time period measuring from one (1) year prior to the last municipal election through the time of filing the application with or seeking approval from the City. There shall be a continuing disclosure responsibility to require continuing disclosure of any such contributions made following the filing of the "Contribution Disclosure Statement" and during the pendency of the application and/or approval process.

**DEVELOPER** — A developer as defined by N.J.S.A. 40:55D-4, i.e. the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land. The term "developer" includes any applicant or entity that wishes to undertake redevelopment activity within the City of Hoboken pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.

**MUNICIPAL AGENCIES** — The Municipal Planning Board, the Municipal Zoning Board of Adjustment, and the Municipal governing body acting as the Redevelopment Agency pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.

**PROFESSIONAL** — Any person or entity whose principals are required to be licensed by New Jersey Law and who supplies legal representation, expert testimony or written reports in support of an application. Professionals shall include both any individuals supplying the representation, testimonies or reports and the firms or entities in which said individuals practice.

**§ 20B-4. General provisions.**

A. Disclosure requirements.

- (1) Any applicant for a variance pursuant to N.J.S.A. 40:55D-70d or a variance pursuant to N.J.S.A. 40:55D-70c in conjunction with any application for any subdivision pursuant to local ordinance or a site plan not considered a minor site plan pursuant to local ordinance, as well as any application for a subdivision pursuant to local ordinance or site plan not considered a minor site plan pursuant to local ordinance requiring waivers or exceptions pursuant to N.J.S.A. 40:55D-51, as well as any applicant who wishes to undertake redevelopment activity within the City of Hoboken pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., shall include in its application with and/or submit to the relevant municipal agency a Contribution Disclosure Statement for all developers involved in the said application; all associates of said developers who would be subject to disclosure pursuant to N.J.S.A. 40:55D-48.1 or 40:55D-48.2 shall also be subject to this requirement; and all professionals who apply for or provide testimony, plans, or reports in support of said application or who have an enforceable proprietary interest in the property or development which is the subject of the application or whose fee in whole or part is contingent upon the outcome of the application shall also be subject to this requirement. Regardless of whether the owner of the property, which is the subject of the application falls in any of the categories established in the preceding sentence, the applicant shall include in its application to the relevant municipal agency a Contribution Disclosure Statement for said owner.
- (2) During the pendency of the application process until the final approval associated with the application is granted, any applicant required to comply with this chapter shall amend its Contribution Disclosure Statement to include continuing disclosure of all contributions within the scope of disclosure requirement of the above paragraph.

B. Inclusion of Contribution Disclosure Statements as an element of the Application Checklist.

- (1) An Application Checklist ordinance is hereby adopted pursuant to N.J.S.A. 40:55D-10.3 to require that the Contribution Disclosure Statements specified in subsection A. of this section be submitted by the applicant for all applications for variance relief pursuant to N.J.S.A. 40:55D-70d, as well as for relief pursuant to N.J.S.A. 40:55D-70c, or for relief pursuant to N.J.S.A. 40:55D-51 in applications for site plan and not considered to be minor site plans pursuant to local ordinance, or for approval to undertake redevelopment activity within the City of Hoboken pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.
- (2) The City's municipal agencies shall amend their Application Checklists to include the Contribution Disclosure Statements specified in subsection A. of this section.
- (3) An application shall not be deemed complete by the administrative official or accepted for public hearing by the municipal agency until the required Contribution Disclosure Statements are submitted.

- C. Availability of Contribution Disclosure Statements. All Contribution Disclosure Statements shall be available in the office of the administrative officer for review by any member of the public.
- D. Intent of Contribution Disclosure Statements. It is the intent of this chapter that Contribution Disclosure Statements shall serve solely as a means to inform the public and shall not serve in any manner as evidence relevant to the decision-making criteria for granting or denying requested variances or other approvals. Such decisions shall continue to be governed strictly under the relevant criteria set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., or other relevant law.

#### **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.

This Ordinance shall also supersede any inconsistent provisions contained in any resolution previously adopted by the Hoboken City Council.

#### **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 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 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.

Council President Mason 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 **MARCH 2, 2011 at 7:00 PM.**

---Motion duly seconded by Councilman Castellano

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

---Yeas: Council persons Castellano, Giacchi, Occhipinti, Russo and President Mason.

---Nays: Bhalla, Cunningham, Marsh, Mello.

**11-881**  
**Z-90**

**AN ORDINANCE TO AMEND CHAPTER 190 OF THE GENERAL CODE OF THE CITY OF HOBOKEN ENTITLED "VEHICLES AND TRAFFIC" TO ADD NO PARKING ZONES ON FOURTH STREET BETWEEN RIVER AND HUDSON AND SIXTEENTH STREET BETWEEN ADAMS AND JEFFERSON**

**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**, the General Code of the City of Hoboken, at Section 190-6, currently regulates No Parking Anytime areas within the City;

**WHEREAS**, the City Council seeks to regulate parking on Fourth Street between River and Hudson and on Sixteenth Street between Adams and Jefferson.

**NOW, THEREFORE, BE IT ORDAINED** by the Hoboken City Council, County of Hudson, in the State of New Jersey as follows (deletions noted by ~~strike through~~, additions noted by underline):

**Section One: Section 190-6(B) Deletions**

190-6: No Stopping or Standing.

- B. Stopping or standing prohibited at any time. In accordance with the provisions of this § 190-6B, no person shall stop or stand a vehicle at any time upon any of the following described streets or parts of streets:

<b>Name of Street</b>	<b>Side</b>	<b>Limits</b>
<u>Sixteenth Street</u>	<u>North</u>	<u>From the westerly curbline of Adams Street to the easterly curbline of Jefferson Street</u>
<u>Fourth Street</u>	<u>South</u>	<u>140 feet east of the easterly curbline of Hudson Street and extending 27 feet easterly therefrom</u>

The remainder of Section 190-6(B) remains unchanged.

**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.

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.

Councilwoman Castellano 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 **MARCH 2, 2011 at 7:00 PM.**

---Motion duly seconded by Councilman Russo

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

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

---Nays: None.

**11-882**

**Z-91**

**AN ORDINANCE TO AMEND CHAPTER 151 OF THE GENERAL CODE OF THE CITY OF HOBOKEN, ENTITLED "RECYCLING"**

**WHEREAS**, the City current has a recycling chapter codified in the City Code which is outdated and does not adequately address the modern issues of separation, removal and recycling of recyclable materials on a City-wide basis; and,

**WHEREAS**, the City, in an attempt to modernize the City Code to comply with industry standards, has rewritten Chapter 151 of the City Code to effectuate those goals; and,

**NOW THEREFORE**, it is hereby Ordained by the City Council of the City of Hoboken as follows (additions noted by underline, deletions noted by ~~striketrough~~):

**SECTION ONE: DELETION**

The current Chapter 151 entitled "Recycling" is hereby deleted in its entirety from the City Code of the City of Hoboken.

**SECTION TWO: ADDITION**

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

**CHAPTER 151 RECYCLING**

**§ 151-1. Definitions.**

**§ 151-2. Materials to be source separated.**

**§ 151-3 Source separation program.**

**§ 151-4. Collection by authorized persons.**

**§ 151-5. Unauthorized collections.**

**§ 151-6. Direct disposal of recyclables by owners.**

**§ 151-7. Collection days and sites.**

**§ 151-8. Responsibility of property owners.**

**§ 151-9. Commercial Establishment Compliance Requirements**

**§ 151-10. New Developments of Multi-Family Residential Units or Commercial, Institutional or Industrial Properties**

**§ 151-11. Collection by private haulers.**

**§ 151-12. Prohibition of the Collection of Waste Mixed with Recyclable Materials**

**§ 151-13. Enforcement.**

**§ 151-14. Violations and penalties.**

**GENERAL REFERENCES**

**Garbage, rubbish and litter -- See Ch. 110.**

**§ 151-1. Definitions.**

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

CITY OF HOBOKEN -- For purposes of this Chapter, shall include the municipal corporation, its officers and employees, and any authorized agent.

COMMERCIAL AND INDUSTRIAL ESTABLISHMENTS -- Includes all public or private business entities, including but not limited to those manufacturing, retailing and/or service establishments; food establishments in business for the purpose of consumption, on or off premises, as well as food distribution and/or processing; and professional and/or nonprofit or for-profit incorporated entities.

COMMINGLED – means a combining of non-putrescible source-separated recyclable materials for the purpose of recycling;

COMPOSTING -- A process by which organic materials are turned into humus (similar to topsoil).

CARDBOARD -- Includes cardboard containers used primarily for the packaging, boxing and/or transporting of products of any type.

DESIGNATED RECYCLABLE MATERIALS -- Includes all materials designated in the Hudson County District Solid Waste Management Plan and/or the municipality to be source separated from the solid waste stream for the purpose of recycling. These materials are aluminum, tin and steel; corrugated cardboard; glass containers; grass and brush; household batteries; leaves; masonry (asphalt, brick, block and concrete); mixed paper; motor oil; motor oil filters; newspaper; office paper; plastic containers (#1- #7); tires; vehicle batteries; white goods; and, wood.

DWELLING UNIT -- shall mean an single residential living space within any one-family, two-family or multi-family dwelling, whether within an apartment building, high-rise structure, condominium, or cooperative.

ELECTRONIC WASTE – Means a computer central processing unit and associated hardware including keyboards, modems, printers, scanners and fax machines; a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards, including televisions and cell phones.

FERROUS SCRAP METAL -- Includes all discarded products made of steel, or ferrous metal, cast iron components.

GLASS FOOD AND BEVERAGE CONTAINERS -- Includes all bottles and jars made entirely of glass and used in the storage of food and beverages. Specifically excluded are blue glass and flat glass commonly known as "window glass," light bulbs and fixtures, ceramics and china. Flint (clear), amber (brown) and green glass will be accepted.

HAZARDOUS WASTE -- Includes all waste as defined in N.J.S.A. 13:1E-38 and 13:1E-51 and N.J.A.C. 7:26-8.1 et seq.

LEAD ACID BATTERIES – Storage batteries with lead electrodes that contain dilute sulfuric acid as the electrolyte, including starting batteries such as vehicle batteries, marine batteries and deep cell batteries used to power vehicles or marine accessories such as trolling motors, winches or lights.

LEAVES -- Specifically, foliage from plants and trees only.

METAL FOOD AND BEVERAGE CONTAINERS -- Includes all cans, including aluminum and tin-plated steel used in storage of food and beverages. Aerosol cans are specifically excluded.

MIXED PAPER – Includes all newspaper, high grade paper, bond paper, office paper, paperback books, school paper, catalogues, telephone books, "junk mail", magazines, advertisements, nonwhite paper and similar cellulosic material, shredded or whole.

MULTI-FAMILY DWELLING– means any building or structure of complex of buildings in which three or more dwelling units are rented or leased or offered for rental or leave for residential purposes (see N.J.S.A. 13:1E-99.13a) except hotels, motels or

other guest houses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the “Hotel and Multiple Dwelling Law,” P.L. 1967, c.76 (C.55:13A-1et seq.);

MUNICIPAL SOLID WASTE -- means all solid waste generated at residential, commercial, and institutional establishments within the boundaries of the City of Hoboken;

PLASTICS -- Includes all forms of soft and/or hard plastic (#1 - #7 and hard plastic, i.e. toys), except for plastic films or bags.

PUBLIC OR PRIVATE INSTITUTIONS -- Includes all municipal and state government facilities; all religious, educational and health care facilities; any and all public and/ or private civic organizations; and, all nonprofit or for-profit organizations.

PHYSICALLY DISABLED -- as defined by the Americans with Disabilities Act, ???, which determination must be verified by a Medical Physician.

RECYCLING -- The process by which designated materials, which would otherwise become solid waste, are separated, collected, processed and returned to the economic mainstream in the form of raw materials or products.

SINGLE STREAM -- means a combining of recyclable glass, aluminum, plastics, papers, and cardboard, generally collected from residential recycling. Single Stream recyclables are to be placed to the curb in the same container.

SOURCE -- shall mean any establishment, dwelling or other property within the City of Hoboken seeking to dispose of solid waste and recyclables pursuant to this Chapter.

SOURCE-SEPARATED -- (v.) means the process by which recyclable materials are separated from solid waste at the point of generation by the generator thereof for the purposes of recycling.

SOURCE-SEPARATED MATERIALS – (n.) means recyclable materials which are separated from solid waste at the point of generation by the generator thereof for the purposes of recycling;

WHITE GOODS -- Includes household or commercial appliances made of smooth finished metal, usually painted white or covered with a white metallic covering, such as refrigerators, stoves, washing machines, dryers and air conditioners, and other household or commercial appliances. All large appliances must have all locking doors removed when placed to the curb for collection. White goods is also known as “metal appliances” and/or “applicances”

USED MOTOR OIL – All waste crank case oils used with internal combustion engines, generators, turbines, etc.

YARD WASTE -- Includes grass clippings, hedge trimmings, twigs, sticks, branches and/or shrubbery.

**§ 151-2. Materials to be source separated.**

A. The following materials to be separated by all sources:

- (1) Mixed Paper
- (2) Cardboard
- (3) Metal containers
- (4) Glass containers
- (5) Plastics marked with #s 1-7 and hard plastics (toys, etc.)
- (6) Used motor oil
- (7) Leaves
- (8) Yard waste
- (9) White Goods
- (10) Ferrous Metal
- (11) Lead Acid Batteries
- (12) Electronic Waste

B. This above list may be amended and increased as markets develop for other materials in the municipal solid waste stream or as required by the State of New Jersey or Hudson County.

**151-3. Source separation program.**

A. Mandatory source separation: It shall be mandatory of all owners, tenants or occupants of dwelling units, except those physically disabled; and all owners, tenants and occupants, except those physically disabled, of business, commercial and/ or industrial establishments; and all owners, tenants and occupants, except those physically disabled, of private, public and governmental institutions and facilities, to separate the materials listed in Section 151-2 from the solid waste and to recycle said materials in the following manner:

- (1) All sources shall be allowed to place designated recyclable materials (other than used motor oil, antifreeze, masonry and lead acid batteries) at curbside in a manner and according to a schedule promulgated and published by the City of Hoboken. Designated recyclable materials (other than used motor oil, antifreeze, masonry and lead acid batteries) may be placed at curbside no earlier than 9:00 p.m on scheduled collection days. Designated recyclable material (other than masonry) may be dropped off at the Municipal Garage at 256 Observer Highway during normal business hours. All private recycling receptacles or dumpsters shall be maintained in accordance with the Health Code of the City of Hoboken. All private recycling receptacles shall have a lid to prevent designated recyclables from being contaminated by rainwater or other contaminants.

(2) Leaves:

(a) By composting on the property of the owner, tenant or occupant; and/or by placing leaves at the curb in bags in accordance with all applicable regulations on collection day(s) designated by the City of Hoboken for composting; and/or by calling the Recycling Coordinator to arrange for pickup.

(b) Leaves shall be placed in containers authorized by the City of Hoboken for composting.

(3) White goods:

(a) All locking doors must be removed from white goods items (appliances) prior to being placed outside for pickup.

(b) White goods shall be placed outside the gate or building on the curb for collection on the day(s) to be established by the City of Hoboken, or its authorized agent..

(4) Motor Oil and Anti-Freeze:

(a) The City of Hoboken will not pick up motor oil and antifreeze. Used motor oil and antifreeze shall be delivered to the City of Hoboken's Municipal Garage at 256 Observer Highway or an authorized motor oil or antifreeze recycling center for recycling.

(5) Lead Acid Batteries:

(a) The City of Hoboken will not pick up lead acid batteries. Lead acid batteries shall be delivered to the City of Hoboken's Municipal Garage or a lead acid battery recycling center for recycling.

(6) Electronic Waste:

(a) Electronic waste shall be placed outside the gate or building on the curb for collection in accordance with all applicable regulations on the day(s) to be established by the City of Hoboken, or its authorized agent..

(b) Electronic Waste may also be delivered to the City of Hoboken's Municipal Garage or an electronic recycling center for recycling.

**§ 151-4. Collection by authorized persons.**

A. The City of Hoboken may use municipal personnel to collect the recyclable materials set forth herein, at curbside and/or at collection or pickup site(s) as determined. The City of Hoboken shall have the right to sell said recyclable materials pursuant to N.J.S.A. 40A:11-1 et seq.

B. The City of Hoboken shall have the right to enter into agreements with qualified persons, partnerships, corporations or other business entity for the purpose of authorizing to the

entity to collect all said recyclable materials, or any portion thereof, at curbside or collection or pickup site(s).

- C. The Department of Environmental Services shall, upon receipt of a completed and approved application, issue permits to any person or civic, fraternal, nonprofit or for-profit organization, authorize a drop-off collection point(s) for the aggregation of certain specific recyclable materials. Issuance of a permit shall not, however, authorize said person or civic, fraternal, nonprofit or for-profit organization to pick up or collect said specific recyclable materials from any curbside or from any designated municipal collection or pickup site(s) in the City of Hoboken.
- D. The Mayor of the City of Hoboken, with the assistance of the Director of Environmental Services, is hereby authorized and directed to negotiate and to enter into contracts for the collection, composting and/or marketing of leaves, newspapers, corrugated cardboard, plastic, glass and metal food and beverage containers, white goods, electronic waste or such other designated recyclable materials as may be determined, or to place same out to bid, if required, by the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).
- E. The City of Hoboken may utilize its own personnel to collect said leaves, newspaper, corrugated cardboard, plastic, glass and metal food and beverage containers, white goods or such other designated recyclable materials, or may contract out the cost of said collection as may be determined to be in the best interests of the municipality.

**§ 151-5. Unauthorized collections.**

- A. Recyclable material, as defined herein, shall be the property of the City of Hoboken once placed at the designated collection or pickup site(s) authorized by the City of Hoboken.
- B. It shall be a violation of this chapter for any person unauthorized by the City of Hoboken to pick up or cause to be picked up said recyclable materials as defined herein. Any such collection will be illegal and in violation hereof and shall constitute a separate and distinct offense, punishable as hereinafter provided.
- C. The Recycling Coordinator shall have the authority to issue permits to authorized individuals and organizations to pick up or cause to be picked up recyclable materials on designated collection day(s).

**§ 151-6. Direct disposal of recyclables by owners.**

- A. Anything herein to the contrary notwithstanding, any owner, tenant or occupant of a dwelling unit, public or private institution, or commercial or industrial establishment may donate or sell said recyclable materials, as defined herein, to any person, partnership or corporation, whether or not operating for profit.
- B. Any owner, tenant or occupant of any dwelling unit, public or private institution, and commercial or industrial establishment within the City of Hoboken actively participating

in a recycling program, which is not operated by the City of Hoboken, shall submit a yearly verification of the tonnages and markets of materials recycled.

- C. The yearly verification shall be submitted to the Recycling Coordinator according to a schedule to be established by the Recycling Coordinator after inception of this program. Failure to do so may cause the program to be terminated at the option of the Recycling Coordinator of the City of Hoboken.

**§ 151-7. Collection days and sites.**

A. On and after the adoption of this chapter, the Recycling Coordinator of the City of Hoboken shall establish the day(s) of collection and the collection or pickup site(s) designated for the collection of leaves (for the purpose of composting), newspaper, corrugated cardboard, plastic, glass and metal food and beverage containers, white goods, electronic waste, or any other designated recyclable materials for the purpose of recycling.

B. Notification of the designated collection or pickup day/days and the designated collection or pickup site(s) for leaves (for the purpose of composting), newspaper, corrugated cardboard, plastic, glass and metal food and beverage containers, white goods or any other designated recyclable materials shall be published in the official newspapers for a continuous period of not less than six (6) days, at least ten (10) days prior to the first scheduled collection/pickup date. At the City's discretion, notification may be made by the mailing of a newsletter or brochure sent as an attachment to each property owner's municipal property tax bill, indicating the designated dates and collection or pickup site(s)...

**§ 151-8. Responsibility of property owners.**

A. It shall be each property owner's responsibility in the City of Hoboken to inform all occupants of their property of the provisions of this chapter and the designated collection regulations.

B. Each property owner in the City of Hoboken shall provide adequate storage containers with lids (minimum twenty-gallon capacity, but not to exceed thirty-two-gallon capacity) for the storage of mixed paper, cardboard, plastics, and glass and metal food and beverage containers.

1. All recycling storage containers shall have a lid to prevent designated recyclables from being contaminated by rainwater or other contaminants.
2. Each storage container with lid for recyclables shall have two (2) "Hoboken Recycles" decals, one on the container lid and one on the container side. The City reserves the right to provide storage containers, which shall be made available

through the City of Hoboken's Municipal Garage at 256 Observer Highway, as an alternative to this requirement.

3. Every property owner shall provide adequate storage containers for their building occupants' recyclables; however, as a minimum at least eight (8) gallons of storage space shall be provided for each residential dwelling unit.
4. Property owners shall place the storage containers for recyclables in an area of their property accessible to occupants of the property to dispose of comingled recyclables seven (7) days a week.
5. It is the owner's responsibility to have recyclable storage container(s) placed at curbside for collection on the designated collection day(s) only.

C. For multi-family/high-rise housing developments, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials. Violations and penalty notices will be directed to the owner or management. The management shall issue notification and collection rules to new tenants when they arrive and every six (6) months during their occupancy.

#### **§ 151-9. Commercial Establishment Compliance Requirements**

- A. All commercial establishments shall be required to comply with the provisions of this Ordinance.
- B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee. All commercial, institutional or industrial properties which provide outdoor litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.
- C. Every business, institution or industrial facility shall report on an annual basis to the municipal Recycling Coordinator, on such forms as may be prescribed, on recycling activities at their premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service.
- D. All food service establishments shall, in addition to compliance with all other recycling requirements, be required to recycle grease created in the processing of food or food products, and maintain such records as may be proscribed, for inspection by any code enforcement officer.

#### **§ 151-10 New Multi-Family Dwelling Developments and Commercial, Institutional or Industrial Properties**

- A. Any application to the planning board of the municipality of Hoboken, for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, or

any commercial, institutional or industrial development for the utilization of 1,000 square feet of more of land, must include a recycling plan. This plan must contain, at a minimum, the following:

1. A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and
  2. Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants and occupants.
- B. Prior to the issuance of a Certificate of Occupancy by the City of Hoboken, the owner of any new multi-family dwelling or commercial, institutional or industrial development must supply the planning board of the City of Hoboken with a copy of a duly executed contract with a hauling company for the purposes of solid waste collection and the collection of recycling of source-separated recyclable materials.

**§ 151-11. Collection by private haulers.**

- A. Any entity that picks up rubbish from any owner, tenant or occupant of any source within the City of Hoboken is required to separate leaves for the purpose of composting, newspaper, corrugated cardboard, plastic, glass and metal food and beverage containers, electronic waste, and white goods for the purpose of recycling.
- B. The tonnages and markets of these designated materials recycled must be reported yearly to the Recycling Coordinator.
- C. The yearly verification shall be submitted to the Recycling Coordinator according to a schedule to be established by the Recycling Coordinator after inception of this program. Failure to do so may cause the program to be terminated at the option of the Recycling Coordinator of the City of Hoboken.

**§ 151-12. Prohibition of the Collection of Waste Mixed with Recyclable Materials**

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected waste for proper disposal or recycling. Allowing such un-separated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.

**§ 151-13. Enforcement.**

The Police Division, the Department of Environmental Service's Sanitation Inspectors and Code Enforcement Officials, the Recycling Coordinator, the Housing Officer, Hudson Regional Health

Commission and the Hudson County Improvement Authority are hereby authorized and directed to enforce this chapter and amendments thereto. The respective enforcing official may, in his or her discretion, post warning notice stickers for any offense, after sight or sound inspection. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.

**§ 151-14. Violations and penalties.**

Any person, firm or corporation violating or failing to comply with any provision of this chapter or any regulations promulgated pursuant thereto shall be punishable by a fine not to exceed one thousand dollars (\$1,000.), except that the maximum fine for failure to comply with § 151-2 hereof and regulations issued pursuant thereto shall not exceed fifty dollars (\$50.) for the first three (3) violations. Any violation thereafter shall result in termination of regular garbage collection for a period not to exceed one week per offense. Each day for which a violation of this Ordinance occurs shall be considered a separate offense.

**SECTION THREE: 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 FOUR: 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 be codified, notwithstanding the invalidity of any part.

**SECTION FIVE: EFFECTIVE DATE**

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

**SECTION SIX: 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.

Councilman Cunningham 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 **MARCH 2, 2011 at 7:00 PM.**

---Motion duly seconded by Councilwoman Marsh

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

--Yeas: Council persons Bhalla, Castellano, Cunningham, Giacchi, Marsh, Mello, Occhipinti, Russo and President Mason.  
--Nays: None.

**11-883**  
**Z-92**

**AN ORDINANCE RECODIFYING CHAPTER 29 WITH THE TITLE “ETHICS”**

**WHEREAS**, it is the policy of the City of Hoboken (“City”) to ensure the ethical operation of City government and that all City employees and individuals engaging in business or recreation with the City of Hoboken conduct themselves in those practices which are honorable as would be judged from the public eye; and,

**WHEREAS**, on June 16, 2010 the City Council rescinded Chapter 29 entitled “Ethics” of the Administrative Code of the City of Hoboken, which the City now seeks to recodify with modern and enforceable rules and regulations that will increase ethical conduct within the City government and with interactions relating to the City governance.

**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: RECODIFICATION OF CHAPTER 29**

Chapter 29 of the Hoboken City Code is hereby recodified as follows:

**ARTICLE I**  
**ETHICAL MUNICIPAL PUBLIC EMPLOYMENT**

**Section 29-1. Purpose**

- A. The intent of this Article is to create a workplace environment for City Government that will not tolerate violence or incivility. Violent acts or threats made by an employee, elected official or member of the public against another person will be acted upon immediately and with the full resources of the City. This includes any violence or threat made on City property, at City events (including Council Meetings) or under other circumstances that may negatively affect the City’s ability to conduct business.
- B. Prohibited conduct includes:
  - 1. Causing physical injury to another person;
  - 2. Making threatening remarks;
  - 3. Name-calling, verbal taunts, heckling, hissing, booing, mocking and similar activities;
  - 4. Aggressive, hostile or bullying behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
  - 5. Intentionally damaging employer property or the property of another employee;
  - 6. Possession of a weapon while on City property or while on City business;
  - 7. Committing acts motivated by, or related to, political retaliation or workplace harassment.
- C. Any potentially dangerous situations must be reported. The City will actively intervene in any hostile or violent situation.
- D. The need for mutual respect and the opportunity to work together in a peaceful, mutually rewarding and efficient work environment provides the foundations upon which these rules are established.

## **Section 29-2: Work Place Misconduct Defined**

- A. It is important to remember that all City employees spend considerable time together during the workday. It also must be remembered that we represent the City when interacting with vendors and members of the public. Therefore, it is incumbent upon all of us to be careful in how we interact with co-workers, vendors and members of the public and how they interact with us. What may be inoffensive language or conduct to one person may be offensive to another. We all must be aware of our actions and maintain a professional, respectful and courteous demeanor at all times.
- B. Workplace harassment can range from verbal (oral, written or pictorial) abuse or body language and gestures, which create an intimidating, hostile or offensive working environment to physical violence. Examples of workplace harassment include teasing, bullying, racial, ethnic or gender slurs and other derogatory remarks.
- C. In addition to preventing workplace harassment, the City is dedicated to promoting professionalism, efficiency, productivity, and cooperation among its employees, elected officials and members of the public. Therefore, the City requires the various stakeholders to be sensitive to how we comport ourselves in the workplace and at public meetings. Although the City cannot possibly provide an exhaustive list of impermissible behavior, the following provides some examples for guidance:
1. Insubordination or failure to cooperate with fellow employees and/or supervisors;
  2. Loss of time by absence, tardiness or leaving assigned job without supervisory approval;
  3. Loss of material, tools, equipment or supplies occasioned by wasteful practices or negligence;
  4. Damaging or defacing the City's property or products;
  5. Creating or contributing to unsanitary conditions;
  6. Unauthorized use of materials, tools, equipment, vehicles or supplies;
  7. Failure to comply with safety rules and regulations or engaging in conduct that creates a safety or health hazard;
  8. Horseplay, gambling or instigating or participating in a fight;
  9. Vending, soliciting, or distributing goods or printed matter for other than charitable purposes;
  10. Unsatisfactory performance;
  11. Theft;
  12. Falsifying/making a material omission on, or altering the City's records, time cards, report forms, application materials, etc.;
  13. Intolerant, abusive demeaning, prejudicial comments (including yelling) and/or actions towards fellow employees, members of the public, elected or appointed officials or any other person;
  14. Using, possessing or being under the influence of alcohol or unlawful drugs while on duty, while on the City's property;
  15. Bringing unauthorized firearms, explosives or other dangerous materials on the City's property without explicit prior authorization by the City;

16. Divulging confidential information to others without express authorization by the City;
17. Violation of the City's security regulations;
18. Immoral conduct or indecency, including name-calling, verbal taunts, heckling hissing booing, mocking and similar activities; and/or
19. Engaging in unlawful harassment of another person.

**Section 29-3: Anti-Sexual Harassment Training of Municipal Employees**

- A. Every City employee including, but not limited to, all municipal, police and fire personnel and elected and appointed officials, shall participate in an anti-sexual harassment training program when authorized, directed and made available by the Business Administrator.
- B. All new City employees and officials hired after the execution date of this Executive Order shall participate in such an anti-sexual harassment training program when authorized, directed and made available by the Business Administrator.
- C. Every City employee including, but not limited to, all municipal, police and fire personnel and elected and appointed officials, shall participate in an anti-sexual harassment training program every year following his or her initial training session pursuant to this Section.
- D. Every City employee shall submit a signed statement certifying his or her participation in each training session pursuant to this Section, which statements shall be placed in his or her personnel file.
- E. The Office of the Corporation Council shall coordinate with the Business Administrator to establish regular training sessions sufficient to allow affected individuals to comply with this Executive Order.
- F. Any violation of this Section may result in dismissal or other appropriate lesser sanctions as determined by the Business Administrator with the Mayor's consent.

**Section 29-4: Mandatory Ethics Training for Municipal Employees**

- A. Every City employee including, but not limited to, all municipal employees, police department, fire department and elected and appointed officials, shall participate in an ethics training program when authorized, directed and made available by the Business Administrator.
- B. New City employees including, but not limited to, all municipal employees, police department, fire department and elected and appointed officials, shall participate in such ethics training program when authorized, directed and made available by the Business Administrator.
- C. Every City employee including, but not limited to, all municipal employees, police department, fire department and elected and appointed officials, shall participate in an ethics training every year following his or her initial training session pursuant to this Section.
- D. Every City employee shall submit a signed statement certifying his or her participation in each training session pursuant to this Section, which statements shall be placed in his or her personnel file.
- E. The Office of the Corporation Council shall coordinate with the Business Administrator to establish regular training sessions sufficient to allow affected individuals to comply with this Section.
- F. Any violation of this Executive Order may result in dismissal or other appropriate lesser sanctions as determined by the Business Administrator with the Mayor's consent.

**Section 29-5: Anti-Nepotism in Municipal Employment**

- A. Unless he or she obtains a waiver pursuant to the Business Administrator, with the consent of the Mayor, no official or employee may appoint or hire his or her spouse or domestic partner/civil union partner, child or step-child, sibling or step-sibling, parent, or member of his or her household for employment, including by contract (unless competitively bid), with the City.
- B. No official or employee may supervise or be in a direct line of supervision over his or her spouse or domestic partner/civil union partner, child or step-child, sibling or step-sibling, parent, or member of his or her household. If an official comes into a direct line of supervision over one of these persons, he or she will have six months to come into compliance or to obtain a waiver.

**Section 29-6: Forfeiture of Municipal Employment Benefits**

In accordance with N.J.S.A. 40A: 10-23, the City shall only assume the cost of a retiree's health benefits if the retiree has accrued the requisite years of honorable service as determined by the Department of Pensions. Starting immediately upon adoption of this Section, with regards to all new hires and employees already receiving City health benefits, the City intends to follow any final determination of the Department of Pensions in its eligibility review as to years of service deemed dishonorable when determining employee eligibility for paid City health benefits. Effective immediately, forfeiture of health insurance/benefits for dishonorable service is hereby mandated if the requisite years of honorable service fall below that mandated in N.J.S.A. 40A:10-23.

**Section 29-8: Complaint Procedure, Violations Policy and Penalties**

Unless complaint procedures, violation policies or penalties are otherwise described within the Sections of this Article, the following shall apply:

- A. Public Meetings – Any person who comports his/herself in such a manner which violates any section of this Article shall be warned once to cease and desist from such actions. If the person refuses or fails to stop such activities, he/shall shall be removed from the meeting by the Police and warned that future similar actions shall result in the filing of a defiant trespass action.
- B. Employee At Workplace – Any employee who believes he or she has been subjected to offensive and/or insulting behavior by a co-worker, member of the public, elected official, supervisor or vendor, has an obligation to directly inform the offending person that the conduct is offensive and must stop.
  - a. If this direct communication with the offending person is not successful, the employee should promptly report the incident(s) and the names of the individuals involved to his or her supervisor or, in the alternative, to the Business Administrator, who will investigate all such claims and take appropriate corrective action, if any.
  - b. Confidentiality to the extent possible will be maintained and no reprisals or retaliation will result from the good faith reporting of intolerant behavior.
- C. In determining whether the alleged conduct constitutes a violation of this Article, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred will be investigated. Any employee found to have engaged in such impermissible behavior shall be subject to sanctions, including, but not limited to, warning, suspension or termination subject to applicable procedure requirements. Non-employees violating any section of this Article may be subject to removal from City property, and/or prohibition from appearing on City property or at City events.

- D. A violation of any provision of this Article shall be considered a violation of the City Code of Ethics and may subject the Municipal Official, Employee or Appointee to disciplinary action.

**Article II**  
**Political Fundraising on City Property**

**Section 29-9: Intent**

The intent of this Executive Order is to create an independent and efficient government workforce and workplace, and a government that is undermined by neither the fact nor appearance of improper influence of political contributions on government decisions which require the prohibition of political fundraising in rooms or buildings occupied in the discharge of official duties or through the use of public property or equipment.

**Section 29-10: Purpose**

The purpose of this Executive Order is to ban the use of government buildings, property and equipment for political fundraising.

**Section 29-11: Definitions**

- A. Candidate** – The term “Candidate” means (1) any individual seeking election to public office of the federal, state, county, or municipal government, or school district or political party, and (2) any individual who shall have been elected or failed of election to any such office;
- B. Political Contribution** – The term “Political Contribution” means any loans and transfers of money or other things of value to any Candidate, elected Municipal Official, Employee, or Appointee or representative of any Political Organization, or other commitments or assumptions of liability to make any such transfer for the purpose of supporting a Candidate. A Political Contribution shall be deemed to have been made upon the date when such commitment is made or liability assumed.
- C. Political Organization** – the term “Political Organization” means any two or more persons acting jointly, or any corporation, partnership or other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for federal, state, county, municipal or school board office or political party office. “Political Organization” includes, but is not limited to, organizations defined in N.J.S.A. 19:44A-3 as a “political committee,” “joint candidates committee,” “continuing political committee,” “political party committee,” “candidate committee,” or “legislative leadership committee.”
- D. Municipality** - the term “Municipality” means the government of the municipality of the City of Hoboken, including any officer, department, board, commission, or agency, thereof.
- E. Municipal Official, Employee and Appointee** - the term “Municipal Official, Employee and Appointee” means any person holding elective municipal office or holding an appointed position in the municipal government, or in any agency, commission, board, or office thereof, whether the position is full time or part time, compensated or uncompensated; and any employee of municipal government or of any municipal agency, commission, board, or office thereof, whether the position is full time or part time.
- F. Solicit** – The term “Solicit” means to direct, request or ask for, by oral or written communication, a Political Contribution as that term is defined herein.
- G. Public Property** – The term “Public Property” means (1) all personal property owned, leased, or controlled by the Municipality where employees of the City of Hoboken perform their job duties and (2) all real property owned, leased, or controlled by the Municipality for use by municipal employees. Such “Public Property” includes but is not limited to vehicles, phones, fax machines, computers, stationery including municipal letterhead, postage, and other office equipment; and specifically excludes the property identified in Section 4(C)(1), (2) and (3).

**Section 29-12: General Regulations**

- A. *Prohibition Against Soliciting or Accepting Political Contribution While In or Utilizing Public Property:*  
*No Municipal Official, Employee and/or Appointee may solicit, or receive payment of or a commitment to pay any Political Contribution for any candidate, elected official or political*

- organization while in or utilizing any Public Property. This Section shall include solicitation or acceptance of Political Contributions made over a private cell phone or by use of a private computer, if the person soliciting or accepting the Political Contribution, or using the cell phone or computer for purposes of soliciting or accepting the Political Contribution, is in or utilizing any Public Property.*
- B. *Prohibition Against Use of Public Property for Political Fundraising:*  
*No Municipal Official, Employee, and/or Appointee may solicit or receive payment of or a commitment to pay any Political Contribution for any candidate, elected official or political organization, while utilizing public property.*
- C. *Prohibited Forms of Fund-Raising. Prohibited Forms of Fund-Raising Shall Include but Are Not Limited to:*
1. Soliciting or accepting contributions using municipal telephones, fax machines or computers.
  2. Soliciting or accepting contributions using personal telephones while on the property of the municipality.
  3. Soliciting or accepting contributions through the use of publicly owned computers or privately owned personal computers while on the property of the municipality.
  4. Using municipal letterhead to solicit or accept contributions.
  5. Sending correspondence from municipal buildings or by the use of municipal services, equipment or postage.
  6. Face-to-face soliciting of an individual or an owner or representative of a business entity while on the property of the municipality.
  7. Use of automobiles owned or leased by the municipality to accept or solicit contributions.
- D. *Reporting Requirements*  
It shall be the responsibility of any employee, appointee or elected official who observes any prohibited forms of fund-raising to report such conduct to the Business Administrator or the Corporation Counsel who shall report same to the Mayor and the Governing Body.
- E. *Whistleblower Provision*  
It shall be unlawful for any employee, elected official or appointee to be dismissed, reprimanded, retaliated against or otherwise intimidated for complying with the reporting requirements mandated by this chapter.
- F. *Exceptions: The prohibition contained in paragraphs (A) and (B) above shall not apply to:*
1. Public facilities which are made available to any group for use as a meeting facility or gathering place, such as a park. Fundraising among members of such groups during the time such groups have reserved exclusive use of the meeting facility or gathering place is not prohibited.
  2. Residents of a public housing authority who engage in Fundraising in their residences.
  3. Library materials available for public use.
- G. *Violation: A violation of any provision of this Executive Order shall be considered a violation of the City Code of Ethics and may subject the Municipal Official, Employee or Appointee to disciplinary action.*

## 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.

This Ordinance shall also supersede any inconsistent provisions contained in any resolution previously adopted by the Hoboken City Council.

### 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.

Councilman Cunningham 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 **MARCH 2, 2011 at 7:00 PM.**

--Motion duly seconded by Councilman Bhalla

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

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

--Nays: None.

### NEW BUSINESS

Councilman Cunningham comments on the last ordinance and gives an overview and is disappointed on the Pay to Play ordinance that he has sponsored, wheeling funds to campaigns and undermining state statute and there are many municipalities that has passed and thankful to have passed the other Pay to Play ordinance earlier today, this is for a clean election and the funding should come from the community, not from the intervention from sources, potential to commit fraud and would like to read this to the record a reprint of an article written by John Wrightmayer.....(starts reading the article)

Councilman Occhipinti has left the table at 10:36 PM  
Councilman Occhipinti has returned to the table at 10:38 PM

Councilman Cunningham comments and would like the council members to do what's right and has an amendment to the ordinance earlier to have the Council to do consideration and hands out the amended Ordinance and would like this to be given consideration right now

Councilman Russo comments on reinstate on parking situation for the residents and parking regulations, the resident called the Director and the response was to check the website, also another constituent from the 5<sup>th</sup> Ward and thinks the public should know when the rules are changing, second is pertaining to the Ethics ordinance specifically "Nepotism," 1<sup>st</sup> is the Chief of Police, Zoning Officer

Corporation Counsel comments on the ordinance regarding Nepotism there will be waived issues with any conflicts with this provision, conflicts will be done case by case

Councilman Russo has another issue with the new public relation policy pertaining to city employees and there are situations that could be conflicted, what constitutes a gathering? Can members of the administration express concerns to the new policy, will they be fired? Can't speak to the press is concerning and the penalty is to lose a job

Corporation Counsel comments the intentions were not to stifle, this is meant to do is a coordinated and accurate information, the past 3-4 months which has violated people's privacy rights and identified as a criminal. This document is to hold people accountable and the information is accurate and truthful

Councilman Russo comments that no one has the right to speak up, there are employees concerned with themselves and you are infringing the rights of the press and privacy, this is a public organization and is unconstitutional and I will forward these cases

Corporation Counsel comments that there are employees putting the city in jeopardy and violations in privacy rights, there was an investigation

Councilman Russo comments is there a course of action for circumstances and asks the Mayor to rescind the policy and allow certain types of conversations

Corporation Counsel comments

Councilman Giacchi comments that there is concern for individuals as whistle blowers and it needs careful legal consideration that it is not subjective

Councilman Giacchi comments on parks and bonding and hope that the Council can handle the budget and request some type of resolution on park improvements be provided, another item and recognize the city employees filling potholes due to the winter storms

Councilman Cunningham comments and would like to make a motion to vote on the amended ordinance

Councilman Mello ask Director Sacs on a few open items, committee reports discusses about the day care in a specific section for 1<sup>st</sup> and Harrison, and what are the measurements made to make that happen

Director Sacs comments said that we need consistent weather in order to put paint on the ground and no storms, the study will be conducted in the next few weeks

Councilman Mello comments with the accumulation of snow could change traffic routes

Director Sacs comments on data collection

Councilman Mello comments that from Harrison to the Housing Authority and it's a big concern on dodging cars off of Patterson Plank Road

Councilman Mello commenting on the parking regulations

Director Sacs comments on lacking of city code, no cut through signage and striping, once the weather is consistent we can do this

Councilman Mello questions the western side, no sidewalk

What can the city enforce a sidewalk and add more parking spots

Director Sacs comments on getting back

Councilwoman Marsh questions West of Observer Highway and Monroe St., would like to know

Council President and state that there are 27 speakers and please be considerate

Councilman Occhipinti comments and thank Councilwoman Marsh and Mello with issues in the 4<sup>th</sup> ward, under the DEP, property of 1<sup>st</sup> and Jackson some issues with Trees, 5 streetlights on Jackson St. submitted on Jan. 21<sup>st</sup> and the Dept. submitted it to PSE &G, spoke with the B.A. and Director Maier possibly paving Newark St., got an opportunity to tour the North Hudson Sewerage Authority, solar panels and would like to bring this to the committee, weather pumping is on schedule, the SW Redevelopment study is it ready

Director Forbes comments that the City is still waiting on the crime stats and please wait 2 more weeks, ordinance passed on 1<sup>st</sup> reading – 2 stop signs intersection on Harrison and Observer, would like the Clerk put it on for 2<sup>nd</sup> reading, Hoboken volunteers is having their 2<sup>nd</sup> Chili Cookoff and formerly invite the Council to attend, questions the B.A., hired a new assistant comptroller

B.A. comments that the city has three

Councilman Russo comments do they have the qualifications to hold those types,

B.A. comments that they are provisional and the City is paying for their schooling

Councilman Russo questions do they go to school during the day

B.A. both day & night

Councilman Occhipinti asks if they are publicly advertised

B.A. two of them were on recently, the 3<sup>rd</sup> one was an existing position

Councilman Occhipinti one of the individuals were a big supporter of the former 4<sup>th</sup> ward councilman

B.A. comments that it is difficult to hire individuals

Councilman Occhipinti comments that these are good paying jobs

Councilwoman Castellano comments that it should have been advertised

Councilwoman Castellano thinks the Public Safety committee should meet with the new census results and hire some new police officers, believes that the new public policy should be looked into this further, the press sometimes mis-quotes

Councilwoman Castellano comments that the City should focus on bigger issues

Councilwoman Marsh comments on 2/22/11 at 8 AM for the Special Ad Hoc Committee and there needs to be a clarification for council rules and policies for email, list of Edmunds reports and Ethics

Councilwoman Castellano comments solutions not information

Councilwoman Marsh comments on improving the physical infrastructure and the structure of City Hall

Councilman Bhalla comments on the Pay to Play Ordinance and the sponsor should have the courtesy to have a basic explanation on what its intend to do, Councilman Cunningham was censored tonight when

Councilman Russo was trying to move to Parking improvements and Chili cookouts anything on else that matters, I will try to explain the information on what we are trying to do on anti-wheeling measures and explain to the public – 3 things coming out of anti-wheeling, someone cannot circumvent by wheeling

money to an individual in an election, would like to know POG on open government as a whole, second portion prohibits a candidate committee of an excess amount of \$500 from a political party

Hoboken Democratic changed their bylaws and shut off the valve on the Democratic party, 3<sup>rd</sup> Peter Cammarano problem, 100K donations were wheeled from outside of Hoboken into the race by donors who are eligible/had contracts to the City. Lastly got a letter from Assemblyman Ruben Ramos and reads out and thinks that the Assemblyman's information that he received from the state is incorrect, and offended by

Assemblyman Ramos's letter insulting the Mayor and we are trying to make this City a better place

Councilman Russo disappointed on the legal side for this evening and it is time for the Council to explore a conflict counsel, now we are going to vote on an reintroduced Ordinance and vote on it again, is \$130,000 considered wheeling? Donation from County Executive,

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Councilman Occhipinti comments that the Ordinance is unconstitutional

Councilman Giacchi has left the table at 11: 20 PM

Councilman Giacchi has returned to the table at 11:22 PM

Council President has left the table at 11:12 PM

Council President has returned to the table at 11:15 PM

Councilman Bhalla has left the table at 1:03 AM

Councilman Bhalla has returned to the table at 1:05 AM

Councilwoman Marsh has left the table at 1:15 AM

Councilwoman Marsh has returned to the table at 1:23 AM

All regular business concluded the following members of the public spoke at the Public Portion” of the meeting: Peter Alvarez, Patricia Waiters, Tom Kennedy Jr. Omar Dyer, Cynthia Ahmad, Rebecca Lewis, Margaret O’Brien, Alice Crozier, Helen Hirsch, Eileen Lynch, Scott Siegel, Cheryl Fallick, Dan Tumpson, Mary Onerjka, Cathy Cardillo, Jim Vance, Ron Simoncini, Charles Gormally, Mark Villamar, Forde Prigot, Eric Volpe, Dominick Russo, Lane Bajardi.

Corporation Counsel comments the Council needs to go to Closed Session due to Collective Bargaining

Council President withdraws the motion to close the meeting.

No action will be taken.

---Motion duly Council President seconded by the Council the at 1:40 AM

At 1:42 A.M. The Governing Body entered into a **CLOSED SESSION**.

**11-884**

Council President has an issue with the wording on the Resolution to enter into Closed Session and also please add the proper heading before entering into Closed Session  
Corporation Counsel comments that Action may be taken coming out of Closed Session

At 1:44 A.M. motion to come out of closed session duly by Councilman Russo and duly seconded by Council President Mason.

President Mason then adjourned the meeting at 1:45 A.M.

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PRESIDENT OF THE COUNCIL

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CITY CLERK