

## MEETING OF APRIL 3, 2013

### 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, APRIL 3, 2013 AT 7:00 PM

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President Cunningham opened the meeting at 7:03 PM. and stated, "I would like to advise all those present that notice of this meeting has been provided to the public in accordance with the provisions of the Open Public Meeting Act, and that notice published in the Jersey Journal, City website, copies were provided in the Hoboken Reporter, The Record, The Newark Star-Ledger and also placed on the bulletin board in the lobby of City Hall

Present: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti, Russo and President Cunningham

Council President comments and gives an overview of the meeting this evening and would like to know why the items were pulled off the agenda this evening.

### ORDINANCES

#### Second and Final Reading

AN ORDINANCE OF THE COUNCIL OF THE CITY OF HOBOKEN GRANTING A NON-EXCLUSIVE TEMPORARY REVOCABLE EASEMENT FOR CERTAIN ENCROACHMENTS WITHIN THE PUBLIC RIGHT-OF-WAY ALONG OBSERVER HIGHWAY, BETWEEN PATERSON AVENUE AND JACKSON STREET, MORE PARTICULARLY KNOWN AS BLOCK 14, LOT 1 ON THE TAX MAPS OF THE CITY OF HOBOKEN, AND COMMONLY REFERRED TO AS 61 JACKSON STREET (sponsored by Councilman Mello) Z-230) (carried to April 17, 2013 city council meeting)

AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14) (sponsored by Councilman Cunningham and Councilman Bhalla) (Z-233) This ordinance will be heard at a Special meeting on April 10, 2013)

BOND ORDINANCE AUTHORIZING THE REHABILITATION AND RECONSTRUCTION OF PIER "A" IN THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF \$2,500,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, IN THE AGGREGATE AMOUNT OF UP TO \$2,375,000; MAKING CERTAIN DETERMINATIONS AND CONVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTIONS

WITH THE FOREGOING (sponsored by Councilwoman Giattino and Councilman Bhalla) (Z-235) (carried to April 17, 2013 city council meeting)

**PUBLIC PORTION**

All regular business concluded the following members of the public spoke at the “Public Portion” of the meeting: Katheryn Christopher, Phil Cohen, Dan Tumpson, Cheryl Fallick, Mary Ondrejka, Patricia Waiters.

**13-172**

**Application for Miscellaneous Licenses**

|                              |         |
|------------------------------|---------|
| RAFFLES                      | 1 ITEM  |
| VENDOR WITH VEHICLE          | 1 ITEM  |
| VENDOR (VETERAN STATUS)----- | 1 ITEM  |
| PARKING FACILITIES           | 2 ITEMS |

---Councilman Bhalla moved that the licenses be granted.  
---Adopted by the following vote: YEAS: 8 – NAYS: 0  
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti, Russo and President Cunningham.  
---Nays: None.

**13-173**

**CLAIMS**

---By Councilwoman Giattino

Total for this agenda \$2,257,890.95 - \$12,310.18 (13-01009 for Hudson County Prosecutor’s office Police Assistance) = \$2,245,580.77 amended

---Motion duly seconded by Councilman Bhalla  
---Adopted by the following vote: YEAS: 8 – NAYS: 0: ABSTAIN: 1  
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti, Russo and President Cunningham  
---Nays: None.  
---Abstain: Mason 13-00681 for DVD/Live Stream council meetings \$2,600.00 & C2-05010 McManimon & Scotland for Special Counsel Outstanding Litigation for \$3,747.62

Councilwoman comments on porta potties 13-00997 - \$300.00, 13-01023 - \$300.00, 13-00996 - \$150.00, 13-01024 - \$150.00  
Councilman Occhipinti comments  
Council President comments  
Councilman Russo comments  
Corporation Counsel comments  
BA Wiest comments  
Councilwoman Mason comments  
Councilman Occhipinti comments  
BA Wiest comments

Councilwoman Mason comments on 13-01213 Garden St. Jif 1<sup>st</sup> installment 2013 Assess. For \$646,221.00

Councilwoman Castellano has left the table at 8:07 PM

Councilwoman Castellano has returned to the table at 8:08 PM

Councilwoman Mason comments

BA Wiest comments and responds that he could provide back-up for it

Councilman Russo comments

Council President comments on Birdsell Engineering

BA Wiest comments

Councilman Occhipinti comments on 13-01009 for \$12,310.18

BA Wiest comments

Director Tooke comments

Councilman Russo comments

Councilman Occhipinti comments on pulling 13-01009 for Hudson County Prosecutor's office Police Assistance for \$12,310.18

### **13-174**

---By Councilwoman Giattino

### **PAYROLL**

For the two week period starting February 28, 2013 –March 13, 2013

| Regular Payroll | O/T Pay      | Other Pay   |
|-----------------|--------------|-------------|
| \$1,553,603.97  | \$177,437.89 | \$56,200.22 |

Total \$1,787,242.08

---Motion duly seconded by Councilman Bhalla

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

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

---Nay: None.

BA Wiest comments on Leprechun overtime \$120,000.00 and \$101,700 for Leprechaun on March 2<sup>nd</sup>.

Councilwoman Mason comments

BA Wiest comments

### **PUBLIC PORTION ON RESOLUTIONS**

Alice Crozier comments on resolution #5, #10 & #11

BA Wiest comments on resolution #5, #10 & #11

Councilman Russo has left the meeting at 8:27 PM

Councilman Russo has returned to the meeting at 8:32 PM

The speakers who spoke: Cheryl Fallick, Mary Ondrejka, Dan Tumpson.

### **RESOLUTIONS**

**13-175**

---By Councilwoman Giattino

**THIS RESOLUTION REJECTS ALL BID PROPOSALS FOR THE PROVISIONS OF CONSTRUCTION SERVICES FOR REHABILITATION OF THE FIRE HOUSE FOR THE CITY UNDER THE SPECIFICATIONS IN BID NUMBER 12-14.**

**WHEREAS**, proposals were received for the provisions of construction services for the fire house rehabilitation for the City of Hoboken, as specified in Bid Number 12-14; and,

**WHEREAS**, two (2) proposals were received; and,

**WHEREAS**, the proposals both failed to include statutorily mandated documents including, without limitation, the stockholder disclosure and non-collusion affidavit; and,

**WHEREAS**, as a result, the Office of Corporation Counsel and the Purchasing Agent recommend that the City Council of the City of Hoboken reject all bid submissions for the provision under Bid No. 12-14, pursuant to N.J.S.A. 40A:11-13.2(e).

**NOW THEREFORE BE IT RESOLVED** that the City Council of the City of Hoboken hereby rejects all bid proposals submitted for the provision under Bid No. 12-14, pursuant to N.J.S.A. 40A:11-13.2(e); and,

**BE IT FURTHER RESOLVED** that the City Council authorizes the Administration to take any and all steps necessary to properly bid and contract construction services for rehabilitation of the fire house in accordance with the law and the requirements of the City's plan.

---Motion duly seconded by Councilman Bhalla

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

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

---Nays: None.

**13-176**

---By Councilwoman Giattino

**RESOLUTION TO AUTHORIZE AN AMENDMENT TO THE PROFESSIONAL SERVICE CONTRACT WITH FLORIO PERUCCI STEINHARDT & FADER, LLC AS SPECIAL LEGAL COUNSEL-LABOR COUNSEL TO THE CITY OF HOBOKEN FOR AN INCREASE IN THE NOT TO EXCEED AMOUNT BY \$35,000.00, FOR A TOTAL NOT TO EXCEED AMOUNT OF \$55,000.00**

**WHEREAS**, service to the City as Special Counsel – Labor Counsel 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**, the City of Hoboken published its annual Request for Proposals for the Professional Services of Special Legal Counsel - Labor in accordance with the Fair and Open Process and Hoboken Ordinance #DR-154, which Florio Perucci Steinhardt & Fader LLC

responded to, and thereafter, on August 15, 2012, the City entered into a Professional Service contract for said services; and,

**WHEREAS**, the City now seeks to increase the not to exceed amount of the contract by Thirty Five Thousand Dollars (\$35,000.00); and,

***WHEREAS**, Florio Perucci Steinhardt & Fader LLC is hereby required to continue to abide by the “pay-to-play” requirements of the Hoboken Public Contracting Reform Ordinance, codified as §20A-11 et seq. of the Administrative Code of the City of Hoboken as well as the Affirmative Action laws and policies under which the City operates; and,*

**WHEREAS**, certification of funds is available as follows:

I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$35,000.00 is available in the following appropriation 03-01-20-156-020 in the temporary appropriations; and I further certify that this commitment together with all previously made commitments and payments does not exceed the funds available in said appropriation for the CY2013; and I further certify that the funds available in the said appropriation are intended for the purpose herein committed.

Signed: \_\_\_\_\_, George DeStefano, CFO

**NOW THEREFORE, BE IT RESOLVED**, that the contract with Florio Perucci Steinhardt & Fader LLC to represent the City as Special Legal Counsel- Labor Counsel be amended, for a term to commence August 15, 2012 and expire August 14, 2013, for an increase in the not to exceed amount by Thirty Five Thousand Dollars (\$35,000.00), with a total not to exceed amount of Fifty Five Thousand Dollars (\$55,000.00); and

**BE IT FURTHER RESOLVED**, the contract shall include the following term: Florio Perucci Steinhardt & Fader LLC shall be paid maximum hourly rates of \$150.00/hour for attorneys, \$50.00/hour for paralegals, and \$20/hour for support staff for services rendered, these are the only charges for services allowable under this agreement, and charges for filing fees and costs shall be allowable, but must be clearly identified and described in full in the appropriate monthly invoice; and

**BE IT FURTHER RESOLVED**, litigation and legal matters will be assigned to the firm as they become available and the City Administration determines the firm’s services are appropriate for any particular matter; this contract shall not be for a sum certain but rather, a retainer, the matters on which to be retained shall be determined as the need arises at the sole discretion of the City; and, this contract is not a guarantee of availability of services or assignment; and,

**BE IT FURTHER RESOLVED**, the contract shall expressly state that said firm shall be obligated to provide prompt notice to the City when its invoicing reaches 80% of the not to exceed amount if the firm believes additional funds will be necessary, and the City shall have no liability for payment of funds in excess of the not to exceed amount; and

**BE IT FURTHER RESOLVED** that the City Council of the City of Hoboken specifically finds that compliance with Hoboken Ordinance #DR-154 (codified as §20A-4 of the Code of the City of Hoboken), and any and all state Pay to Play laws, is a continuing obligation of Florio Perucci Steinhardt & Fader LLC; 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 and Corporation Counsel 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 Councilman Bhalla  
---Adopted by the following vote: YEAS: 5 NAYS: 3  
---Yeas: Council persons Bhalla, Giattino, Mason, Mello and President Cunningham  
---Nays: Castellano, Occhipinti, Russo

**13-177**

---By Councilwoman Giattino

**RESOLUTION AUTHORIZING THE REFUND OF HUDSON COUNTY  
TAX BOARD JUDGEMENTS 2012 TAX APPEALS**

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

**WHEREAS**, Sharon Curran, Collector of Revenue recommends that the refunds be made; now, therefore, be it-

**RESOLVED**, that a warrant be drawn on the City Treasurer made payable to the appearing on the attached list totaling **\$ 262.45**

**REFUNDS ON THE FOLLOWING TAX APPEALS ARE TO BE MADE PAYABLE TO:**

Gess, Gess & Scanlon  
Attorneys at Law  
89 Hudson Street  
Hoboken, NJ 07030

| <b><u>NAME</u></b>              | <b><u>BL/LOT/UNIT</u></b> | <b><u>PROPERTY</u></b> | <b><u>AMOUNT</u></b> |
|---------------------------------|---------------------------|------------------------|----------------------|
| Mc Ginnis, Joseph<br>& Leighann | 79/15/C0P-2               | 610-612 Clinton St     | \$ 46.32             |
| Kore, Avner & R                 | 268.01/3/C007D            | 500 Hudson St          | \$216.13             |

---Motion duly seconded by Councilman Bhalla  
---Adopted by the following vote: YEAS: 8 – NAYS: 0  
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti, Russo and President Cunningham.  
---Nays: None.

**13-178**

---By Councilwoman Giattino

**RESOLUTION AUTHORIZING THE REFUND OF HUDSON COUNTY  
TAX BOARD JUDGEMENTS 2012 TAX APPEALS**

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

WHEREAS, Sharon Curran, Collector of Revenue recommends that the refunds be made; now, therefore, be it-

RESOLVED, that a warrant be drawn on the City Treasurer made payable to the appearing on the attached list totaling **\$ 5,424.72**

REFUNDS ON THE FOLLOWING TAX APPEALS ARE TO BE MADE PAYABLE TO:

Davenport & Spiotti  
Attorneys at Law  
219 Changebridge Road  
Montville, NJ 07045

| <u>NAME</u>                     | <u>BL/LOT/UNIT</u> | <u>PROPERTY</u>   | <u>AMOUNT</u> |
|---------------------------------|--------------------|-------------------|---------------|
| Jochnowitz, Carol               | 52/1               | 301 Grand St      | \$ 712.50     |
| Wente, Jim &<br>Mary K O'Connor | 262.03/1/C1203     | 2 Constitution Ct | \$2,629.34    |
| Hoard, Rita V                   | 268.01/3/C007G     | 1500 Hudson St    | \$2,082.88    |

---Motion duly seconded by Councilman Bhalla

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

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

---Nays: None.

**13-179**

---By Councilwoman Giattino

**CANCELLATION OF LEAD LOTS, MERGED AND TAXABLE TO EXEMPT PROPERTIES  
2013 - 1<sup>ST</sup> & 2<sup>ND</sup> QUARTERS**

**RESOLVED, by the Council of the City of Hoboken;**

**WHEREAS, per the Tax Assessor's memo the attached list of Block and Lots have been deleted and no longer exist. The 2013 First and Second quarter billing for the Lead Lots, Merged and Taxable to Exempt Properties are to be cancelled.**

**Whereas, the list of properties have been subdivided into units and will be billed on the 2013 Third and Fourth quarters.**

**RESOLVED, that the list of 2013 First and Second quarter billing be cancelled from the Tax Duplicate.**

| <u>Block</u> | <u>Lot</u> | <u>Qualifier</u> | <u>Address</u>    | <u>1<sup>st</sup> &amp; 2<sup>nd</sup> Quarters to be Cancelled</u> |
|--------------|------------|------------------|-------------------|---|
| 202          | 35         | T01              | 300 Washington St | \$2,375.00  |

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 8 – NAYS: 0  
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti, Russo and President Cunningham.

**13-180**

---By Councilwoman Giattino

**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 **\$ 11,138.99**

| <b><u>NAME</u></b>  | <b><u>BL/LT/UNIT</u></b> | <b><u>PROPERTY</u></b> | <b><u>QTR/YEAR</u></b> | <b><u>AMOUNT</u></b> |
|---|--------------------------|------------------------|------------------------|----------------------|
| Ocwen Loan Svcng, LLC<br>P O Box 961219<br>Ft. Worth, TX 76161-0219             | 29/19/C0002              | 130 Jefferson St       | 3/12                   | \$2,134.56           |
| Weiss, Christopher & J.<br>532 Monroe St #3<br>Hoboken, NJ 07030                | 66/18/C0003              | 532 Monroe St          | 3/12                   | \$1,844.26           |
| SPAT, LLC<br>4 Heather Ln<br>Livingston, NJ 07039                               | 184/34                   | 914 Garden St          | 1/13                   | \$4,676.38           |
| Bulone, Michael &<br>Vanessa Farneti<br>1110 Hudson St #2N<br>Hoboken, NJ 07030 | 243/25/C002B             | 1110 Hudson St         | 2/12                   | \$2,483.79           |

---Motion duly seconded by Councilman Bhalla  
---Adopted by the following vote: YEAS: 8 – NAYS: 0  
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti, Russo and President Cunningham.

**13-181**

---By Councilwoman Giattino

**RESOLUTION AWARDDING TWO POWER SUPPLY CONTRACTS (ONE FOR LIGHT METERS AND ONE FOR ONE LOAD) TO GREEN MOUNTAIN ENERGY COMPANY IN ACCORDANCE WITH THE CITY'S REVERSE AUCTION CONDUCTED ON APRIL 3, 2013 AND THE ATTACHED PUBLIC USE ENERGY**

**GENERATION SERVICE AGREEMENTS (ONE LIGHT METER AGREEMENT AND ONE MAIN LOAD AGREEMENT)**

**WHEREAS**, the City of Hoboken conducted a reverse auction for the purpose of obtaining power supply / public use energy generation services in accordance with the State of New Jersey's suggested practices; and,

**WHEREAS**, Green Mountain Energy Company provided the second lowest proposals under each of the two auctions (the lowest bidder under both auctions thereafter refusing to enter into contract with the City unless the City's material terms were altered, thus rendering their proposals unresponsive), and the Administration has determined that the Green Mountain Energy proposals, subject to the attached Public Use Energy Generation Agreement, is in the best interest of the City; and,

**WHEREAS**, in accordance with the direction of the Administration, the City Council is asked to award the contracts (light meters and main load) to Green Mountain Energy Company as described in the attached Public Use Energy Generation Agreements (one light meter and one main load); and,

**WHEREAS**, certification of funds is not required for this award, or execution of the underlying contract, as the services are public utility services.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Hoboken that the two attached contracts be awarded to Green Mountain Energy Company in accordance with the attached Public Use Energy Generation Service Agreements, and further authorizes the following:

1. The above recitals are incorporated herein as though fully set forth at length.
2. The terms of the reverse auction and Green Mountain Energy Company's responsive and responsible successful proposal under the auction, shall govern the contract award except as inconsistent with the attached agreements.
3. The Council hereby authorizes the Mayor, the Business Administrator, or the Mayor's designee to execute any and all documents and take any and all actions necessary to complete and realize the intent and purpose of this resolution, including but not limited to the attached agreement or a substantially similar agreement, if necessary.

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 6 – NAYS: 2:

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

---Nays: Occhipinti, Russo

**13-182**

---By Councilwoman Giattino

**RESOLUTION TO AUTHORIZE A CONTRACT WITH B&G ELEVATOR INC. FOR SERVICES TO REPAIR THE ELEVATOR AT THE CITY'S MULTISERVICE CENTER, WITH A CONTRACT TO COMMENCE APRIL 4, 2013 AND EXPIRE UPON COMPLETION, BUT NOT LATER THAN OCTOBER 4, 2013, FOR A NOT TO EXCEED AMOUNT OF NINE THOUSAND NINE HUNDRED DOLLARS (\$22,750.00)**

**WHEREAS**, Superstorm Sandy caused damage to the elevator at the Multiservice Center, which requires repair, which is below the bidding threshold therefore making it is exempt from public bidding; and,

**WHEREAS**, the Administration requested a quote for said services, received two (2) different adequate and responsive quotes, and has determined that B&G Elevators, which provided the most cost effective quote, can provide the City with the most effective and efficient elevator repair services; and,

**WHEREAS**, the City wishes to provide a not to exceed amount to the contract in an amount of *Twenty Two Thousand Seven Hundred Fifty Dollars (\$22,750.00)*; and,

**WHEREAS**, *B&G Elevators* is hereby required to abide by the “pay-to-play” requirements of the Hoboken Public Contracting Reform Ordinance, codified as §20A-11 *et seq.* of the Administrative Code of the City of Hoboken as well as the Affirmative Action laws and policies under which the City operates; and,

**WHEREAS**, certification of funds is available as follows:

**I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$14,500.00 is available in the following appropriation 3-01-55-901-014 in the CY2013 temporary appropriations and \$8,250.00 is available in the following appropriation G-55-56-C02-301 and I further certify that this commitment together with all previously made commitments and payments does not exceed the funds available in said temporary appropriation for the CY2013; and I further certify that the funds available in the said appropriation are intended for the purpose herein committed.**

**Signed: \_\_\_\_\_, George DeStefano, CFO**

**NOW THEREFORE, BE IT RESOLVED**, that a contract with B&G Elevators to provide the City with Elevator Repair Service at the Multiservice Center in accordance with the attached proposal, be executed, for a term to commence April 4, 2013 and expire upon completion of the project, but in no event later than October 4, 2013, with a not to exceed amount of **Twenty Two Thousand Seven Hundred Fifty Dollars (\$22,750.00)**; and

**BE IT FURTHER RESOLVED**, no additional fees or invoices shall be allowable under this agreement unless prior approval is provided by the City in accordance with all legal guidelines; and,

**BE IT FURTHER RESOLVED** that the City Council of the City of Hoboken specifically finds that compliance with Hoboken Ordinance #DR-154 (codified as §20A-1 *et seq.* of the Code of the City of Hoboken), and any and all state Pay to Play laws, is a continuing obligation of the vendor; 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 and Corporation Counsel 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 Councilman Bhalla

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

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

## ORDINANCES

### Introduction and First Reading

**13-183**  
**Z-236**

AN ORDINANCE TO AMEND PORTIONS OF CHAPTER 93 TITLED “DOGS AND OTHER ANIMALS,” SPECIFICALLY SECTION 93-1, SECTION 93-15 AND SECTION 93-17

**WHEREAS**, Chapter 93 of the Administrative Code of the City of Hoboken titled “Dogs and Other Animals” currently addresses issues regarding animals in the City of Hoboken, including, but not limited to, licensing of dogs, kennels and pet shops; and

**WHEREAS**, the City Council wishes to ban the retail sale of dogs and cats within the City of Hoboken in the future;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hoboken that Sections 93-1, 93-15 and 93-17 of Chapter 93 of the Administrative Code of the City of Hoboken shall be amended as follows (additions noted in underline; ~~deletions~~ noted in ~~strike~~through):

#### **SECTION ONE: AMENDMENTS**

##### **§ 93-1. Definitions**

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

##### **AUTHORIZED AGENT**

A Sanitary Inspector First Grade or a Public Health Nuisance Investigator of the Hoboken Board of Health.

##### **DOG**

Any dog, bitch or spayed bitch.

##### **DOG OF LICENSING AGE**

Any dog which has attained the age of seven months or which possesses a set of permanent teeth.

##### **GUIDE DOG**

Any dog certified to serve and aid those members of our nation who suffer from a verified disability, and are at the time serving or aiding a person with a verified disability.

##### **HEALTH OFFICER**

The legally designated Health Officer of the City of Hoboken or his authorized representative.

##### **KENNEL**

Any establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop.

##### **KENNEL OPERATOR**

A person who owns and/or operates a kennel.

##### **LEGALLY-EXISTING NONCONFORMING USE**

Any pet shop, pet shop operator, kennel or kennel operator that displayed, sold, offered for sale, bred or otherwise disposed of cats or dogs, or both, in the City of Hoboken prior to the effective date of this chapter. A legally-existing nonconforming use does not include any pet shop, pet shop operator, kennel or kennel operator whose license issued in accordance with § 93-7 is subsequently revoked.

**OWNER (WHEN APPLIED TO THE PROPRIETORSHIP OF A DOG)**

Includes every person having a right of property in such dog and every person who has such dog in his keeping.

**PET GROOMING SHOP**

Any room or group of rooms wherein dogs, cats or other animals are washed, cleaned or groomed.

**PET SHOP**

Any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs, cats, birds, fish, reptiles, lawful wildlife, rodents or insects for sale are kept or displayed. Any person who sells, exchanges or otherwise transfers only animals that were bred and reared on the premises owned by the person shall be considered a breeder and not a pet shop.

**PET SHOP OPERATOR**

A person who owns and/or operates a pet shop.

**POUND**

An establishment for the confinement of dogs seized either under the provisions of this chapter or otherwise.

**RULE OR ORDER**

Directive of the Health Officer.

**SHELTER**

Any establishment where dogs are received, housed and distributed without charge.

**§ 93-15. ~~(Reserved)~~ Prohibited acts, exceptions.**

No pet shop, pet shop operator, kennel or kennel operator shall sell, offer for sale, barter, auction, breed or otherwise improperly dispose of cats or dogs, or both, in the City of Hoboken. This section shall not apply to legally-existing nonconforming uses or to the adoption of cats or dogs, or both. Nothing contained herein shall prohibit a shelter, pound or other establishment from keeping, displaying, selling or otherwise transferring any cat or dog, or both, that has been seized, rescued or donated.

**§ 93-17. Violations and penalties.**

- A. Any person who shall violate any provision of this chapter shall, upon conviction, be punished by:
  - (1) A fine of not more than \$1,000, except with respect to a violation of § 93-16, which shall have a minimum fine of \$100 and a maximum fine of \$2,000; and/or;
  - (2) Community service for a period not more than 90 days or imprisonment for a term not exceeding 90 days.
- B. Each day's failure to comply with any provision, rule or other, except violations of § 93-16, shall constitute a separate and distinct offense.
- C. Each violation of § 93-16, regardless of the number of violations in any given day, shall constitute a separate and distinct offense.

- D. The names of those individuals convicted of violating § 93-16 shall be publicized by prominently placing their names, along with the date and location of the violation, and any other information deemed relevant by the City, on the website operated by the City of Hoboken, [www.hobokennj.org](http://www.hobokennj.org), for a period of not less than two months following the date of conviction. This provision does not preclude the City from taking other steps as necessary to increase public awareness of violations of § 93-16.
- E. Any person who is convicted of violating any provision of Chapter 93 of the Code of the City of Hoboken, within one year of the date of a previous violation of that same provision, and who was fined for the previous violation, shall be sentenced to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum nor shall it exceed the maximum fine fixed for a violation of the chapter, but shall be calculated separately from the fine imposed for the violation of the chapter, as provided for by N.J.S.A. 40:69A-29.
- F. The violation of one or more provisions of § 93-15 shall be subject to abatement summarily by a restraining order or by an injunction issued by a court of competent jurisdiction.

#### **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 are inconsistent with any provision of this Ordinance shall remain in effect.

#### **SECTION THREE: SEVERABILITY**

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

#### **SECTION FOUR: EFFECTIVE DATE**

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

#### **SECTION FIVE: CODIFICATION**

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

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

President Cunningham moved that the ordinance pass its first reading as read and be laid of the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **April 17, 2013** at 7:00 PM.

---Motion duly seconded by Councilman  
---Adopted by the following vote: YEAS: 8 – NAYS: 0

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

**13-184**  
**Z-237**

AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION PURSUANT TO N.J.S.A. 40A:4-53(h) TO FUND THE COSTS ASSOCIATED WITH THE PAYMENT OF CERTAIN CONTRACTUALLY REQUIRED SEVERANCE LIABILITIES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY

#### **BACKGROUND**

**WHEREAS**, the City of Hoboken, County of Hudson, New Jersey ("City") has accrued contractually required severance liabilities due and payable to certain employees of the City resulting from the retirement and/or the layoff of such employees during the 2013 fiscal year of the City; and

**WHEREAS**, the New Jersey Local Budget Law (N.J.S.A. 40A:4-1 et seq.) ("Local Budget Law") and, in particular Section 53(h) thereof (N.J.S.A. 40A:3-54(h)), permits local units, including the City, to adopt ordinances authorizing special emergency appropriations to fund the costs of contractually required severance liabilities resulting from the layoff or retirement of employees of such local unit; and

**WHEREAS**, the City has determined to fund the costs of the accrued liabilities of those employees retiring or being laid off during fiscal year 2013 through the creation of a special emergency appropriation pursuant to and in accordance with the Local Budget Law; and

**WHEREAS**, the amount to be appropriated by the City for the purposes described above is \$1,500,000.00; and

**WHEREAS**, it is the desire of the City Council to adopt this ordinance to create said special emergency appropriation.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY (NOT LESS THAN TWO—THIRDS OF THE MEMBERS THEREOF AFFIRMATIVELY CONCURRING), PURSUANT TO LOCAL BUDGET LAW, AS FOLLOWS:**

**Section 1.** There is hereby appropriated, pursuant to N.J.S.A. 40A:4-53(h), the sum of \$1,500,000.00 for the purpose of paying the contractually required severance liabilities due and owing to those employees of the City retiring or being laid off during fiscal year 2013 as further described in the preambles of this ordinance.

**Section 2.** The appropriation of said \$1,500,000.00 for the payment of such contractually required severance liabilities of this ordinance shall be deemed a special emergency appropriation as defined, and provided for, in N.J.S.A. 40A:4-53(h).

**Section 3.** Said emergency appropriation shall be financed from surplus funds currently available or from borrowed funds, pursuant to N.J.S.A. 40A:4-55; provided, however

at least one-fifth (1/5<sup>th</sup>) of said amount shall be included in each succeeding annual budget until the appropriation has been fully provided for.

**Section 4.** A certified copy of this ordinance as finally adopted shall be filed by the City Clerk with the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs.

**Section 5.** All ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 6.** This ordinance shall take effect immediately upon final adoption in accordance with applicable law.

President Cunningham moved that the ordinance pass its first reading as read and be laid of the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **April 17, 2013** at 7:00 PM.

--Motion duly seconded by Councilman

--Adopted by the following vote: YEAS: 5 NAYS: 3:

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

--Nays: Mason, Occhipinti, Russo

### **NEW BUSINESS**

Councilman Russo comments on a RFP for bike and roll (bike share supplier) responded to this program and will not cost the city and anyone who participates, the person will be included in the promotion material and would like everyone a preview of this and will give more details and would like full support at the next scheduled meeting

Council President comments to add towing situation and taxi

Councilman Occhipinti comments on Boswell Engineering for road pavements in 2012 and why is the city not awarding another contractor for the paving program and would be concerned for a public contractor by the Administration for 2013 Municipal services for engineering and it should be given to whoever scored #1 and is disappointed on the administration for the amendment for the appraiser contract for 1<sup>st</sup> and Jackson St., and there was no resolution to amend the contract to see the market value due to 400 people who have signed this petition and the Administration is throwing \$17 Million and we would like to know how much it costs and asking again to place it on the next council agenda and this body can say whether they support it or not support it, and lastly thank our firefighters for their services to our residents as first hand responders

Councilman Mello comments on whether Councilman Occhipinti have consideration for the other 2 lots in the SW and we should expand the pocket parks and its bound for a cheaper piece of property since its not traffic congested and whether he would also get those properties appraised

Councilman Occhipinti comments that he doesn't think it would hurt but the properties on 1<sup>st</sup> and Jackson are blighted and are affecting the property value for the residents in the 4<sup>th</sup> ward

Councilman Mello comments that there's a property by him which is also Blighted

Councilwoman Mason comments that if there are other properties put it up, but what's interesting on this property, there's a willing seller and we are only going to have limited time

Council President comments to Councilman Mello to put it on sub-committee meeting

Councilman Occhipinti comments that there needs to be an award on a Contract but all contracts need to go through the Mayor

Councilman President comments that he would like to know how much it would cost for an appraiser

Councilman Mello comments

Councilman Occhipinti comments

Councilwoman Giattino comments if any council members have any amendments for the budget so on Monday the sub-committee can go over it and would like to thank the female firefighters who got promoted this week and possibly first in the county

Councilwoman Castellano comments on the boat by the Hoboken Cove and if anyone could shed light

Councilwoman Mason comments that it is being auctioned

Councilwoman Castellano comments that the case was challenged by the four and Judge Bariso quoted that the Zimmer Administration screwed up and that the resident is wrong on all issues

Councilwoman Mason comments on the staff shortage which brought up earlier and have BA Wiest to elaborate more on it

BA Wiest comments that it is his understanding that there were 3 people doing that activity and that Mr. Morgan is working on it the best that he can and not go into details because it would deal into other employee issues and will have something for you after speaking to Director Morgan

Councilwoman Mason comments on a concern for our Corporation Counsel when we have situations or when we need to address things and Council President shutting us down and is inappropriate and the lack of transparency in this administration and members of this council and as we are going to a budget, it's appropriate to ask and when certain people want to shut down, the issue of rice notice has suddenly exploded and never seen this happen the past 10 years and would like to know this answer and this set up with Mr. Cohen is really disturbing

Councilman Bhalla comments that its unfair to attack someone who's not here, if someone feels like their rights are being violated, its their right, as far as Claims, the people of Open Government has complained that the meeting lasts too long when it goes on Claims and thinks the questions should be requested in advance and this would lessen the time

BA Wiest comments that councilmembers have reached out to him and have given an opportunity for him to look into it before the meeting and have no complaints

Councilman Russo comments and would like more detail for the special Appropriation and why are we asking for \$600,000 instead of \$1.5 M, there is no emergency for potential retirements when we would pass the budget, because once we approve the special emergency we can't amend it, and would like to know who made the decision to \$1.5 M instead of \$600K when we know we only need \$1.1 M

BA Wiest comments that the special emergency appropriation has been introduced tonight, large retirements are budgeted over a 5 year period and gives a latitude to not inject additional funds and this option is provided by the state and retirements are not level year to year, they can go up or go down year to year, this year the best estimate is about \$2 Million and we hope to do this once instead of doing this multiple times during the year

Councilwoman Mason has left the meeting at 10:30 PM

Councilman Russo comments that special emergency appropriation is used for it after adoption not before and would like to see state statute for the special emergency, there are various ways to pay it out and its in the individual retiree to set it and not providing the Council on the individuals who are retiring and asking the Council to vote on \$1.5 M and not have any knowledge for it

BA Wiest comments that it is his first time dealing with this and right now we have about \$1.5 M for those who are retired and scheduled to retire this year, the statute which allows these special emergency which come up during the year and can use it all times during the year and would caution you but will check the auditor, there are policy issues at stake here

Councilman Occhipinti comments why was this not on the budget

BA Wiest comments that we did know a large group of retirements but I would not choose to inject into our annual budget with the budget restrictions today, it wouldn't be my policy choice to inject the budget on the line item when you have the state can spread it over multiple periods, that this is a 2 step process, the council would approve the emergency ordinance and a note that would follow

Councilwoman Mason has returned to the meeting at 10:37 PM

Councilman Russo comments that you fund it through notes, large scale

bond or tax levy and none of them are required by law and not a 2 step process and that it may be a plan to fund this

Councilman Occhipinti comments that this Administration would like to put it on a credit card

Council President comments you want to wipe up the budget

Councilman Russo comments on \$10 on the claims and after looking at the policy and it speaks usage of mileage of cars, but we need to include mass transit and amend the policy and the appropriate sub committee to amend the Employee handbook

Councilman Russo comments on the water main breaks and have BA Wiest to explain the cause of the breaks

BA Wiest comments that he can speak on the large one but not the others, but the break was a 30 in. main on the north end main, a construction project active, a contractor at the site working for PSE & G , all the utilities in the area have to mark it, United Water uses a sub contractor and United Water provides them the utility information and the sub-contractor goes to the site, locates the utility and allows them other tools for water lines, locations of 2 feet locating a water line, United Water told us that the mark out was outside the tolerance which was beyond that 2 feet, but it seems to agreed that it was outside the tolerance, the contractor doing construction for public service operating some digging equipment hit the water main right on the bell which caused the 30 in line to rupture and dramatic pressure loss to the city

Councilman Russo comments who is the overseeing authority from the city and probably multiple jurisdiction event

BA Wiest comments and gives you more information

Council President comments that it's inappropriate to say who's at fault and not know who's responsible for this until the investigation is finished

BA Wiest comments that there needs to be dialogue between the City and United Water

Councilman Occhipinti comments

Councilwoman Giattino comments

Council President comments that he does provide flexibility and there are times when things go out of control where it has been un-professional and rude and have been asked on both sides. I am running the meeting and not everyone is going to be happy and again continue to manage various personalities election year 2013.

City Clerk this Saturday, the parade starts at 10 AM and marches to the

newly refurbished Little League field

At 11:10 PM the Governing Body on a motion by Councilman Russo duly seconded by the Governing Body

Council President Cunningham then adjourned the meeting at 11:10 PM

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PRESIDENT OF THE COUNCIL

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CITY CLERK