

MEETING OF NOVEMBER 6, 2013

MINUTES OF A REGULAR MEETING OF THE COUNCIL OF THE CITY OF HOBOKEN, NEW JERSEY, HELD IN THE COUNCIL CHAMBERS, CITY HALL, HOBOKEN, NEW JERSEY, WEDNESDAY, NOVEMBER 6, 2013 AT 7:00 PM

President Cunningham opened the meeting at 7:02 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. Objections, if any shall be made in writing to the City Clerk.

The Clerk than called the Roll: Council persons Bhalla, Castellano Giattino, Mason, Mello, Occhipinti, ~~Russo~~ and Cunningham

ABSENT: Russo

Council President comments and wants to have a moment of silence for Mr. Chohan and Anna Roberts.

Council President comments Mayor Dawn Zimmer will be presenting awards to certain individuals who were recognized during Hurricane Sandy.

HURRICANE SANDY RECOGNITION AWARDS PRESENTATION BY MAYOR DAWN ZIMMER

Council President gives his thanks for all the people who received an award

Councilwoman Mason comments that there's a violation to the Open Public Meetings Act and the city council minutes are far to late and they do not represent what it transpires.

RESOLUTIONS

13-513B

--By President Cunningham

AUTHORIZATION FOR THE CITY OF HOBOKEN TO PROCESS AN INVOLUNTARY DISABILITY RETIREMENT APPLICATION FOR EMPLOYEE NO. 000433

WHEREAS the City of Hoboken has employed Employee No. 000433, a Truck Driver; and

WHEREAS Employee No. 000433is an active member of the PERS; and

WHEREAS Employee No. 000433has approximately seventeen (17) years and five (5) months of PERS Service Credit; and

WHEREAS, based on the opinions of Employee No. 000433's treating physicians, the City of Hoboken is of the opinion that Employee No. 000433can no longer perform his assigned duties; and

WHEREAS the City of Hoboken is unable to provide an alternative to the PERS covered position with duties capable of being performed by Employee No. 000433; and

WHEREAS the City of Hoboken has consented to the processing of the Involuntary Disability Retirement Application;

NOW, THEREFORE, BE IT RESOLVED BY the City Council of the City of Hoboken that the City of Hoboken process an Involuntary Disability Retirement application for Employee No. 000433; and

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be forwarded to all parties in the administration of this action.

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 5 – NAYS: 0 - ABSENT: 1 - ABSTAIN: 2

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

---Nays: None.

---Absent: Russo

---Abstain: Giattino, Mason

ORDINANCES

Introduction and First Reading

13-514

Z-264

AN ORDINANCE AMENDING CHAPTER §104 (FLOOD DAMAGE PREVENTION) TO REFLECT UPDATES RECOMMENDED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION'S LATEST REVISED MODEL ORDINANCE

WHEREAS, the State of New Jersey Department of Environmental Protection ("NJDEP") recently released an updated "Flood Damage Prevention" model ordinance; and

WHEREAS, the City of Hoboken, Mayor and Council, wish the local ordinance to remain current and consistent with the State's recommendations; and

WHEREAS, adoption of the new Advisory Base Flood Elevations ("ABFEs") and employment of stricter mitigation actions will ensure new and substantially altered structures are stronger, safer and less vulnerable to future flooding; and

WHEREAS, according to the NJDEP, it is well documented that flooding causes major social disruptions due to the need to relocate flood victims and provide emergency services to affected residents, which necessarily diverts emergency personnel from other essential tasks; and

WHEREAS, according to the National Flood Insurance Program ("NFIP"), from 1978 to June 30, 2013, New Jersey's total flood insurance claims paid equaled \$5,276,080,845 – the third highest in the nation; and

WHEREAS, according to the NFIP, Hoboken has more flood insurance policies in force than any other municipality in Hudson County, with liability to the NFIP of \$1,922,187,500; and

WHEREAS, according to the NFIP, Hoboken's property owners pay flood insurance premiums totaling \$5,984,720, which is the highest in Hudson County;

WHEREAS, the National Flood Insurance Program's most recent Flood Insurance Rate Map ("FIRM") for Hudson County, effective August 16, 2006, showed the existing piers and platforms on the Hoboken waterfront to be located within Zone AE, which zone FEMA defines as an area subject to inundation by the 1-percent-annual-chance flood event; and

WHEREAS, before Hurricane Sandy, the Federal Emergency Management Agency (“FEMA”) had begun a coastal study to update FIRMs for portions of New Jersey in order to better reflect coastal flood risk; and

WHEREAS, after Hurricane Sandy, FEMA released ABFE maps based on FEMA’s partially completed flood study in order to help in rebuilding and recovery efforts; and

WHEREAS, the most recent ABFE maps for Hudson County, effective February 22, 2013, show the existing piers and platforms on the Hoboken waterfront to be located within Advisory Flood Hazard Zone V, which zone is defined by FEMA as an area subject to high velocity wave action (a 3-foot breaking wave) from the 1% annual chance coastal flood; and

WHEREAS, the most recent Preliminary Work Maps released by FEMA show the existing piers and platforms on the Hoboken waterfront to be located within Zone V; and

WHEREAS, the NJDEP issued an Emergency Rule on January 24, 2013 to adopt emergency amendments to the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13); and

WHEREAS, pursuant to 44 C.F.R. § 60.3 (e):

“When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1–30 and/or AE on the community’s FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community’s FIRM, and has identified on the community’s FIRM coastal high hazard areas by designating Zones V1–30, VE, and/or V, the community shall... (3) [p]rovide that all new construction within Zones V1–30, VE, and V on the community’s FIRM is located landward of the reach of mean high tide.”

WHEREAS, Princeton Hydro, LLC and RCQuinn Consulting, Inc. have prepared and submitted to the City of Hoboken a report titled “Flood Hazard Risk and Compliance Concerning Development on Piers and Platforms, City of Hoboken, Hudson County, NJ,” dated October 2013; and

WHEREAS, adoption of the following methods of reducing flood losses will result in lower flood insurance rates for the residents and property owners of the City of Hoboken; and

WHEREAS, implementation of such mitigation actions are important to insure the health, safety and the general welfare of the community as a whole.

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

Chapter 104, FLOOD DAMAGE PREVENTION, of the Code of the City of Hoboken is hereby amended as follows; deletions to the current ordinance are noted in strikethrough, additions to the current ordinance are noted in underline.

Chapter 104. FLOOD DAMAGE PREVENTION

Article I. Statutory Authorization, Findings of Fact, Purpose and Objectives

§ 104-1. Statutory authorization.

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Hoboken, of **Hudson County**, New Jersey does ordain as follows.

§ 104-2. Findings of fact.

A. The flood hazard areas of **the** City of Hoboken are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services,

extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 104-3. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To insure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 104-4. Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

Article II. Definitions

§ 104-5. Word usage; definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

ADVISORY BASE FLOOD ELEVATION (ABFE)

The elevation shown on a community's Advisory Flood Hazard Map that indicates the advisory Stillwater elevation plus wave effect ($ABFE = SWEL + \text{wave effect}$) resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

ADVISORY FLOOD HAZARD AREA (AFHA)

The land in the floodplain within a community subject to flooding from the 1% annual chance event depicted on the Advisory Flood Hazard Map.

ADVISORY FLOOD HAZARD MAP

The official map on which the Federal Emergency Management Administration has delineated the areas of advisory flood hazards applicable to the community.

APPEAL

A request for a review of the **Construction Official Floodplain Administrator's** interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING

A designated AO or AH, or VO zone on a community's Flood Insurance Rate Map with a 1% or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD

The land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year.

BASE FLOOD

The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT

Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

COASTAL A

The portion of the special flood hazard area (SFHA) starting from a Velocity (V) Zone and extending up to the landward limit of the moderate wave action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the shore and the landward limit of the moderate wave action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combinations of these forces.

COASTAL HIGH HAZARD AREAS

An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources also know as V-Zones.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within an area of special flood hazard.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

ELEVATED BUILDING

A non-basement building (i) built in the case of a building in an Aarea of Sspecial Fflood Hhazard, to have the top of the elevated floor or, in the case of a building in a Coastal High-Hazard Area, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Aarea of Sspecial Fflood Hhazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coast High-Hazard "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

EROSION

The process of the gradual wearing away of land masses.

FLOOD INSURANCE RATE MAP (FIRM)

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS)

The official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

FLOOD or FLOODING

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN MANAGEMENT REGULATIONS

Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

FREEBOARD

An open area, measured in feet as set forth in § 104-16.F, between the bottom of the lowest horizontal member and the base flood elevation (or ABFE). Freeboard is a margin of safety added to account for sea level rise, waves, debris, miscalculations, lack of data, or other environmental changes.

FUNCTIONALLY DEPENDENT USE

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE

Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LIMIT OF MODERATE WAVE ACTION (LiMWA)

Inland limit of the area affected by waves greater than 1.5 feet during the base flood. Base flood conditions between the V Zone and the LiMWA will be similar to, but less severe than those in the V Zone.

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreation vehicle."

MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

RECREATIONAL VEHICLE

A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION

For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE

A walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which **equals or exceeds** 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE

A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

ZONES

Flood zones are geographic areas that FEMA has defined according to varying levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM) and Advisory Maps. These zones are defined as follows:

A – Areas subject to inundation by the 1-percent-annual-chance flood event. Because detailed analyses are not performed for such areas; no depths of base flood elevations are shown within these zones.

AE – The base floodplain where base flood elevations are provided.

D – Areas with possible but undetermined flood hazards usually outside of the boundary of the .02-percent-annual-chance flood area.

V – Coastal high hazard areas subject to inundation by the 1-percent-annual-chance flood event with additional hazards associated with high-velocity wave action.

VE – Coastal high hazard areas where base flood elevations are provided.

X – Area of moderate flood hazard, usually the area between the limits of the 100-year (1%) and 500-year (.02%) flood.

Where used in this ordinance, "A" shall include AE, "V" shall include VE, and vice versa.

Article III. General Provisions

§ 104-6. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Hoboken, Hudson County, New Jersey.

§ 104-7. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard for the City of Hoboken, Community No. 340222, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

A. A scientific and engineering report "Flood Insurance Study, Hudson County, New Jersey (All Jurisdictions)" dated August 16, 2006.

B. Flood Insurance Rate Map for Hudson County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 0043, 0044, 0106, 0107; whose effective date is August 16, 2006.

C. Advisory Base Flood Elevations and Advisory Flood Hazard Maps whose effective date is February 22, 2013. These documents shall take precedence over previous panels and FIS in construction and development regulations only. Where the Special Flood Hazard Area (SFHA) and the Advisory Flood Hazard Area (AFHA) maps conflict or overlap, whichever imposes the more stringent requirement shall prevail.

The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at the office of the Construction Official/Floodplain Administrator at City Hall, 94 Washington Street, Hoboken, NJ 07030.

§ 104-8. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined **not more than \$500\$2,000** or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Hoboken from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 104-9. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 104-10. Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 104-11. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This chapter shall not create liability on the part of the City of Hoboken, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Article IV. Administration

§ 104-12. Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 104-7. Application for a development permit shall be made on forms furnished by the **Construction OfficialFloodplain Administrator** and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed.
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 104-17B; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 104-13. Designation of the local administrator.

The **Construction OfficialFloodplain Administrator** is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 104-14. Duties and responsibilities of the administrator.

Duties of the **Construction OfficialFloodplain Administrator** shall include, but not be limited to:

- A. Permit review.
 - (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.

- (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. **If located in the floodway, assure that the encroachment provisions of section § 104-18 are met.**
- (4) **Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters the natural coastline so as to increase potential flood damage.**
- (5) **Review plans for walls to be used to enclose space below the base flood level in accordance with sections § 104-17 and 104-19.**

B. Use of other base flood and floodway data. When base flood elevation and floodway data has not been provided in accordance with § 104-7, Basis for establishing the areas of special flood hazard, the **Construction OfficialFloodplain Administrator** shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer § 104-17A, Specific standards, residential, construction, and § 104-17B, Specific standards, nonresidential construction.

C. Information to be obtained and maintained.

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (a) Verify and record the actual elevation (in relation to mean sea level); and
 - (b) Maintain the floodproofing certifications required in § 104-12C.
- (3) Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of watercourses.

- (1) Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

E. Interpretation of **firm FIRM** boundaries. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 104-15. **§ 104-15. Variance procedure.**

A. Appeal board.

- (1) The **Construction Board of AppealsPlanning Board** as established by the City of Hoboken shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The **Construction Board of AppealsPlanning Board** shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the **Construction OfficialFloodplain Administrator** in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the **Construction Board of AppealsPlanning Board**, or any taxpayer, may appeal such decision to Superior Court of New Jersey, N.J.S.A. 52:22D-127, et seq.
- (4) In passing upon such applications, the **Construction Board of AppealsPlanning Board**, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) Upon consideration of the factors of § 104-15A(4) and the purposes of this chapter, the **Construction Board of Appeals** may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(6) The **Construction Official** shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot **or lots of 1/2 acre** or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in § 104-15A(4)(a) through (k) have been fully considered. As the lot size increases beyond **the 1/2 acre**, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in § 104-4A(4), or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Article V. Provisions for Flood Hazard Reduction

§ 104-16. General standards.

In all areas of special flood hazards, **including X-Zones**, the following standards are required:

A. Anchoring.

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All manufactured homes, **temporary and accessory structures, decks and patios** shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

- (2) New and replacement sanitary sewage systems and waste lines shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into floodwaters either by elevation or by installation of check valves and backflow preventers;
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- (4) For all new construction and substantial improvements, Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision and new development proposals.

- (1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and any other proposed new development which contain at least 50 lots or five acres (whichever is less).

E. Enclosure openings.

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

E. Freeboard.

All new construction and substantially improved residential and non-residential structures located in an area of special flood hazard shall have the lowest floor elevated to the base flood elevation or advisory base flood elevation, whichever is applicable, plus freeboard as specified in Table I below. Enclosed areas that are used solely for parking, building access, or storage are not the lowest floor and shall be allowed below the BFE / ABFE provided the enclosed areas meet the requirement set forth in § 104-16.E above. For all zones within the City of Hoboken, freeboard shall be measured from the bottom of the lowest horizontal structural member.

FREEBOARD REQUIREMENTS FOR AREAS OF SPECIAL FLOOD HAZARD

Building Type

Zones

X

A

Coastal A

V

Residential structures

+1'

+1'

+1'

+2'

Building and other structures with school or day-care facilities; and other non-residential structures not itemized below

+1'

+1'

+2'

+2'

Essential facilities including, but not limited to: fire, rescue, ambulance, and police stations and emergency vehicle garages; buildings designated as emergency shelters; other facilities required for emergency response; hospitals and other health care facilities having surgery or emergency treatment facilities; power generating stations and other public utility facilities

+1'

+2'

+2'

+3'

Buildings and other facilities that manufacture, process, handle, store, use, or dispose of hazardous materials

+1'

+2'

+2'

+3'

Temporary structures

n/a

+1'

+2'

n/a

F. Fill.

Fill shall not be used to elevate structures or for structural support.

§ 104-17. Specific standards.

In all areas of special flood hazards, including all A-Zones and areas subject to moderate wave action, where base flood elevation data have been provided as set forth in § 104-7, Basis for establishing the areas of special flood hazard or in § 104-14B, Use of other base flood data, the following standards are required:

A. Residential construction.

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, together with the attendant utilities and sanitary facilities, elevated to or above the base flood elevation or advisory base flood elevation, whichever is more restrictive, plus Freeboard; or
(2) Require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified) or at or above the advisory base flood elevation, whichever is more restrictive, plus Freeboard. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(3) Fully enclosed areas, above grade but below the lowest floor are usable only for parking of vehicles (where permitted), building access and/or storage and not for human habitation. Fully enclosed areas subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect and must meet or exceed the following minimum criteria: (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; (ii) the bottom of all openings shall be no higher than one foot above grade; and (iii) openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Non-residential and Mixed Use construction.

(1) In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure, or any mixed-use structure where residential uses exist above commercial uses on lower floors, shall either have the lowest floor, including basement, together with the attendant utilities and sanitary facilities: either,

(1) Elevated to or above the level of the base flood elevation or advisory base flood elevation, whichever is more restrictive, plus Freeboard; or together with the attendant utilities and sanitary facilities, shall;

(2) Be required within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified) or at or above the advisory base flood elevation, whichever is more restrictive, plus Freeboard. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or

(3) Be floodproofed so that below the base flood levelevation or advisory base flood elevation (whichever is more restrictive), plus Freeboard the structure is watertight with walls substantially impermeable to the passage of water;

(4) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(5) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the **official Administrator** as set forth in **§104-14C(2)**.

(6) In areas of moderate wave action where floodproofing is not feasible or desirable fully enclosed areas below the lowest floor used for non-residential uses, parking, building access or storage shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect and must meet or exceed the following minimum criteria: (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. (ii) The bottom of all openings shall be no higher than one foot above grade. (iii) Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters; and

(7) Only Flood Damage-Resistant Materials, so classified by the National Flood Insurance Program (NFIP) shall be used. Areas shall be constructed to withstand direct and prolonged contact with floodwaters without sustaining significant damage.

C. Manufactured homes.

(1) Manufactured homes shall be anchored in accordance with **§ 104-16A(2)**.

(2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

§ 104-18. Floodways.

Located within areas of special flood hazard established in section § 104-7 may be areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibited encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If section § 104-18.A is satisfied, all new construction and substantial improvements must comply with Article V Provisions for Flood Hazard Reduction.

C. In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths of a foot at any point.

§ 104-19. Coastal high hazard area.

Coastal high hazard areas (V Zones) are located within the areas of special flood hazard established in § 104-7. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash: therefore, the following provisions shall apply:

A. Location of Structures

(1) All construction shall be landward of the mean high tide established and updated from time to time by the appropriate governmental agency with jurisdiction over same. Functionally Dependent Uses, open space and outdoor passive and active recreational uses may be permitted seaward of the mean high tide, provided that such use creates no additional threat to public safety and complies with the applicable requirements of this chapter.

B. Construction methods

(1) Elevation. All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood elevation or advisory base flood elevation, whichever is more restrictive, plus Freeboard.

(2) Structural support

(a) All new construction and substantial improvements shall be securely anchored on piling or columns.

(b) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(3) Certification. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of

construction to be used are in accordance with accepted standards of practice for compliance with the provisions of sections § 104-19.B (1) and (2) (a) and (b).

C. Space below the lowest floor

(1) Floodproofing methods shall not be used in the V-Zone for space below the lowest floor.

(2) Only Flood Damage-Resistant Materials, so classified by the National Flood Insurance Program (NFIP) shall be used in construction of areas below the lowest floor. Areas shall be constructed to withstand direct and prolonged contact with floodwaters without sustaining significant damage.

(3) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, or other screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

(b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values shall be those associated with the base flood. Wind loading values shall be those required by applicable State and local building standards.

(c) Where breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

(d) Prior to construction, plans for any breakaway wall must be submitted to the Floodplain Administrator for approval.

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.

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.

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

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 **November 18, 2013** at 7:00 PM.

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None

---Absent: Russo

Special Counsel gives an overview of the ordinance
Presentation from Associate from Princeton Hydro John Miller

RESOLUTIONS

13-515

---By Councilman Mello

RESOLUTION OF THE CITY OF HOBOKEN, COUNTY OF HUDSON REFERRING AN ORDINANCE TO AMEND CHAPTER 196 OF THE MUNICIPAL CODE TO THE PLANNING BOARD OF THE CITY OF HOBOKEN

WHEREAS, the City Council of the City of Hoboken proposes to adopt an ordinance to amend Chapter 196 of the Hoboken Municipal Code; and

WHEREAS, section N.J.S.A. 40:55D-26 of the Municipal Land Use Law provides, in part:
“Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.”

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

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The City Council hereby refers the proposed amendment to Chapter 196 of the Municipal Code to the Planning Board, pursuant to N.J.S.A. 40:55D-26.

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

ORDINANCES (cont'd)

Introduction and First Reading

13-516

Z-264

AN ORDINANCE TO AMENDING CHAPTER 196 (ZONING) ADDRESSING COMMUNITY HEALTH, SAFETY AND GENERAL WELFARE THROUGH FLOOD HAZARD MITIGATION MEASURES AND DEVELOPMENT

WHEREAS, according to the State of New Jersey Department of Environmental Protection, it is well documented that flooding causes major social disruptions due to the need to relocate flood victims and provide emergency services to affected residents, which necessarily diverts emergency personnel from other essential tasks; and

WHEREAS, according to the National Flood Insurance Program (“NFIP”), from 1978 to June 30, 2013, New Jersey’s total flood insurance claims paid equaled \$5,276,080,845 – the third highest in the nation; and

WHEREAS, according to the NFIP, Hoboken has more flood insurance policies in force than any other municipality in Hudson County, with liability to the NFIP of \$1,922,187,500; and

WHEREAS, according to the NFIP, Hoboken’s property owners pay flood insurance premiums totaling \$5,984,720, which is the highest in Hudson County;

WHEREAS, the National Flood Insurance Program’s most recent Flood Insurance Rate Map (“FIRM”) for Hudson County, effective August 16, 2006, showed the existing piers and platforms on the Hoboken waterfront to be located within Zone AE, which zone FEMA defines as an area subject to inundation by the 1-percent-annual-chance flood event; and

WHEREAS, before Hurricane Sandy, the Federal Emergency Management Agency (“FEMA”) had begun a coastal study to update FIRMs for portions of New Jersey in order to better reflect coastal flood risk; and

WHEREAS, after Hurricane Sandy, FEMA released Advisory Base Flood Elevation (“ABFE”) maps based on FEMA’s partially completed flood study in order to help in rebuilding and recovery efforts; and

WHEREAS, the most recent ABFE maps for Hudson County, effective February 22, 2013, show the existing piers and platforms on the Hoboken waterfront to be located within Advisory Flood Hazard Zone V, which zone is defined by FEMA as an area subject to high velocity wave action (a 3-foot breaking wave) from the 1% annual chance coastal flood; and

WHEREAS, the most recent Preliminary Work Maps released by FEMA show the existing piers and platforms on the Hoboken waterfront to be located within Zone V; and

WHEREAS, the NJDEP issued an Emergency Rule on January 24, 2013 to adopt emergency amendments to the Flood Hazard Area Control Act Rules (N.J.A.C 7:13; and

WHEREAS, pursuant to 44 C.F.R. § 60.3 (e) (3):

“When the Federal Insurance Administrator has provided a notice of final base flood elevations within Zones A1–30 and/or AE on the community’s FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community’s FIRM, and has identified on the community’s FIRM coastal high hazard areas by designating Zones V1–30, VE, and/or V, the community shall...[p]rovide that all new construction within Zones V1–30, VE, and V on the community’s FIRM is located landward of the reach of mean high tide.”

WHEREAS, New Jersey Senate Bill No. 2680, introduced April 15, 2013, would have required the New Jersey Department of Environmental Protection to approve development projects on piers in “coastal high hazard areas” – which areas include V Zones – in certain municipalities along the Hudson River, which adopted an ordinance that allows for such development; and

WHEREAS, on August 19, 2013, Governor Christie vetoed New Jersey Senate Bill No. 2680 “[b]ecause this bill has the potential to jeopardize National Flood Insurance Program eligibility for impacted municipalities”; and

WHEREAS, Princeton Hydro, LLC and RCQuinn Consulting, Inc. have prepared and submitted to the City of Hoboken a report titled “Flood Hazard Risk and Compliance Concerning Development on Piers and Platforms, City of Hoboken, Hudson County, NJ,” dated October 2013; and

WHEREAS, the City of Hoboken, Mayor and Council, wish to assure the health, safety and general welfare of its residents.

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

Chapter 196, Zoning, of the Code of the City of Hoboken is hereby amended as follows; deletions to the current ordinance are noted in strikethrough, additions to the current ordinance are noted in underline.

CHAPTER 196. ZONING

ARTICLE I

Title; Purpose; Interpretation

§ 196-101. Title.

[No change]

§ 196-102 Purpose and Intent.

The purpose of this chapter is to promote the health, safety, comfort and general welfare of the City of Hoboken and its people; advance the fundamental elements of the City's Master Plan; advance the purposes of the Municipal Land Use Law set forth in N.J.S.A. 40:55D-2; and ensure that all land development in the city meets the applicable requirements of federal, state and local laws. In order to fulfill this purpose, it is the intent of this chapter to provide regulations that are consistent with the Master Plan, that implement the Land Use Plan set forth therein, and that advance the general concepts and recommendations of the Plan, as follows:

- A. Encourage sustainability through focused economic development; **flood risk management**; environmentally sensitive and energy efficient design; conservation of natural resources; and diversification of uses, building types and affordability.
- B. Provide adequate light, air and convenience of access; through the regulation of bulk, height, massing, scale, and density.
- C. Promote physical and visual connections between the waterfront and the rest of the City; and between the Palisades and City
- D. Enhance Hoboken historic character through the protection of buildings and districts of historic significance, while also encouraging design innovation in adaptive reuse and new construction.
- E. Maintain an appropriate mix of land uses in each zone district.
- F. Promote the provision of public spaces, parks, open space and greenery.
- G. Balance circulation and parking needs with those of pedestrians, cyclists, and transit users.
- H. Promote Hoboken's unique transportation resources to drive economic growth.
- I. Coordinate development policies and objectives with Hudson County, neighboring municipalities, agencies and institutions.

§ 196-103. Interpretation of Provisions.

§ 196-103.1. Interpretation.

[No change]

§ 196-103.2. Effect on Outstanding Permits, Approvals and Variances.

[No change]

§ 196-103.3. General Restrictions.

Except as otherwise provided in this chapter:

- A. No building or structure or part thereof, and no lot or land, or part thereof, shall hereafter be used except in conformity with the regulations of this chapter.
- B. No building or structure or part thereof shall hereafter be erected, structurally altered, enlarged or rebuilt except in conformity with the regulations of this chapter.
- C. No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used or intended to be used, for any purpose or in any manner other than as specified among the uses hereinafter listed as permitted in the zone in which such building or land is located.
- D. No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building is located.
- E. No building shall be erected, no existing buildings shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot area and building location requirements.

F. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other buildings, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

G. No off-street parking facility or loading berth provided to meet the minimum off-street parking or loading requirements for one use or structure shall be considered as provided off-street parking or loading for a use or structure on any other lot.

H. No land in a residential zone shall be used to fulfill open space, parking or similar requirements for uses in nonresidential zones. No driveway access shall be allowed through a residential zone to service a use in a nonresidential zone.

I. All construction shall be landward of the mean high tide established and updated from time to time by the appropriate governmental agency with jurisdiction over same, and no new construction or substantial improvement of existing structures shall be permitted on piers or platforms projecting into or over the Hudson River or Weehawken Cove. However, new construction or substantial improvement of Functionally Dependent Uses, open space and outdoor passive and active recreational uses is permitted seaward of the mean high tide and on piers or platforms, provided that such new construction or substantial improvement creates no additional threats to public safety and complies with the applicable requirements of Chapter 104 of the Municipal Code of the City of Hoboken.

A "Functionally Dependent Uses" is that which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

For purposes of this provision, "substantial improvement" shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement.

This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

§196-103.4. Nonconforming Uses, Structures and Lots.

A. Continuation. A use, building or structure, lawfully in existence at the effective date of this chapter, which shall be made nonconforming at the passage of this chapter or any applicable amendment thereto, may be continued, except as otherwise provided in this Article. Any nonconforming use, building, structure or lot may change ownership and continue to function as the same nonconforming use, building, structure or lot, provided that all other conditions of this Article are met.

B. Maintenance and repairs. Maintenance and repair work may be made to a nonconforming use, structure or lot, provided that the maintenance work does not change the use, expand the building or the functional use of the building, increase the area of a lot used for a nonconforming purpose or increase the nonconformity in any manner. No alterations may be made which would increase the number of dwelling units.

C. Residential improvements. A building containing a nonconforming residential use or a nonconforming building containing a residential use may be altered in any way to improve interior livability, provided that no alterations may be made which would increase the number of dwelling units.

D. Reconstruction. No existing nonconforming building or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered, except when changed to a conforming building or use, or when required to do so by law, except as follows:

(1) Any nonconforming use or structure sustaining damage by fire, flood, casualty or act of God constituting less than 75 50 percent of the building's total market value before the damage occurred may be repaired and used as before, provided that the floor area of such use, building or structure shall not exceed the floor area or building volume which existed prior to such damage. All repairs shall be

completed within one year after damages occur or such use or structure shall not be restored, except as a conforming use or structure.

(2) In the event that the cost to repair damage is determined to be have destroyed more than 75 50 percent or more of a building's true market value, that building shall only be reconstructed as a conforming use or structure. tThe Board of Adjustment may authorize variances for rebuilding only after the provisions for flood hazard prevention have been met., if the rebuilding would not constitute an enlargement of the use and if the rebuilding would provide better aesthetics, higher setbacks or assist in alleviating characteristics, such as noise, glare, odor or traffic generation which interferes with the health, safety and welfare of the area.

(3) In the event that the owner and Building Inspector are unable to agree on the extent of damage, a determination will be made by a group of three people consisting of the Building Inspector, the owner or a professional architect or engineer acting as a representative of the owner, and an independent professional engineer or architect.

(4) The fee of the independent engineer or architect shall be agreed to and paid in equal portions by the City and the owner of the building in question.

E. Termination. A nonconforming use shall be considered terminated subject to the following:

(1) Abandonment. A nonconforming use shall be considered abandoned and may not be revived if:

(a) The use is terminated by the owner;

(b) The owner fails to maintain the structure, or structure and land in combination, to a standard of habitability consistent with the nonconforming use; or

(c) The property otherwise meets the criteria to be deemed abandoned subject to N.J.S.A. 55:19-78 et seq.

(2) Conversion to permitted use. Any nonconforming use or structure which has been changed to a permitted use shall not be revived as a nonconforming use, except by variance.

§ 196-103.5. Relief.

[No change]

§ 196-103.6. Amendments.

[No change]

§ 196-103.7. Areas of Redevelopment or Rehabilitation.

[No change]

§ 196-103.8. Consistency.

[No change]

§ 196-103.9. Repeal.

[No change]

§ 196-103.10. Validity.

[No change]

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.

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

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

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 on the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **November 18, 2013** at 7:00 PM.

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays:None.

---Absent: Russo

RESOLUTIONS

13-517

---By Councilman Mello

RESOLUTION OF THE CITY OF HOBOKEN, COUNTY OF HUDSON REFERRING AN ORDINANCE TO AMEND CHAPTER 196 OF THE MUNICIPAL CODE TO THE PLANNING BOARD OF THE CITY OF HOBOKEN

WHEREAS, the City Council of the City of Hoboken proposes to adopt an ordinance to amend Chapter 196 of the Hoboken Municipal Code; and

WHEREAS, section N.J.S.A. 40:55D-26 of the Municipal Land Use Law provides, in part:

“Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.”

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

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The City Council hereby refers the proposed amendment to Chapter 196 of the Municipal Code to the Planning Board, pursuant to N.J.S.A. 40:55D-26.

Section 3. This Resolution shall take effect immediately.

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-518

---By President Cunningham

GOVERNING BODY CERTIFICATION OF THE CALENDAR YEAR 2012 AUDIT

WHEREAS, N.J.S.A. 40A: 5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the calendar year 2012 has been filed by a Registered Municipal Accountant with the Hoboken City Clerk pursuant to **N.J.S.A. 40A: 5-6**, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated **N.J.A.C. 5:30-6.5**, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to **N.J.A.C. 5:30-6.5**; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of **R.S. 52:27BB-52**, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, That the Hoboken City Council of the City of Hoboken hereby states that it has complied with **N.J.A.C. 5:30-6.5** and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

---Motion duly seconded by Councilwoman Giattino

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-519

---By Councilwoman Giattino

RESOLUTION RECEIVED CORRECTIVE ACTION PLAN FOR THE CY 2012 AUDIT

WHEREAS, the City of Hoboken has received its Audit for CY 2012 from the independent auditor Ferraioli, Wielkotz, Cerullo, & Cuva, and

WHEREAS, the State of New Jersey, Division of Local Government Services requires the Chief Financial Official and other City Officials to prepare a Corrective Action Plan for all recommendations reflected in the Annual Audit, and

WHEREAS, the State of New Jersey, Division of Local Government Services requires such Corrective Action Plan to be accepted by the Council of the City of Hoboken and filed with the Director of Local Government Services, and

WHEREAS, the Corrective Action Plan is attached hereto, and incorporated by reference.

NOW, THEREFORE BE IT RESOLVED that the above recitals are incorporated by reference as it's fully stated herein.

BE IT FURTHER RESOLVED by the Council of the City of Hoboken, in the County of Hudson, State of New Jersey, hereby requests the Director of the Division of Local Government Services to accept the Corrective Action Plan for the City of Hoboken CY 2012.

BE IT FURTHER RESOLVED, that the City Clerk forward two certified copies of this resolution with the Corrective Action Plan to the Director of Local Government Services for approval.

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

SECOND READING/PUBLIC HEARING AND FINAL VOTE

AN ORDINANCE TO AMEND CHAPTER 179A ENTITLED "TAXICABS" TO CLARIFY A RECENT AMENDMENT TO THE FARES (Z-259) (sponsored by Councilman Mello and Councilman Bhalla)
Council President the above ordinance will be tabled to the next ccm – November 18, 2013*****

AN ORDINANCE TO AMEND A RECENT AMENDMENT TO CHAPTER 190 ENTITLED "VEHICLES AND TRAFFIC" RELATING TO LOADING ZONES (Z-260)

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

President Cunningham moved that the hearing be closed.

---Motion duly seconded by Councilman Mello

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

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

---Nays: Russo

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

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti and President
Cunningham
---Nays: None.
---Absent: Russo

BOND ORDINANCE AUTHORIZING THE COMPLETION OF VARIOUS IMPROVEMENTS TO ELYSIAN PARK IN AND FOR THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF \$200,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS, BOND ANTICIPATION NOTES OR OTHER DEBT OBLIGATIONS OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$200,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING) (**Z-262**)

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

President Cunningham moved that the hearing be closed.

---Motion duly seconded by Councilwoman Giattino
---Adopted by the following vote: YEAS: 7 – NAYS: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti, and President
Cunningham.
---Nays: Russo

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

---Motion duly seconded by Councilman Bhalla
---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti and President
Cunningham
---Nays: None.
---Absent: Russo

BA Wiest comments and gives an overview of the bond ordinance which will take 20 years to pay back the \$200,000.00.

PUBLIC PORTION

All regular business concluded the following members of the public spoke at the “Public Portion” of the meeting: Patricia Waiters, Vic Zarish, Franz Paetzold, Robert Kohler, Tony Soares, Phil Cohen.

13-520

APPLICATION FOR MISCELLANEOUS LICENSES

Vendors-----2
Raffles-----1

---Councilwoman Giattino moved that the licenses be granted.
---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

13-521

CLAIMS

---By Councilwoman Giattino

Total for this agenda **\$4,400,224.10**

---Motion duly seconded by Councilman Mello
---Adopted by the following vote: YEAS: 7 – NAYS: 1 ABSENT: 1 - ABSTAIN: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti and President Cunningham
---Nays: Mason (13-14174 (Boswell Engineering))
---Absent: Russo
---Abstain: Mason 13-00129 (W & L), 13-03919 (W & L) , 13-00133 (W &L), 13-00140(MS&B), 12-04468 (12-04468)

13-522

PAYROLL

---By Councilwoman Giattino

For the two week period starting September 26, 2013 – October 9, 2013

Regular Payroll	O/T Pay	Other Pay
\$1,496,593.74	\$83,823.12	\$67,647.35

Total \$1,648,064.21

---Motion duly seconded by Councilman Mello
---Adopted by the following vote: YEAS: 7 – NAYS: 1 ABSENT: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti and President Cunningham
---Nays: Mason (O/T)
---Absent: Russo

PUBLIC PORTION ON RESOLUTIONS

Pulled from the agenda for discussion: 12, 19 & 20
Removed by Administration: 22

RESOLUTIONS(continued)

13-523

---By Councilwoman Giattino

RESOLUTION AUTHORIZING EXECUTION OF THE ATTACHED SETTLEMENT AGREEMENT IN THE MATTER OF MOLSKI V. CITY OF HOBOKEN AND PAYLOCK (HUD-L-1899-13)

WHEREAS, the City of Hoboken is currently involved in civil litigation known as Molski v. City of Hoboken and Paylock; and,

WHEREAS, a settlement of the matter has been negotiated by the City's legal counsel, which is attached hereto; and,

WHEREAS, the City finds the terms of the attached settlement agreement to be in the City's best interest, under the circumstances.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Hoboken, that the Mayor or her designee is hereby authorized to enter into the attached settlement agreement to resolve the matter known as Molski v. City of Hoboken and Paylock, and to take any action necessary to effectuate and realize the purpose and intent of this resolution. .

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-524

---By Councilman Bhalla

RESOLUTION AWARDING A CONTRACT TO HUDSON CHRYSLER JEEP DODGE TO PURCHASE A VEHICLE FOR THE HOBOKEN POLICE DEPARTMENT IN ACCORDANCE WITH N.J.S.A. 40A:11-5 IN A TOTAL AMOUNT OF \$22,414.00

WHEREAS, N.J.S.A. 40A:11-5 permits municipalities to award public contracts without public bidding for the purchase of special equipment for confidential investigations; and,

WHEREAS, the Hoboken Police Department seeks to purchase a vehicle for such purposes; and,

WHEREAS, pursuant to the recommendation of the Purchasing Department, which is attached hereto, the City wishes to contract for the goods specified pursuant to N.J.S.A. 40A:11-5; and,

WHEREAS, Hudson Chrysler Jeep Dodge has provided the City with a quotation August 29, 2013 for \$22,414.00 for the vehicle; and,

WHEREAS, the Hudson County Prosecutor's Office has granted an Attorney General bid waiver to purchase said vehicle; and,

WHEREAS, certification of funds is available as follows:

I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$22,414.00 is available in the following trust account T-23-56-850-801; and I further certify that this commitment together

with all previously-made commitments and payments does not exceed the funds available in said trust account for the CY2013; and I further certify that the funds available in said trust account are intended for the purpose herein committed.

Signed: _____, George DeStefano, CFO

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Hoboken that the below-listed vendor is authorized to provide the goods described in its August 29, 2013 quotation to the Hoboken Police Department, at cost not to exceed those listed in the quotation, and for a total not to exceed amount of Twenty-Two Thousand Four Hundred Fourteen Dollars (\$22,414.00), as follows:

1. The above recitals are incorporated herein as thought fully set forth at length.
2. The Council hereby authorizes the Mayor or her 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.
3. The Mayor or her designee is hereby authorized to execute an agreement, voucher and/or purchase order for the abovementioned goods and/or services based upon the following information:

Hudson Chrysler Jeep Dodge
625 Route 440
Jersey City, New Jersey 07304

---Motion duly seconded by Councilwoman Giattino

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-x525

---By Councilman Mello

RESOLUTION TO REFUND HANDICAPPED PARKING APPLICATION FEE TO APPLICANTS TAINSKY, LAUREANO, LUGO AND MONTALVO IN THE AMOUNT OF \$125.00 EACH

WHEREAS, The Subcommittee for Handicapped Parking denied approval;

NOW, THEREFOR, BEIT RESOLVED, by the Council of the City of Hoboken, that warrant be draw on the City Treasure to the order of the following sum opposite the name as reimbursement for handicapped parking fees:

NAME	ADDRESS	AMOUNT
Harriet Tainsky	89 Willow Avenue	\$125.00
Aracelis Laureano	455-9 th Street	\$125.00
Elizabeth Lugo	62 Washington Street	\$125.00
Jeremias Montalvo	62 Washington Street	\$125.00

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, Corporation Counsel, and the CFO for action, including a warrant for payment to the above mentioned individual, 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 Bhalla

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-526

---By Councilwoman Giattino

RESOLUTION TO REVOKE A CONTRACT TO PROCOMM SYSTEM INC. UNDER THEIR STATE CONTRACT NO. 83931 FOR WIRELESS 4.9 GHZ LICENSED MICROWAVE NETWORKING FOR THE FIRE DEPARTMENT ALERTING SYSTEM WHICH WAS ORIGINALLY AWARDED FOR A NOT TO EXCEED AMOUNT OF SIXTY SIX THOUSAND SIX HUNDRED SEVEN DOLLARS (\$66,607.00)

WHEREAS, service and goods for the Wireless 4.9 GHZ Micro Networking, when purchased through a state contract, are exempt from public bidding; and,

WHEREAS, the City originally awarded the contract to Procomm Systems Inc. in an amount of Sixty Six Thousand Six Hundred Eight Dollars (\$66,607.00), and thereafter was advised that additional work would be required above the state contractor's original quote in an amount exceeding 20% of the contract; and,

WHEREAS, the City now seeks to revoke the original contract awarded to Procomm Systems Inc., which has not yet been acted upon, in place of a contract with an appropriate state contractor based on a proposal which accurately reflects the services and goods necessary to complete the project, in light of the new circumstances known to the City.

NOW THEREFORE, BE IT RESOLVED, that a contract with Procomm Systems Inc. to provide the City with products, goods and services for wireless 4.9 GHz licensed microwave networking for the fire department alerting system with a not to exceed amount of **Sixty Six Thousand Six Hundred Eight Dollars (\$66,607.00)** is hereby revoked effective immediately; and

BE IT FURTHER RESOLVED, no payments shall be made to the vendor Procomm Systems Inc. under the revoked contract award, and the monies appropriated for this contract shall be reallocated within the appropriate budget lines; 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, Corporation Counsel, the Purchasing Agent, and the CFO 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 Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-527

---By Councilwoman Giattino

RESOLUTION TO REVOKE A CONTRACT TO PROCOMM SYSTEM INC. UNDER THEIR STATE CONTRACT NO. 83931 FOR WIRELESS 4.9 GHZ LICENSED MICROWAVE NETWORKING FOR THE FIRE DEPARTMENT ALERTING SYSTEM WHICH WAS ORIGINALLY AWARDED FOR A NOT TO EXCEED AMOUNT OF SIXTY SIX THOUSAND SIX HUNDRED SEVEN DOLLARS (\$66,607.00)

WHEREAS, service and goods for the Wireless 4.9 GHZ Micro Networking, when purchased through a state contract, are exempt from public bidding; and,

WHEREAS, the City originally awarded the contract to Procomm Systems Inc. in an amount of Sixty Six Thousand Six Hundred Eight Dollars (\$66,607.00), and thereafter was advised that additional work would be required above the state contractor's original quote in an amount exceeding 20% of the contract; and,

WHEREAS, the City now seeks to revoke the original contract awarded to Procomm Systems Inc., which has not yet been acted upon, in place of a contract with an appropriate state contractor based on a proposal which accurately reflects the services and goods necessary to complete the project, in light of the new circumstances known to the City.

NOW THEREFORE, BE IT RESOLVED, that a contract with Procomm Systems Inc. to provide the City with products, goods and services for wireless 4.9 GHZ licensed microwave networking for the fire department alerting system with a not to exceed amount of **Sixty Six Thousand Six Hundred Eight Dollars (\$66,607.00)** is hereby revoked effective immediately; and

BE IT FURTHER RESOLVED, no payments shall be made to the vendor Procomm Systems Inc. under the revoked contract award, and the monies appropriated for this contract shall be reallocated within the appropriate budget lines; 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, Corporation Counsel, the Purchasing Agent, and the CFO 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 Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

13-528

---By Councilwoman Giattino

CORRECTIVE RESOLUTION TO THE OCTOBER 17TH RESOLUTION AWARDING A CONTRACT TO REGGIO CONSTRUCTION INC. FOR THE PROVISIONS OF CY2013 ROAD PROGRAM IN ACCORDANCE WITH THE CITY'S BID NO. 13-12 IN THE TOTAL AMOUNT OF \$395,406.25 FOR BASE BID PLUS ALTERNATE A

WHEREAS, on October 17, 2013 a resolution was adopted by the Governing body entitled "Resolution awarding a contract to Reggio Construction Inc. for the provisions of CY2013 road program in accordance with the City's bid no. 13-12 in the total amount of \$395,406.25"; and,

WHEREAS, the resolution was found to have a clerical error in the vendor totals, in Reggio's base bid, which read "\$300,522.18" when it should have read "\$300,552.18"; and,

WHEREAS, the DOT has requested a formally adopted corrective resolution for their records, which the City wishes to comply with to ensure continued compliance with the City's grant obligations to the DOT; and,

WHEREAS, certification of funds is not required for this clerical correction, as the totals were all correct in the original resolution.

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

- A. This resolution clerically amends the ____ Whereas clause of the original October 17, 2013 resolution so that the Reggio Base Bid in the table is in the total amount of "\$300,552.18" instead of the original resolution's incorrect amount of "\$300,522.18"
- B. This resolution shall take effect immediately upon passage.

---Motion duly seconded by Councilman Mello
---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti and President Cunningham
---Nays: None.
---Absent: Russo

13-529

---By Councilwoman Giattino

RESOLUTION CANCELLING THE 2013/2014 REAL ESTATE TAXES ON BLOCK 12 LOTS 1, 7, 12-16, ALSO KNOWN AS THE BLOCK 12 PONTE EQUITY PROPERTY

WHEREAS, the City of Hoboken acquired the subject property by way of condemnation, which acquisition was recorded on October 8, 2013, and, therefore, the property should have been tax exempt prospectively from that date forward; and,

WHEREAS, the property still shows open taxes, based on the original assessment which should hereafter be cancelled; and,

WHEREAS, the Tax Collector's files still indicate that taxes are due for the tax periods 2013Q3, 2013Q4, 2014Q1 and 2014Q2, and the Tax Collector would like to cancel the erroneous charges in the total amount of \$23,929.72 (as further described in the attached spreadsheet).

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Hoboken, that the real estate tax balance on Block 12 Lots 1, 7, 12-16, also known as the Block 12 Ponte Equity Property (as further described in the attached spreadsheet) be cancelled in the total amount of \$23,929.72.

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 6 – NAYS: 0 - ABSENT: 1- ABSTAIN:1

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

---Nays: None.

---Absent: Russo

---Abstain: Castellano

13-530

---By Councilwoman Giattino

RESOLUTION AUTHORIZING EXECUTION OF THE ATTACHED RAIN GARDEN AGREEMENT BETWEEN THE CITY OF HOBOKEN AND THE COUNTY OF HUDSON

WHEREAS, the City of Hoboken is currently involved in installation and maintenance of a rain garden curb extension at Garden and 4th, which is county owned property; and,

WHEREAS, the Administration has worked with the county to ensure consent from the county for the placement of the rain garden on their property, subject to certain obligations on the part of the City, as more thoroughly defined in the attached agreement; and,

WHEREAS, the City finds the terms of the attached agreement to be in the City's best interest, under the circumstances.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Hoboken, that the Mayor or her designee is hereby authorized to enter into the attached agreement to effectuate the placement, installation and continuation of the rain garden curb extension at Garden and 4th, and to take any action necessary to effectuate and realize the purpose and intent of this resolution. .

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-531

---By Councilwoman Giattino

Inserting a Special Item of Revenue into the CY 2013 Municipal Budget

2013 SUSTAINABLE JERSEY GRANT CY 2013

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

WHEREAS, said Director may also approve the insertion of an item of Appropriation for an equal amount, and

WHEREAS, the City of Hoboken has received notice of an award of \$2,000.00 from NJLM Educational Foundation wishes to amend its CY 2013 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hoboken, in the County of Hudson, State of New Jersey, hereby requests the Director
Of the Division of Local Government Services to approve the insertion of an item of Revenue in the budget of the year CY 2013 in the sum of.....\$2,000.00
This is now available as revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated
With Prior Written Consent of the Director of the
Division of Local Government Services:
State and Federal Revenues Off-set with
Appropriations:
2013 Sustainable Jersey Grant

NOW, THEREFORE, BE IT RESOLVED that the like sum of: \$2,000.00
Be and the same is hereby appropriated under the caption of:
General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by
Revenues:
2013 Sustainable Jersey Grant
Other Expenses \$2,000.00

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

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-532

---By Councilwoman Giattino

Inserting a Special Item of Revenue into the CY 2013 Municipal Budget

ENERGY ALLOCATION INITIATIVE – CY 2013

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

WHEREAS, said Director may also approve the insertion of an item of Appropriation for an equal amount, and

WHEREAS, the City of Hoboken has received notice of an award of \$142,080.00 from the Office of the Attorney General to amend its CY 2013 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hoboken, in the County of Hudson, State of New Jersey, hereby requests the Director
Of the Division of Local Government Services to approve the insertion of an item of Revenue in the budget of the year CY 2013 in the sum of.....\$142,080.00
This is now available as revenue from:

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

NOW, THEREFORE, BE IT RESOLVED that the like sum of: \$142,080.00
Be and the same is hereby appropriated under the caption of:
General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by
Revenues:
Energy Allocation Initiative O/E
Other Expenses

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

---Motion duly seconded by Councilman Mello
---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti and President Cunningham
---Nays: None.
---Absent: Russo

13-533
---By Councilwoman Giattino

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GREEN ACRES PROGRAM

ENABLING RESOLUTION

WHEREAS, the New Jersey Department of Environmental Protection, Green Acres Program ("State"), provides loans and/or grants to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition and development of lands for outdoor recreation and conservation purposes; and

WHEREAS, the City of Hoboken desires to further the public interest by obtaining a loan of \$0.00 and a grant of \$900,000.00 from the State to fund the following project(s):

Hudson River Waterfront Reconstruction, Project No. 0905-10-045

NOW, THEREFORE, the governing body/board resolves that the Mayor or the successor to the office of the Mayor is hereby authorized to:

- (a) make application for such a loan and/or such a grant,
- (b) provide additional application information and furnish such documents as may be required,
- (c) act as the authorized correspondent of the above named applicant; and

WHEREAS, the State shall determine if the application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding award; and

WHEREAS, the applicant is willing to use the State's funds in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the State for the above named project;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, THAT:

1. The Mayor of the above named body or board is hereby authorized to execute an agreement and any amendment thereto with the State known as Hudson River Waterfront Reconstruction; and;
2. The applicant has its matching share of the project, if a match is required, in the amount of \$7,818,150.00 and,
3. In the event the State's funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project; and,
4. The applicant agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and,
5. This resolution shall take effect immediately.

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-534

---By Councilwoman Giattino

**Governor's Council on Alcoholism and Drug Abuse
Fiscal Grant Extension January 1, 2014 to June 30, 2014**

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The City Council of the City of Hoboken, County of Hudson, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and,

WHEREAS, The City of Hoboken was approved for a Municipal Alliance grant for the January 1, 2013 through December 31, 2013 grant term; and

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse has extended the 2013 grant term until June 30, 2014, in order to transition the grant to a fiscal year rather than calendar year cycle; and

WHEREAS, funding has been made available to the Hoboken Municipal Alliance in the amount of 50% of its approved 2013 grant total for the six-month extension period of January 1, 2014 to June 30, 2014, contingent upon meeting the 25% Cash Match and 75% In-Kind Match grant requirement for the extension funding.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the submission of the grant extension for the Hoboken Municipal Alliance grant in the amount of:

DEDR \$19,420.00
Cash Match \$4,855.00
In-Kind \$14,565.00

The City Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-535

---By Councilman Mello

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 **\$ 35,093.90**

<u>NAME</u>	<u>BL/LT/UNIT</u>	<u>PROPERTY</u>	<u>QTR/YEAR</u>	<u>AMOUNT</u>
Cortes & Hay, Inc 100 Main St Flemington, NJ 08822	18/30/C004G	78-88 Adams St	3/13	\$ 1,671.87
Cortes & Hay, Inc 100 Main St Flemington, NJ 08822	18/30/C0P11	78-88 Adams St	3/13	\$ 121.15
Herve Grosse & Olivia	60/3/C0004	405 Jefferson St	3/13	\$ 3,262.85

Jan

405 Jefferson St #4
Hoboken, NJ 07030

Cappello, Kajsa 84/14/C00G2 730-732 Adams St 3/13 \$ 161.30
734 Adams St #2A
Hoboken, NJ 07030

Hacker, Owen &
Harriet & Jordan 89/12/C0P47 501 Ninth St 3/13 \$ 496.66
501 Ninth St #207
Hoboken, NJ 07030

Coniglio, Joseph 91/1.02/CP024 812 Grand St 3/13 \$ 121.15
812 Grand St #204
Hoboken, NJ 07030

Dovenmuehle
Mortgage, Inc 115/9.01/C0P13 1317-27 Grand/
1216 St. Charles St 2nd Fl 1326 Clinton 3/13 \$ 121.15
Elgin, IL 60120

Wells Fargo
Home Mort. 216/18.03/C000C 61 Sixth St 2/13 \$ 3,028.12
MAC X2302-04D
1 Home Campus
Des Moines, IA 50328

All Jersey Title, LLC 247/15.02 1231 Bloomfield St 4/13 \$ 4,130.00
325 Bloomfield Ave
Caldwell, NJ 07006

All Jersey Title, LLC 247/15.03 1233 Bloomfield St 4/13 \$ 3,689.01
325 Bloomfield Avenue
Caldwell, NJ 07006

Chase 268.01/3/C008R 1500 Hudson St 2/12, 3/12,
P O Box 24695 4/12, 1/13,
Att: Tax Recovery Dept 2/13 & 3/13 \$18,290.64
CC #13602
OH4-7326
Columbus, OH 43224-9935

---Motion duly seconded by Councilwoman Giattino
---Adopted by the following vote: YEAS: 7 – NAYS: 0 - ABSENT: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti and President
Cunningham
---Nays: None.
---Absent: Russo

13-536

---By Councilwoman Giattino

RESOLUTION TO AUTHORIZE A CONSTRUCTION CONTRACT WITH SIGNATURE SITES LLC FOR THE CITY OF HOBOKEN FOR THE CHURCH SQUARE PARK CENTER AREA REPAIR, FOR A TOTAL NOT TO EXCEED AMOUNT OF \$31,625.00

WHEREAS, service to the City as a contractor is a service as defined by N.J.S.A. 40A:11-1 et seq. and as such, is not exempt from public bidding requirement, but may be exempt from bidding in favor of the quote system in the amount of the contract award is between \$5,400.00 and \$36,000.00; and,

WHEREAS, the City accepted three different bids from individual construction firms wishing to take on this project, and the quote of Signature Sites LLC was the lowest quote and was otherwise the quote in the best interest of the City's needs; and,

WHEREAS, the City of Hoboken seeks to award a contract to Signature Sites LLC for the construction of the Church Square Park Center Area Repair, with a not to exceed amount of Thirty One Thousand Six Hundred Twenty Five Dollars (\$31,625.00); and,

WHEREAS, *Signature Sites 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 the award and continuation of this contract are subject to continued compliance and may be terminated if the vendor is found to be noncompliant during the term of the contract; and,*

WHEREAS, certification of funds for this contract is available as follows:

I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$31,625.00 is available in the following appropriation account _____ in the CY2013 budget; and I further certify that this commitment together with all previously made commitments does not exceed the appropriation balance available for this purpose for the CY2013 budget; and I further certify that the funds being appropriate are intended for the purposes herein appropriated.

Signed: _____, George DeStefano, CFO

NOW THEREFORE, BE IT RESOLVED, that a contract with Signature Sites LLC to act as construction firm for the City's Church Square Park Center Area Repair project, in accordance with the scope of work detailed in their October 8, 2013 quote, attached hereto; the maximum term shall be two years from the date of award; and, the total not to exceed amount shall be Thirty One Thousand Six Hundred Twenty Five Dollars (\$31,625.00) which shall be paid incrementally per phase upon rendering of service within 45 days of receiving a valid invoice for services; 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 the contractor; 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 any change orders that become required as part of this contract shall be in compliance with all applicable state statutes, and shall be subject to the availability and proper appropriation of funds by the City, which shall be in the City's sole discretion with or without cause, and without the result of damages being assessed by the contractor; and,

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

---Motion duly seconded by Councilman Mello
---Adopted by the following vote: YEAS: 7 – NAYS: 0- ABSENT: 1
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti and President Cunningham
---Nays: None.
---Absent: Russo

13-537

---By Councilwoman Giattino

RESOLUTION AWARDING A CONTRACT TO EASTERN SURPLUS & EQUIPMENT CO. FOR THE PROVISION OF A CONVERTED M923A1 U.S. MILITARY VEHICLE IN ACCORDANCE WITH THE CITY'S BID NO. 13-15 IN THE TOTAL AMOUNT OF \$52,500.00

WHEREAS, the City received one proposal for Bid No. 13-15 M923A1 U.S. Military Truck for the provision of a converted military vehicle for the City's Office of Emergency Management; and

WHEREAS, the proposal received for Bid No. 13-15 M923A1 U.S. Military Truck was from Eastern Surplus & Equipment Co. in Philadelphia, Pennsylvania for \$52,500.00; and

WHEREAS, pursuant to the recommendation of the City's Purchasing Agent, which is attached, the City finds that Eastern Surplus & Equipment Co. submitted a responsive bid, and therefore, the City shall award the contract to Eastern Surplus Equipment Co., which provided the only and lowest RESPONSIVE bid; and

WHEREAS, certification of funds is available as follows:

I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$52,500.00 is available in the following appropriations: \$40,000.00 from C-04-60-713-305 and \$12,500.00 from 03-01-26-291-040 in the 2013 budget; 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 by the City Council of the City of Hoboken as follows:

A..This resolution awards a contract to Eastern Surplus & Equipment Co. Builders LLC for the Bid No. 13-15 M923A1 U.S. Military Truck, in the total amount of Fifty Two Thousand Five Hundred Dollars (\$52,500.00).

B.If the contract, as provided by the City of Hoboken, is not executed by the vendor within 21 days of award, whether due to the vendor's failure to provide the licensure and/or the sample, then this award shall lapse and the City of Hoboken shall have the right to rebid the project.

C. The contract shall be in accordance with the terms of the specifications and the vendor's corresponding bid proposal documents. No exceptions were noted in the City Purchasing Agent's recommendation; therefore, none will be accepted in performing obligations under the bid.

D. Any and all change orders which may become necessary under this contract shall be at the sole discretion of the City Council and shall be subject to the appropriation of necessary funds.

E. Pursuant to the provisions of N.J.S.A. 40A:11-14, the Mayor or her agent is hereby authorized to enter into an Agreement with the contractor, subject to the conditions of this award.

F. This resolution shall take effect immediately upon passage.

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0- ABSENT: 1

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

---Nays: None.

---Absent: Russo

13-538

---By Councilwoman Giattino

RESOLUTION AUTHORIZING THE USE OF THE FEE WAIVER PROVISIONS UNDER HOBOKEN CODE SECTION 86-3(H)(1) FOR AND ON BEHALF OF CHABAD OF HOBOKEN FOR ITS CONSTRUCTION FEES

WHEREAS, the City of Hoboken has allowed for construction fee waivers to certain organizations, pursuant to Hoboken Code § 86-3; and,

WHEREAS, construction fee waivers for space available under Code § 86-3(H)(1) have been requested by the Chabad of Hoboken, a nonprofit charitable organization servicing the religious needs of the Jewish community in Hoboken, for 80 Park Place in Hoboken, and a copy of said request is attached; and

WHEREAS, it is clear that the Chabad of Hoboken does not fall into the category of entities that are automatically granted a waiver under Code § 86-3(H)(1); however, the City wishes to provide it with the benefits of the waivers allowable under that section in an attempt to assist it in servicing the community, which ultimately benefits the general welfare of the City and its residents; and

NOW THEREFORE, BE IT RESOLVED the City Council of the City of Hoboken acknowledges that the Chabad of Hoboken does not fall into the category of development which is automatically granted a construction fee waiver under Hoboken Code § 86-3(H)(1); however, the City Council hereby extends the construction fee waivers allowable under Hoboken Code § 86-3(H)(1) to the Chabad of Hoboken for 80 Park Place, given the nonprofit charitable status of the organization and the benefits the organization confers on the Hoboken community.

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

---Motion duly seconded by Councilman Mello

---Adopted by the following vote: YEAS: 7 – NAYS: 0- ABSENT: 1

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

---Nays: None.

---Absent: Russo

ORDINANCES (continued)

Introduction and First Reading

13-539
Z-265

AN ORDINANCE TO AMEND AND SUPPLEMENT AN ORDINANCE ESTABLISHING A SCHEDULE OF CLASSIFICATIONS AND ALLOCATIONS OF TITLE FOR THE MENTIONED POSITIONS IN THE CITY OF HOBOKEN

THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN DO ORDAIN AS FOLLOWS;

1. The Alphabetical List of Titles, City of Hoboken, set forth in City Code to which this Ordinance is an amendment and supplement shall be, and the same is hereby, amended and supplemented so that the titles, salaries and ranges contained herein shall be amended as follows on the attached list, which is incorporated by reference. The remainder of the Alphabetical List of Titles, City of Hoboken, set forth in the City Code shall remain unchanged as a result of this Ordinance.
2. If the Alphabetical List of Titles, City of Hoboken, herein set forth contains any position or positions which are not enumerated in the Plan for the Standardization of Municipal Class Titles, which is a part of the Code to which this Ordinance is an amendment, then in that event, the duties of the said position or positions shall be those which pertain to the particular position and positions set forth in any other ordinance adopted and now in force and effect in any statute of the State of New Jersey.
3. The provisions of this Ordinance shall in no way affect the tenure or Civil Service status of any employees presently employed by the City of Hoboken in any of the various positions set forth in the Alphabetical List of Titles, City of Hoboken.
4. The Alphabetical List of Titles referred to herein as well as the salary ranges for all positions in the City shall be on file in the Office of the City Clerk.
5. All ordinances or parts of ordinances inconsistent herewith are herewith repealed.
6. This ordinance shall take effect as provided by 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 **November 18, 2013** at 7:00 PM.

---Motion duly seconded by Councilman

---Adopted by the following vote: YEAS: 6-- NAYS: 1 -ABSENT: 1

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

---Nays: Castellano

---Absent: Russo

13-540
Z-266

AN ORDINANCE TO AMEND CHAPTER 140 TO ACCOUNT FOR SURFACE PARKING LOTS WITH MONTHLY PARKING

WHEREAS, the City has established Chapter 140 which deals with publicly owned surface parking lots for metered parking; however, due to the acquisition of Block 12, the City wishes to incorporate regulations for publicly owned surface parking lots with monthly parking permits.

NOW, THEREFORE, the City Council of the City of Hoboken does hereby ordain as follows (additions noted in underline, deletions noted in strikethrough):

SECTION ONE: Amendments

CHAPTER 140 SURFACE PARKING LOTS

ARTICLE I General Provisions (§ 140-1 — § 140-8.1)

§ 140-1 Definitions.

A. Word usage. Whenever any words and phrases are used in this article, the meaning respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey shall be deemed to apply to such words and phrases used herein.

B. Terms defined. As used in this article, the following terms shall have the meanings indicated:

PARKING METER

Includes any mechanical device or meter not inconsistent with this article placed or erected for the regulation of parking by authority of this article. Each "parking meter" installed shall indicate by proper legend the legal parking time established by the City and, when operated, shall at all times indicate the balance of legal parking time and, at the expiration of such period, shall indicate illegal or overtime parking.

PARKING METER BAG

A cover affixed by the parking utility to indicate the rental of a parking space by a resident or local business, referred to as the licensee.

PARKING METER SPACE

A space within a parking meter zone, adjacent to a parking meter and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street, road or parking lot adjacent to a street or road and adjacent to or adjoining the parking meters.

PARKING METER ZONE

Includes any restricted street or parking lot contiguous to a street or road upon which parking meters are installed and in operation.

PUBLIC PARKING LOT

Includes all ~~areas, lots or facilities~~ surface parking lot facilities owned, operated or conducted by the Parking Authority Utility of the City of Hoboken and used or devoted to public parking.

PERMIT PARKING AREA

Any public parking lot which does not constitute a parking meter zone shall be labeled as a "permit parking area" and shall be subject to monthly fees and rates as described herein.

§ 140-2 Parking Meter zones and periods established; signs.

The Director of the Department of Law, Division of Public Safety, of the City of Hoboken is hereby authorized to establish, immediately, zones to be known as "parking meter zones" in and upon the parking area hereinafter described, where parking will be permitted for periods not exceeding 360 minutes on the following described area in the City of Hoboken:

A. All that certain lot, tract or parcel of land and premises, situate, lying and being in the City of Hoboken, County of Hudson, and State of New Jersey, and known and designated as "351-353 Fourth Street, Block 52, Lot 21"; "355 Fourth Street, Block 52, Lot 20"; and "357 Fourth Street, Block 52, Lot 19."

B. The ingress and egress as the same exists for said parking lot is shown on a plan of the parking area above described, which is annexed hereto and made a part hereof.

C. Signs shall be posted at the aforesaid entrances and exits clearly marked, and the pavement portion thereof shall also indicate clearly thereon whether it is an exit or an entrance with an arrow designating the direction in which traffic may move onto or off of said parking area.

§ 140-4 Operation of parking meters zones and permit parking areas.

A. It shall be unlawful for any person to park, permit a vehicle to be parked or remain in said parking lot with a sticker, sign or permit cover for any meter not issued by the Authority for the specifically parked vehicle.

B. It shall be unlawful for any person to deposit or cause to be deposited in any parking meter in said area any slug, device or metallic substitute for a proper coin of the United States.

C.

No truck having a gross weight of two tons shall park in or use any public parking lot, owned, operated or maintained by said Authority.

D. No truck, tractor or trailer or vehicle moved by human or animal power shall park in or use any such parking area owned, operated or maintained by said Authority.

E.

No car shall be parked in said area when it does not fit between the lines designated as a single parking meter unit, or shall any vehicle be parked thereon which requires more than one parking meter space.

F. No vehicle, not equipped with pneumatic tires properly inflated, shall park in or use any parking area, owned, operated or maintained by said Authority.

G. It shall be unlawful for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this chapter.

H. When any vehicle shall be parked in any space adjacent to where a parking meter is located in accordance with the provisions of this chapter, the operator of said vehicle shall, upon entering said parking space, immediately deposit or cause to be deposited a ten-cent coin of the United States of America in such parking meter for a time not to exceed 60 minutes, or deposit or cause to be deposited a twenty-five-cent coin of the United States of America in such parking meter not to exceed 360 minutes, in accordance with directions properly appearing thereon, and shall not permit such vehicle to be parked in such zone beyond two such consecutive sixty-minute period, or the three-hundred-sixty-minute period. Failure to move said vehicle from said parking area after the expiration of a one-hundred-twenty-minute period, or after the expiration of the three-hundred-sixty-minute period, shall subject such persons to the

penalty prescribed in § 140-7B of this chapter. The use of said parking zone is restricted to the use by any parked vehicle therein to 120 minutes, or the 360 minutes, without any right to redeposit another coin in such meter for any additional period of time; after which period, such car must be moved by the operator thereof. Notice of said restriction shall be affixed prominently to each parking area when such restriction is in effect. In the event that any operator shall fail to move his vehicle after the expiration of the said one-hundred-twenty-minute period, or the three-hundred-sixty-minute period, said vehicle shall be deemed to be illegally parked within said parking zone and may be taken into possession by the City of Hoboken and towed to some proper storage place designated by the Division of Public Safety. The owner shall pay the reasonable costs of the removal and storage charges before regaining possession of said vehicle. The City of Hoboken, its agents, servants or employees shall not be responsible or liable in any manner for damages incurred in the towing, storage, possession or disposition of such vehicle.

§ 140-6 Collections.

The Parking Authority Utility of the City of Hoboken shall receive all of the ~~coins~~ monies which may have been deposited in said meters, or collected in exchange for said permits, and such collections shall be under the supervision of said Authority Utility.

The Director of the Division of Parking and Transportation shall set universal fees and/or rates for each public parking lot governed by this Chapter. The Director shall have the authority and discretion to change said rates on a monthly basis, but not more often.

****THE REMAINDER OF CHAPTER 140 SHALL REMAIN UNCHANGED****

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

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

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not 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 immediately 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 **November 18, 2013** at 7:00 PM.

---Motion duly seconded by Councilman
Adopted by the following vote: YEAS: 6 – NAYS: 1 - ABSENT: 1
YEAS: Council persons Bhalla, Giattino, Mason, Mello, Occhipinti and President Cunningham
NAYS: Castellano
ABSENT: Russo

13-541
Z-267

AN ORDINANCE AMENDING CHAPTER 190 ENTITLED "VEHICLES AND TRAFFIC" TO ADD PARALLEL PARKING REGULATIONS RELATING TO MADISON STREET

RELATING TO MADISON STREET

WHEREAS, Chapter 190 of the General Code of the City of Hoboken establishes the rules and regulations associated with parking permits within City borders; and,

WHEREAS, the municipality has found that specific sections of Chapter 190 currently requires amendments in order to best effectuate parking in the City; and,

WHEREAS, the City Council wishes to more closely align the City's actual parking practices with the best practices for parking and transportation as they relate to the East Side of Madison Street between 11th and 12th Streets.

NOW, THEREFORE, the City Council of the City of Hoboken does hereby Ordain as follows (additions noted in underline, deletions noted in strikethrough):

SECTION ONE: AMENDMENTS TO HOBOKEN CODE CHAPTER 190

§ 190-3. Parking prohibited at all times.

In accordance with the provisions of this § 190-3, no person shall park a vehicle at any time upon the following streets or portion thereof except for the pickup and drop off of passengers, in accordance with N.J.S.A. 39:4-139:

Name of Street	Sides	Location
<u>Madison Street</u>	<u>East</u>	<u>Beginning at the southerly curblin of Eleventh Twelfth Street and extending to the northerly curblin of Fifteenth Street</u>

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

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

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not 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 immediately 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 **November 18, 2013** at 7:00 PM.

---Motion duly seconded by Councilman

---Adopted by the following vote: YEAS: 7 – NAYS: 0 -ABSENT: 1

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

---Nays: None.

---Absent: Russo

NEW BUSINESS

Councilman Occhipinti comments on the election.

Councilman Mello comments and gives condolences to the Roberts family

Councilwoman Giattino comments on the bus stop moved to Stevens from the Babbio Center on River Terrace

Director Morgan comments and will work on it this week and run a pilot for 90 days

Councilwoman Castellano comments on the two (2) losses from the police officer and Anna Roberts

Councilwoman Mason comments on the loss of Anna Roberts and how she was on the Library Board

Councilwoman Mason comments on the bicycles on the sidewalks around the city

Council President comments on the bicycles that have a motor and would like Director Tooke to look into this matter

Director Tooke comments and will look into this matter

Councilwoman Mason comments on the issue of the Open Public Meetings Act (OPMA) and also about on how a dedication for a plaque for someone recognized on a city bench

Councilman Bhalla comments on the loss of Anna Roberts and Officer Chohan and suffered the same illness and both were assets to the community

Councilman Bhalla comments on the election

Council President comments on the election

Councilwoman Castellano comments on looking on changing the City Council meeting for January 1, 2014.

At 9:03 P.M. the Governing Body on a motion by Councilman Mello duly seconded by the Council

Council President Cunningham then adjourned the meeting at 9:03 P.M.

PRESIDENT OF THE COUNCIL

CITY CLERK