

**MEETING OF SEPTEMBER 17, 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, SEPTEMBER 17, 2013 AT 7:00 PM**

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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.

Then the Clerk called the Roll: Council persons Bhalla, Castellano Giattino, Mason, Mello, Occhipinti and President Cunningham.

ABSENT: Russo

Councilwoman Mason comments and disagrees and believes that this meeting is not properly noticed  
Council President comments on the 9/11 ceremony which passed last week.  
Council President comments and would like to suspend the agenda and let Diane, Municipal Union President speak on behalf of the union.  
Council President comments and gives an overview of the meeting this evening and asks Special Counsel to give an overview of the Ordinance and resolution.

**ORDINANCES**

**Introduction and First Reading**

**13-445**  
**Z-253**

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**, 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:

**SECTION ONE: AMENDMENT**

**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 ~~struck through~~, additions to the current ordinance are noted in underline.

**Comment [MFH1]:** To be discussed, per R. Quinn comment, 9/10/13 – citation/reference to specific rule permitting use of Prelim. Work Map zone/elevations?

## 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.

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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 + 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 VQ 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 known as V-Zones.

**DEVELOPMENT**

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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 Area of Special Flood Hazard, 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 Area of Special Flood Hazard "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 Coastal 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.

#### **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:

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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.

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#### **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.

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#### **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 it's 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.

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**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 Official~~Floodplain 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 Official~~Floodplain 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 Official~~Floodplain 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 Official~~Floodplain 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.

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(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 Appeals~~Planning 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 Appeals~~Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the ~~Construction Official~~Floodplain Administrator in the enforcement or administration of this chapter.

(3) Those aggrieved by the decision of the ~~Construction Board of Appeals~~Planning 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 Appeals~~Planning 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~~Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

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

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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~~ 10,000 square feet 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~~ 10,000 square feet, the technical justification required for issuing the variance increases.

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(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.

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(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, ~~E~~lectrical, 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.

<b><u>FREEBOARD REQUIREMENTS FOR AREAS OF SPECIAL FLOOD HAZARD</u></b>				
<b><u>Building Type</u></b>	<b><u>Zones</u></b>			
	<b><u>X</u></b>	<b><u>A</u></b>	<b><u>Coastal A</u></b>	<b><u>V</u></b>
<b><u>Residential structures</u></b>	<b><u>+1'</u></b>	<b><u>+1'</u></b>	<b><u>+1'</u></b>	<b><u>+2'</u></b>
<b><u>Building and other structures with school or day-care facilities; and other non-residential structures not itemized below</u></b>	<b><u>+1'</u></b>	<b><u>+1'</u></b>	<b><u>+2'</u></b>	<b><u>+2'</u></b>

<u>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</u>	<u>+1'</u>	<u>+2'</u>	<u>+2'</u>	<u>+3'</u>
<u>Buildings and other facilities that manufacture, process, handle, store, use, or dispose of hazardous materials</u>	<u>+1'</u>	<u>+2'</u>	<u>+2'</u>	<u>+3'</u>
<u>Temporary structures</u>	<u>n/a</u>	<u>+1'</u>	<u>+2'</u>	<u>n/a</u>

F. Fill.

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

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§ 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.

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B. Non-residential and Mixed Use construction.

(+)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;

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(1) eElevated 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;

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(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, eElevated 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 ~~level~~elevation 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 are 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

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(1) All buildings or structures shall be located landward of the reach of the mean high tide.

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(2) No structures shall be located on piers or platforms projecting into or over the Hudson River or Weehawken Cove.

#### B. Construction methods

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(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.

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#### (2) Structural support

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

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(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).

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#### C. Space below the lowest floor

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(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 points 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 floor; 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.

## **SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS**

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

**SECTION THREE: SEVERABILITY**

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

**SECTION FOUR: EFFECTIVE DATE**

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

**SECTION FIVE: CODIFICATION**

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

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

President Cunningham moved that the ordinance pass its first reading as read and be laid of the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **October 2, 2013** at 7:00 PM.

---Motion duly seconded 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 Maraziti comments and gives an overview to the Governing Body

Ann Holtzman comments

Councilwoman Mason comments

Director Forbes comments that there will be a public meeting

Councilwoman Castellano comments and would like the Planning Board to reach out to the public and publicized greatly

**RESOLUTIONS**

**13-446**

**RESOLUTION OF THE CITY OF HOBOKEN, COUNTY OF HUDSON REFERRING AN ORDINANCE TO AMEND CHAPTER 104 OF THE MUNICIPAL CODE TO THE PLANNING BOARD OF THE CITY OF HOBOKEN**

**WHEREAS**, the City Council of the City of Hoboken (“Hoboken”) proposes to adopt an ordinance to amend Chapter 104 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 an 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 of 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 104 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.

---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

#### **PUBLIC COMMENTS**

The speakers who spoke: Patricia Waiters comments on Ordinances #2, 3, & 4

#### **SECOND READING/PUBLIC HEARING AND FINAL VOTE**

BOND ORDINANCE AUTHORIZING THE REHABILITATION AND RECONSTRUCITON OF PIER “A” IN THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF \$2,500,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, IN THE AGGREGATE AMOUNT OF UP TO \$2,375,000; MAKING CERTAIN DETERMINATIONS AND CONVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTIONS WITH THE FOREGOING **(Z-235)**  
**(Carried to the October 2, 2013 city council meeting)**

AN ORDINANCE TO AMEND CHAPTER 190 ENTITLED “VEHICLES AND TRAFFIC” TO AMEND PARKING REGULATIONS RELATING TO PARKING PROHIBITION AND ANGLE PARKING **Z-250)**

---Motion duly seconded by Councilman Mello

---**TABLED** by the following vote: YEAS: 5 NAYS: 2 - ABSENT: 1

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

---Nays: Castellano, Occhipinti

---Absent: Russo

Council President comments

Director John Morgan comments and gives an overview of (Z-250)

Councilwoman Giattino comments  
Councilman Mello comments  
Patricia Waiters comments  
Councilman Mello comments  
Robert Fuller comments  
Council President comments  
Councilman Mello comments  
Councilman Occhipinti comments  
Director John Morgan comments  
Councilman Occhipinti comments  
Councilman Mello comments  
Adam Gibson , P.E. (FL, TX) comments  
Robert Kohler comments  
Director Morgan comments  
Councilwoman Castellano comments  
Councilwoman Mason comments to table to the next meeting  
Councilwoman Giattino comments  
Director John Morgan comments  
Council President comments and would consider to table this also and continue this study to gather more data  
Council President comments and would like to know if the Governing Body can pass a resolution  
Councilman Mello comments and put a sunset provision (clause) to the ordinance  
Councilman Mello motions to table and seconded by Councilman Bhalla  
Councilman Bhalla comments and requests a memo from Corporation Counsel

**“RESPONSIBLE” BIDDER ORDINANCE (~~Z-251~~)  
(PULLED BY THE GOVERNING BODY AND TO BE PLACED ON FIRST READING)**

AN ORDINANCE OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, APPROPRIATING THE SUM OF \$400,000 IN FUNDS REPRESENTING THE PROCEEDS OF A GREEN ACRES GRANT FROM THE CAPITAL FUND FOR THE COMPLETION OF VARIOUS IMPROVEMENTS TO ELYSIAN PARK (~~Z-252~~)

---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

**“PUBLIC PORTION”**

The speakers who spoke: Carmelo Garcia, Sigby Chatham, Robert Kohler, Joe and Kevin Mindak, Dan Tumpson, Mary Ondrejka, Perry Belfiore, Barbara Reyes, Margie Biart, Joseph Branco.

Councilman Occhipinti has left the table at 8:44 PM  
Councilman Occhipinti has returned to the table at 8:51 PM

Deborah Morrissette comments

Councilman Bhalla has left the table at 8:52 PM

Councilman Bhalla has returned to the table at 8:55 PM

Councilwoman Castellano has left the table at 9:32 PM

Councilwoman Castellano has returned to the table at 9:36 PM

**13-447**

**APPLICATION FOR MISCELLANEOUS LICENSES**

Raffles-----2 items  
Taxi Drivers-----12 items  
Taxi Owners-----6 items

---Councilwoman Giattano moved that the licenses be granted.  
---Adopted by the following vote: YEAS: 6 – NAYS: 0 -ABSENT: 2  
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello, Occhipinti, and President Cunningham  
---Nays: None.  
---Absent: Castellano, Russo.

**13-448**

A report from the Municipal Tax Collector Sharon Curran for taxes collected for the month of August 2013  
**\$22,895,276.50 (Abatement Totals – \$9,707.10)**

Received and Filed.

**13-449**

A report from Municipal Court indicating receipts for the month of August 2013 as **\$426,064.61**

Received and Filed.

**13-450**

---By Councilwoman Giattino

**CLAIMS**

Total for this agenda **\$2,544,862.54**

---Motion duly seconded by Councilman Bhalla  
---Adopted by the following vote: YEAS: 6 – NAYS: 3 - ABSENT: 1 -ABSTAIN: 1  
---Yeas: Council persons Bhalla, Castellano, Giattino, Mason, Mello and President Cunningham  
---Nays: Castellano (13-03452) , Mason 13-03452, 13-02288, 13-02747, 13-02802, 12-02516, and Occhipinti  
---Absent: Russo  
---Abstain: Mason 13-03293, 13-00142

Councilwoman Mason comments on 12-04129 – Arch Liston for a legal case Invoice #3 for \$1,250.00 and questions \$2,000.00 13-02842 Oscar’s Automatic Transmission – repair medical trans. #437

Councilwoman Mason comments on 13-03578 – County of Hudson – 2013 Pymnt on 2003-2011 PILOTS for \$202,519.25

Councilwoman Giattino comments on Liberty Humane

Councilman Occhipinti comments and wants to know 13-03452 for Fall 2013 Newsletter postage - \$4,400.00 and also on 13-03575 Boswell Engineering – 2012 Road Program thru 8/9/13 for \$30,939.50

**13-451**

---By Councilwoman Giattino

**PAYROLL**

For the two week period starting August 15, 2013 – August 28, 2013

Regular Payroll	O/T Pay	Other Pay
\$1,493,318.32	\$77,593.11	\$75,936.14

Total \$1,646,847.57

---Motion duly seconded by Councilman Bhalla

---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

**CONSENT AGENDA – 3, 4-9 & 11**

Pulled from the agenda for discussion: 2 & 10 Removed by Administration:

**RESOLUTIONS (cont'd**

**13-452**

---By Councilwoman Giattino

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOBOKEN,  
COUNTY OF HUDSON, NEW JERSEY AUTHORIZING THE PREPARATION  
AND SUBMISSION OF AN APPLICATION TO THE LOCAL FINANCE BOARD  
PURSUANT TO N.J.S.A. 40A:3-1, ET. SEQ.**

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**BACKGROUND**

**WHEREAS**, in accordance with the provisions of the New Jersey Municipal Qualified Bond Act (*N.J.S.A. 40A:3-1, et seq.*) ("Municipal Qualified Bond Act"), the City Council of the City of Hoboken, County of Hudson, New Jersey ("City"), desires to make application to the New Jersey Local Finance Board for its review and/or approval for the final adoption of a refunding bond ordinance and the issuance by the City of its general obligation refunding bonds in an amount not to exceed \$14,000,000 ("Refunding Bonds"), which Refunding Bonds shall be entitled to the benefits of the Municipal Qualified Bond Act; and

**WHEREAS**, the City believes:

- (a) it is in the public interest to accomplish such purpose;

- (b) said purpose or improvements are for health, welfare, convenience or betterment of the inhabitants of the City;
- (c) the amounts to be expended for said purpose or improvements are not unreasonable or exorbitant; and
- (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the City and will not create an undue financial burden to be placed upon the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, AS FOLLOWS:**

**Section 1.** The application to the Local Finance Board is hereby approved, and the City's Bond Counsel, Corporation Counsel, Financial Advisor and Auditor, along with other representatives of the City, are hereby authorized to prepare such application and to represent the City in matters pertaining thereto.

**Section 2.** A copy of this resolution shall be prepared and filed with the Local Finance Board as part of such application.

**Section 3.** The Local Finance Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approvals as provided by the applicable New Jersey law.

The speaker who spoke: NW Financial representative Brian Morris.

---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

**13-453**

---By Councilwoman Giattino

**THIS RESOLUTION AMENDS THE CONTRACT AWARD TO STANS SPORT CENTER INC. THROUGH ITS STATE OF NEW JERSEY CONTRACT NUMBER 81164 FOR SPORTING GOODS AND SPORTING SUPPLIES FOR THE HOBOKEN RECREATION DEPARTMENT IN AN INCREASED AMOUNT NOT TO EXCEED ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000.00) FOR A TOTAL CONTRACT AWARD OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00)**

**WHEREAS**, N.J.S.A. 40A:11-5 allows municipalities to award public contracts without public bidding when the vendor is an approved state contractor, and Stan's Sport Center Inc. has been approved as a State Contractor pursuant to Contract Number 81164 and,

**WHEREAS**, the City of Hoboken's Recreation Department is in continuing need of sporting goods and sporting supplies, for which goods Stan's Sport Center Inc. previously contracted with the City to provide the contractual rates it has with the State; and,

**WHEREAS**, the funds are available for this contract, in an increased amount not to exceed one hundred thirty thousand (\$130,000.00) dollars for CY2013.

WHEREAS, certification of funds is available as follows:

**I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$1300,000.00 is available in the following appropriation 3-01-28-370-020 in the CY2013 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 that the below listed vendor is authorized to provide sporting goods and sports equipment for a one year period, to commence January 1, 2013 and terminate December 31, 2013, at individual costs of goods which do not exceed those listed in its contract with the State of New Jersey, and for an increased not to exceed amount of one hundred thirty thousand dollars (\$130,000.00), for a total not to exceed amount of one hundred fifty thousand (\$150,000.00) dollars, 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 for the above references goods and/or services based upon the following information:

Stan's Sport Center Inc.  
(State of New Jersey Contract 81164)

---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

#### **13-454**

---By Councilman Mello

#### **Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Hudson Place and Hudson Street Intersection Improvements project**

NOW, THEREFORE BE IT RESOLVED, that the Council of the City of Hoboken formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as SST-2014-Hoboken City-00067 to the New Jersey Department of Transportation on behalf of the City of Hoboken.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the City of Hoboken, and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

---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

**13-455**

---By Councilman Mello

**Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Improvements to Various Streets FY 2014 project**

NOW, THEREFORE BE IT RESOLVED, that the Council of the City of Hoboken formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2014-Hoboken City-00391 to the New Jersey Department of Transportation on behalf of the City of Hoboken.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the City of Hoboken, and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

---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

**13-456**

---By Councilwoman Giattino

**THIS RESOLUTION RESCINDS THE AWARD OF A CONTRACT TO SECURE WATCH 24 IN RESOLUTION NO. 3 OF MARCH 6, 2013, FOR ALPR SYSTEMS FOR THE CITY IN ACCORDANCE WITH THE SPECIFICATIONS IN OPTION 2 OF BID NUMBER 13-01.**

**WHEREAS**, on March 6, 2013, by way of Resolution Number 3, the City awarded a contract to Secure Watch 24 for the purchase of two (2) ALPR systems in accordance with the specifications in Option 2 of Bid No. 13-01; and,

**WHEREAS**, the City has determined that it wishes to utilize Option 1 of Bid No. 13.01, and utilize its own third party financier for the lease and financing of the equipment; and,

**WHEREAS**, as a result of the change in circumstances, and the new direction the City wishes to pursue, the provisions called for in Option 2 of Bid No. 13-01 are no longer appropriate or necessary; and,

**WHEREAS**, the City Council hereby rescinds the award of said contract and directs the Administration to take the appropriate action to effectuate this rescission.

**NOW THEREFORE BE IT RESOLVED as follows:**

- A. This resolution rescinds the award of a contract in accordance with Option 2 of Bid No. 13-01 to Secure Watch 24 which was authorized by the City Council's Resolution #3 of March 3, 2013, for the reasons stated herein; and,
- B. The City Council requests the Administration to take the appropriate action to effectuate this

Resolution, and to take whatever additional action is necessary to reap the benefits of of the use of a third party leasing company as chosen by the City; and,

C. This resolution shall take effect immediately upon passage.

---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

**13-457**

---By Councilwoman Giattino

**RESOLUTION AUTHORIZING THE CLOSURE OF A BANK ACCOUNT AT THE RECOMMENDATION OF THE DEPARTMENT OF REVENUE AND FINANCE**

**WHEREAS**, The Department of Revenue and Finance of the City of Hoboken has recommended the closure of the following Bank Account which has been dormant:

City of Hoboken TD Bank Federal & State Grants #398-2549628

**NOW, THEREFORE, BE IT RESOLVED**, that the Department of Revenue & Finance be and is hereby authorized to close the aforementioned bank account and to execute any and all documents necessary for the closure of said accounts; and, be it further

**RESOLVED**, that the TD Bank, which administers the accounts noted above shall be furnished with a certified copy of this resolution.

---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

**13-458**

---By Councilwoman Giattino

**REVISED RESOLUTION AUTHORIZING VARIOUS CITY DEPARTMENTS TO MAINTAIN PETTY CASH AND CHANGE FUNDS**

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

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

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Hoboken, County of Hudson, State of New Jersey that the following petty cash and change funds be and are hereby authorized for use during the CY 2013:

<u>Department</u>	<u>Amount Use</u>	<u>Custodian</u>
Construction Code	\$100.00 Change Fund	Construction Code Official
Fire Department	\$300.00 Miscellaneous	Fire Chief
Tax Collector	\$300.00 Change Fund	Tax Collector

---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

**13-459**

---By Councilman Mello

**RESOLUTION AWARDING A CONTRACT TO SECURE WATCH 24 FOR THE PURCHASE OF TWO (2) AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS WITH AUTOMATIC CHALKING IN ACCORDANCE WITH THE CITY'S OPTION ONE OF BID NO. 13-01 IN THE TOTAL AMOUNT OF \$141,120.00**

**WHEREAS**, proposals were received for Bid Number 13-01 for the purchase of two (2) ALPR's with automatic chalking; and,

**WHEREAS**, one (1) bid proposal was received in good stead, which was considered responsible and responsive:

<u>VENDOR</u>	<u>TOTAL AMOUNT PROPOSED (OPTION ONE)</u>
Secure Watch 24 One Penn Plaza New York, NY 10119	\$141,120.00

**WHEREAS**, pursuant to the recommendation of the Purchasing Department (attached hereto) the City wishes to contract for the goods specified in Option One of Bid No. 13-01, and Secure Watch 24 submitted a responsible, and responsive bid in the amount of \$141,120.00; and,

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

**I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$141,120.00 will become available for payment to the vendor upon closing on the Lease Purchase Agreement between the City of Hoboken and Global Strategic LLC, which is scheduled for November 1, 2013, and failure to close the underlying lease on or before November 1, 2013 shall revoke this certification; 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 purchase contract to Secure Watch 24 for Option One of Bid No. 13-01, in the total amount of One Hundred Forty One Thousand One Hundred Twenty Dollars (\$141,120.00).
- B. This contract award is subject to the condition precedent that the underlying Lease Purchase Agreement between the City of Hoboken and Global Strategic LLC be executed and closed, on or before November 1, 2013; failure of the parties to meet this condition precedent shall terminate this award, without fault on the part of the City or Secure Watch 24.
- C. If the contract, as provided by the City of Hoboken, is not executed by the vendor within 21 days of closing of the underlying Lease Purchase Agreement between Global Solutions LLC and the City of Hoboken, then this award shall lapse and the City of Hoboken shall have the right to rebid the project.
- D. 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 Purchasing Agent's recommendation; therefore, none will be accepted in performing obligations under the bid.
- E. Pursuant to the provisions of N.J.S.A. 40A:11-11(5), the Mayor or her agent is hereby authorized to enter into an Agreement with Foley for said purchase and sale.
- F. This resolution shall take effect immediately upon passage.

---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

**13-460**

---By Councilman Mello

**RESOLUTION OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, CONFIRMING THE AWARD OF THE CITY'S LEASE PURCHASE FINANCING FOR THE ACQUISITION OF CAPITAL EQUIPMENT FOR THE CITY'S DEPARTMENT OF TRANSPORTATION AND PARKING; PRESCRIBING THE FORM OF SAID LEASE PURCHASE AGREEMENT; SETTING FORTH CERTAIN COVENANTS AS TO THE USE OF THE PROCEEDS OF SAID LEASE FINANCING; AND TAKING CERTAIN ACTIONS RELATED THERETO**

---

**BACKGROUND**

**WHEREAS**, the City of Hoboken, New Jersey ("City"), has, after much research and investigation, determined to acquire two automatic license plate reading systems for use by the City's Department of Transportation and Parking (collectively, the "Project"); and

**WHEREAS**, the City is authorized by law, including, *inter alia*, N.J.S.A. 40A:11-1 *et seq.* and the related regulations promulgated thereunder, as each may be amended and supplemented on the date hereof (collectively, the "Governing Law"), to acquire equipment by lease purchase; and

**WHEREAS**, pursuant to and in accordance with the Governing Law, the City has heretofore determined to undertake the acquisition of the Project through an equipment lease purchase transaction with a principal cost not to exceed \$141,120 ("Lease Financing"); and

**WHEREAS**, the City has heretofore conducted and accomplished the following, all in accordance with the Governing Law:

- (a) The solicitation for bid ("Bid Advertisement") relating to the Lease Financing; and
- (b) Specifications for the Lease Financing of the Project ("Bid Specifications") were prepared and distributed to prospective leasing companies and others having an interest therein; and
- (c) Bid Specifications allowed for the lease financing of the equipment over a five (5) year period; and
- (d) Bids were received, opened and read aloud on September 10, 2013 at 1:00 P.M. in the Administrative Offices of the City; and
- (e) The City received three (3) qualifying bids from Global Strategic LLC (on behalf of First Niagara Leasing, Inc.), US Bancorp Government Leasing Financing, Inc. and First Hope Bank, respectively; and
- (f) The City, with the assistance of the City's duly appointed lease advisor, Middlesex Regional Educational Services Commission ("Lease Advisor"), evaluated the bid proposals and determined the proposals complied with the Bid Specifications; and
- (g) The City, based in part upon the recommendation of the Lease Advisor, determined the bid submitted by Global Strategic LLC on behalf of First Niagara Leasing, Inc. to be the most advantageous for the City of the bids provided.

**WHEREAS**, the City has determined to award the Lease Financing to Global Strategic LLC on behalf of First Niagara Leasing, Inc. on the terms and conditions of the bid proposal submitted by the Global Strategic LLC.; and

**WHEREAS**, to evidence the Lease Financing of the Project, the City, as lessee, and First Niagara Leasing, Inc., as lessor ("Lessor"), shall execute and deliver one or more Lease Purchase Agreements (each a "Lease Purchase Agreement") in a form satisfactory to the City; and

**WHEREAS**, during the term of the Lease Purchase Agreement, title to the equipment comprising the Project will be vested in the Lessor, and upon the expiration of the terms of the Lease Purchase Agreement, the City shall purchase all right, title and interest in and to the equipment comprising the Project for a nominal fee; and

**WHEREAS**, it is the intent of the City Council hereby authorize, approve, ratify and confirm, as applicable,: (i) the award of the Lease Financing to Global Strategic LLC on behalf of the Lessor; (ii) the execution and delivery of the Lease Purchase Agreement; (iii) certain officials of the City to undertake the tasks necessary or desirable to effectuate the lease purchase financing of the Project pursuant to the Governing Law; and (iv) certain actions heretofore taken by or on the behalf of the City in connection with the Lease Financing, and to make certain related determinations and authorizations in connection with the settlement of such Lease Financing.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, AS FOLLOWS:**

**Section 1.** The City hereby approves, ratifies and confirms the completion of the Project through an equipment lease purchase transaction in accordance with the Governing Law. The principal amount of the equipment lease purchase financing shall not exceed \$141,120.

**Section 2.** The dissemination of the Bid Advertisement with respect to the Lease Financing is hereby ratified, confirmed, approved and adopted.

**Section 3.** The preparation of the Bid Specifications with respect to the Lease Financing and the distribution thereof are hereby ratified, confirmed, approved and adopted.

**Section 4.** The award of the Lease Financing by the Business Administrator of the City to the lowest bidder, Global Strategic LLC on behalf of First Niagara Leasing, Inc., on the terms of the bid proposal is hereby ratified, confirmed, approved and adopted.

**Section 5.** The Lease Financing shall be for a period of not to exceed five (5) years, with principal and interest payable thereon initially on November 1, 2013 and interest and principal components payable thereon annually thereafter on July 1 of each year until maturity on July 1, 2018.

**Section 6.** The City's obligations under the Lease Purchase Agreements shall be subject to annual appropriation or renewal by the City Council as set forth in each Lease Purchase Agreement and the City's obligations under the Lease Purchase Agreements shall not constitute general obligations of the City under the laws of the State of New Jersey.

**Section 7.** The Lease Purchase Agreements, in substantially the forms as shall be acceptable to the City, with the assistance of its professional advisors, is hereby approved and adopted and the Mayor, Chief Financial Officer and Business Administrator are each hereby authorized to execute and deliver the same on behalf of the City with such changes and modifications thereto as the official executing the same, on the advice of the City's Bond Counsel and other professional advisors, approve, such approval to be conclusively evidenced by the signature of the signing official thereon. The City Clerk and Deputy City Clerk are each hereby authorized and directed to affix the official seal of the City upon such instrument and to attest to the same.

**Section 8.** If necessary or desirable, the appointment of a bank or trust company to serve as escrow agent ("Escrow Agent") for the Lease Financing is hereby authorized, approved, ratified and confirmed. The Mayor, Chief Financial Officer and Business Administrator are each hereby authorized and directed to enter into an agreement with the Escrow Agent for the services to be provided.

**Section 9.** The City Council anticipates that it may pay certain capital expenditures in connection with the Project prior to the receipt of the proceeds of the Lease Purchase Agreements ("Lease Purchase Proceeds") for acquisition of the Project. The City Council hereby declares the City's official intent to use Lease Purchase Proceeds to reimburse itself for Project expenditures. This section of the Resolution is adopted by the City Council for the purpose of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations promulgated under the Internal Revenue Code of 1986, as amended ("Code"). This section of the Resolution does not bind the City to make any expenditure, incur any indebtedness, or proceed with the purchase of the Project.

**Section 10.** As to each Lease Purchase Agreement, the City reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds" pursuant to the Code) during the calendar year in which each such Lease Purchase Agreement is issued and hereby designates each Lease Purchase Agreement as a qualified tax-exempt obligation for purposes of Section 265(b) of the Code.

**Section 11.** The Mayor, Chief Financial Officer and Business Administrator, or any other authorized representative of the City, are each hereby authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the Lease Purchase Agreements authorized by this Resolution as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Code.

**Section 12.** All actions heretofore taken and documents prepared or executed by or on behalf of the City or by the City's professional advisors in connection with the Lease Financing are hereby ratified, confirmed, approved and adopted.

**Section 13.** The Mayor, Chief Financial Officer and Business Administrator are each hereby authorized to determine all matters and execute all documents and instruments in connection with the Lease Financing not determined or otherwise directed to be executed by the Governing Law or by this Resolution, and the signatures of the Mayor, Chief Financial Officer or Business Administrator on such documents or instruments shall be conclusive as to such determinations.

**Section 14.** All resolutions, or parts thereof, inconsistent with this Resolution are hereby rescinded and repealed to the extent of any such inconsistency.

**Section 15.** This Resolution shall take effect immediately upon adoption this 17th day of September, 2013

---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

**13-461**

---By Councilwoman Giattino

**RESOLUTION AUTHORIZING THE REFUND OF TAX OVERPAYMENTS**

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

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

**NOW THEREFORE BE IT RESOLVED**, that a warrant be drawn on the City Treasurer made payable to the following totaling **\$11,703.04**

<u>NAME</u>	<u>BL/LT/UNIT</u>	<u>PROPERTY</u>	<u>QTR/YEAR</u>	<u>AMOUNT</u>
Murphy, Ryan P 85 Camp Avenue #10J Stamford, CT 06907	15/32/C0004	60 Monroe St	4/11	\$ 972.72 Excel III
Psathas, Michael & A Tomlinson 88 Park Ave Apt 4N Hoboken, NJ 07030	22/9/C004N	88 Park Ave	3/13	\$ 1,080.70
Corelogic Att: Refund Dept 1 Corelogic Way Westlake, TX 76262	29/25	118 Jefferson St	1/13	\$ 3,428.32
Meydani, Mohsen & Simon 650 Centre St Newton, MA 02458	173/25/C005L	1110 Park Ave	2/13	\$ 1,448.75
Wells Fargo Home Mort MAC X2302-04D	188/20/C001C	151-161 Second St	3/13	\$ 1,338.71

Tax Dept  
1 Home Campus  
Des Moines, IA 50328

Oyaizu, Hiroaki & Miki      86/1/C0608                      800 Jackson St                      1/13                      \$ 3,433.84  
Nakayama  
800 Jackson St #608  
Hoboken, NJ 07030

---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

**13-462**

---By Councilman Giattino

**THIS RESOLUTION AUTHORIZES THE CITY OF HOBOKEN TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE HOBOKEN MUNICIPAL EMPLOYEES ASSOCIATION**

**WHEREAS**, the City of Hoboken by and through the Mayor, Corporation Counsel and Business Administrator have engaged in negotiations on behalf of the City with the Municipal Employees Association, regarding the Memorandum of Understanding and Agreement; and,

**WHEREAS**, the terms resulting from said negotiations have been memorialized in the attached correspondence and Memorandum of Agreement between the parties which is attached hereto and incorporated by reference; and,

**WHEREAS**, the City of Hoboken, by the Mayor, Corporation Counsel and Business Administrator recommend that the terms memorialized in the attached correspondence and Memorandum of Agreement be accepted by the City Council.

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

1. The above recitals are incorporated as if 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 all actions necessary to complete and realize the intent and purpose of this resolution;
3. This resolution shall be effective immediately;
4. This resolution shall be supplemented with the attached correspondence as well as the formal presentation of a fully executed Memorandum of Agreement immediately upon receipt.

The speakers who spoke: Diane Carreras, Joe Shine.

---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**

Introduction and First Reading

**13-463**  
**Z-254**

REFUNDING BOND ORDINANCE PROVIDING FOR THE REFINANCING OF ALL OR A PORTION OF THE CITY'S OUTSTANDING PARKING UTILITY GENERAL OBLIGATION BONDS, SERIES 2002A, DATED DECEMBER 15, 2002; AUTHORIZING THE ISSUANCE OF UP TO \$14,000,000 OF GENERAL OBLIGATION REFUNDING BONDS (PARKING UTILITY) OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, TO FINANCE THE COSTS THEREOF; MAKING CERTAIN DETERMINATIONS AND COVENANTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

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

**Section 1.** The City of Hoboken, County of Hudson, New Jersey ("City"), is hereby authorized to refinance, from time to time, all or any portion of outstanding callable Parking Utility General Obligation Bonds, Series 2002A, dated December 15, 2002, and maturing in the years 2014, 2018 and 2023, respectively (collectively, the "Callable 2002 Bonds").

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

**Section 2.** To effectuate the refinancing of the Callable 2002 Bonds, negotiable general obligation refunding bonds of the City are hereby authorized to be issued in one or more series, from time to time, in an aggregate principal amount not to exceed \$14,000,000 ("Refunding Bonds"), pursuant to the Local Bond Law. The principal amount of Refunding Bonds to be issued and other terms thereof shall be determined pursuant to a resolution adopted by the City Council by not less than two-thirds of all the members thereof.

**Section 3.** An aggregate amount not exceeding \$135,000 for the items of expense listed in and permitted by Section 51.b. of the Local Bond Law, N.J.S.A. 40A:2-51.b., has been included in the aggregate principal amount of the Refunding Bonds authorized herein.

**Section 4.** The purpose of the Refunding Bonds is to effect an interest cost savings for the City.

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

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

**Section 7.** The supplemental debt statement provided for in Section 10 of the Local Bond Law, N.J.S.A. 40A:2-10, was duly filed in the office of the Clerk prior to the passage of this refunding bond ordinance on first reading and a complete executed duplicate original thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey.

**Section 8.** A certified copy of this refunding bond ordinance as adopted on first reading has been filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State

of New Jersey prior to final adoption, together with a complete statement in the form prescribed by the Director and signed by the Chief Financial Officer and/or Director of Finance of the City.

**Section 9.** This refunding bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law, provided that the consent of the Local Finance Board has been endorsed upon a certified copy of this refunding bond ordinance as finally adopted.

**(Note: that the Bond Ordinance will not be heard on second reading until the second meeting in October which will be Thursday, October 17, 2013)**

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 **October 17, 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

**13-464**  
**Z-255**

**AN ORDINANCE TO ENABLE THE PURCHASING AGENT TO DETERMINE “RESPONSIBLE” AND RESPONSIVE” BIDDERS BY WAY OF DETAILED BID SPECIFICATION REQUIREMENTS  
(as amended)**

**WHEREAS**, the City of Hoboken has a compelling interest in ensuring that contracts for construction projects that it undertakes or for which it provides financial assistance are performed promptly, at reasonable costs and with the highest degree of quality; and

**WHEREAS**, the City of Hoboken also seeks to ensure that job opportunities generated by contracts as described above are also utilized to help local citizens gain access to employment opportunities; and

**WHEREAS**, the City of Hoboken finds that it is in its best interest to expand the requirements of a responsive bid for City construction projects, and, additionally, to more stringently enforce the “responsible” requirements contained in competitive bidding statutes governing its purchases of construction goods and services; and

**WHEREAS**, the City of Hoboken wishes to ensure that contracts are awarded in an atmosphere that invites competition and guards against favoritism, improvidence, arbitrary conduct, extravagance, fraud and corruption, so as to secure the best work or supplies at the lowest cost practicable; and

**WHEREAS**, the City of Hoboken possesses great discretion in drafting its bid specifications, and is entitled to specify the terms of the contract when its solicits bids and the criteria that bidders must meet in order to be considered a “responsive” bidders in the exercise of its proprietary duties and responsibilities; and

**WHEREAS**, the contracting authority of the City of Hoboken is entrusted with the power to determine whether a respective bidder is the “responsive” to the bid specifications; and,

**WHEREAS**, the City of Hoboken solicits bids and/or proposals on many different types of construction contracts with varying factors affecting each purchasing decision, and therefore must take into account reasonable benefits to the community's welfare arising from each bid and in the exercise of its proprietary functions,

**NOW THEREFORE, BE IT ORDAINED THAT** the following items shall all, on a prospective basis, be included in any and all construction contract bids which are prepared by, for, on behalf of, or in the interest of the City of Hoboken:

1. Financial responsibility is an important factor in contracting for construction services, and the City of Hoboken through its contracting authority, by way of its Purchasing Agent, shall require all bid submissions on a public construction contract or on a private construction contract that receives financial assistance to include the production of satisfactory evidence that the business entity is properly registered and authorized to conduct the type of work to be performed, including evidence that demonstrates that the entity possesses or complies with all valid licenses, registrations or certificates required by the federal, state, or county law, as well as complying with the general business license requirements of the City of Hoboken prior to the award and during the term of the contract.
2. The contracting authority, by way of its Purchasing Agent, shall confirm and substantiate that the contract awardee can reasonably be expected to complete and perform under the contract specifications, and the contracting authority, by way of its Purchasing Agent, may require the successful bidder to post a bid, performance, wage/fringe benefit and/or material bond(s). The contracting authority shall also determine if the successful bidder can reasonably be expected to complete the project within the time constraints as delineated in the request for bids and/or proposals.
3. The contracting authority, by way of its Purchasing Agent, shall also oblige all specifications to require submission of evidence from each bidding entity that they maintain a satisfactory level of past performance and integrity as well as the financial, supervisory, personnel, material, equipment, and other resources and expertise to satisfactorily meet its contractual responsibilities and obligations. The contracting authority, by way of its Purchasing Agent, shall also determine that the successful bidder has not been debarred by any federal, state, county or local agency or authority within the past three years or has been convicted of any crime related to the construction business.
4. Social responsibility is a concern in awarding public contracts, and the contracting authority, by way of its Purchasing Agent, shall require all bidders to certify to bidder's record of conformity with environmental, labor, and health and safety laws including compliance with the requirements of the U.S. Department of Labor's Occupational Safety & Health Administration. Additionally, the Purchasing Agent shall insure that all bid specifications include a place for all bidders and their subcontractors to certify that they have participated in an apprenticeship program, registered and approved by the United States Department of Labor, for each separate trade or classification for which it employs craft employees, unless the contractor or subcontractor certifies that every worker shall be paid not less than the journeyworker's rate established for the apprenticeable trade performed pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.). Additionally, the Purchasing Agent shall require inclusion of a certification in each bid specification that all bidders and subcontractors agree to continue to participate in such apprenticeship programs for the duration of the project. In addition, all bid specification shall include a certification that the bidder and any and all of its subcontractors, will show that such apprenticeship programs provides each trainee with combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade and meets the program performance standards of enrollment and graduation under 29 C.F.R. Part 29, section 29.6. Furthermore, the bidder shall be required to demonstrate and affirm that it is in compliance with the provisions of N.J.S.A C.34:20-1 et. seq "Construction Industry Independent Contractor Act".
5. All bid specifications shall require submission by all bidding entities of satisfactory evidence that the bidder and any subcontractors provide a benefit configuration being no less than required under N.J.S.A. C.34:11-56.25 et seq., the "New Jersey Prevailing Wage Act." Furthermore, all bid specifications shall require a certification from the bidder affirming that it has made a good faith effort to provide 25% of all project work hours to residents of City of Hoboken. For the purposes of this section, good faith effort, shall be defined in the bid specifications as a minimum of at least two community job fairs related to the construction of the specified project.

6. Furthermore, the bid specifications shall require all of the above items to be considered material, and should allow the City to consider any bidder who fails to provide each of the required items as unresponsive to the bid specifications, and, where applicable, irresponsible. Also, the bid specifications should include language that, should it be established after awarding of a contract, that any of the information required by this ordinance and provided by the bidding entity to the City of Hoboken was falsified or inaccurate, the contract shall be immediately voided at the sole cost and expense of the bidder.

**BE IT FURTHER ORDAINED THAT** if any provision of the ordinance shall be held to be invalid or unenforceable by a court of competent jurisdiction, any such holding shall not invalidate any other provisions of this ordinance and all remaining provisions shall remain in full force and effect.

**BE IT FURTHER ORDAINED THAT** the following definitions shall govern this ordinance.

A. **Public Construction Contract** shall mean any public construction project for the construction, reconstruction, demolition or renovation of buildings at the public expense, which it is required by law that workers be paid prevailing wage determined by the Commissioner of Labor pursuant to the provisions of the "New Jersey Prevailing Wage Act," P.L. 1963, c.150(C.34:11-56.25 et seq).

B. **Financial Assistance** shall mean something of economic value provided by the City of Hoboken to a private entity, expressly articulated or identified in writing by the City of Hoboken, including, but not limited to: loans, loan guarantees, grants, tax exemptions, tax abatements, tax incentive financing, and rent subsidies or reductions approved, funded, authorized, administered or provided by the local government entity or any of its instruments in connection with construction.

#### **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 remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

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

This Ordinance shall take effect 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 **October 2, 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

**NEW BUSINESS**

Councilman Occhipinti comments on a partnership Hoboken Volunteers with Hoboken Housing Authority on 3<sup>rd</sup> and Jackson at 10AM planting Councilman Occhipinti comments on a Block party on Monroe Street on Sat., Sept. 28<sup>th</sup> from 2-6 PM  
Councilwoman Giattino comments on the application for Hoboken Handicap Parking  
Councilwoman Mason comments on the 20/20 Vision when will it be presented in front of the Council  
Councilwoman Mason comments on appointments on the board and how certain openings are not placed on the agenda, also ask a review on 11<sup>th</sup> and Sinatra and Elysian Park area and there is bad back-up at 11<sup>th</sup> St., today it was backed up to Washington Street, what the status for Elysian Park and lastly open to have a community meeting at her Civic Association for the Angle Parking  
Councilman Bhalla comments on Vision 20/20, ethnic cleansing  
Councilwoman Castellano comments on Vision 20/20  
Councilwoman Mason comments on Vision 20/20  
Council President comments on Vision 20/20  
Councilman Mello comments on Vision 20/20  
Council President comments on the Angle parking ordinance Z-250 and would suggest a community meeting and get back to Mr. Kohler and speak to the Administration and would like a resolution for Hispanic Month and also a Closed Session for the tourism website

At 10:24 P.M. the Governing Body on a motion by Councilwoman Giattino duly seconded by Councilman Mello.

Council President Cunningham then adjourned the meeting at 10:24 P.M.

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PRESIDENT OF THE COUNCIL

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CITY CLERK