

Minutes of a Council Meeting of the Borough of Hillsdale held at 7:43 P.M. on Tuesday, September 8, 2015, in the Council Chamber, Borough of Hillsdale, New Jersey.

The meeting was called to order by Mayor Arnowitz, who also led the Salute to the Flag.

OPEN PUBLIC MEETING STATEMENT:

This is a meeting of the Hillsdale Borough Council on this 8th day of September 2015. Notice of time and place of this meeting has been provided to The Ridgewood News, Pascack Press, The Record and Community Life; a copy was posted on the bulletin board outside of this meeting room and provided to any interested parties.

Please notify the Municipal Clerk for any disability requirements necessary for attendance at Mayor and Council meetings. The fire exits are located through the double doors to your left. Please silence all cell phones and pagers.

ROLL CALL:

On roll call those in attendance were Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella. Also in attendance were Mayor Arnowitz, Borough Attorney Madaio and Borough Administrator/Borough Clerk Witkowski.

APPOINTMENTS/OATHS OF OFFICE:

There were no appointments this evening.

RECOGNITION:

There were no recognitions this evening.

PROCLAMATIONS

National Childhood Cancer Awareness Month, September 2015

The proclamation was read by Council President Pizzella

- WHEREAS, 1 out of 5 children diagnosed with cancer will not survive the disease; and,
- WHEREAS, the types of cancers that affect children are most often very different from those that affect adults; and,
- WHEREAS, childhood cancer is not just one disease but is made up of a dozen types and countless subtypes of cancer; and,
- WHEREAS, childhood cancer spares no socioeconomic, ethnic, racial or geographic class; and,
- WHEREAS, pediatric cancer is the leading cause of death by disease in US children under 19 years of age; and,
- WHEREAS, the causes of most pediatric cancers are largely unknown and not strongly linked to lifestyle, unlike adult cancers; and,
- WHEREAS, two-thirds of childhood cancer patients will develop long-lasting chronic conditions as a result from treatment that prevent them from fully participating in school, social activities and work; and,
- WHEREAS, childhood cancer rates have been rising for the past few decades, and approximately 15,780 children were diagnosed in 2014, and the incidence of invasive pediatric cancer is up to 29% in the past 20 years; and,
- WHEREAS, cancer kills more children than AIDS, asthma, cystic fibrosis, diabetes, and muscular dystrophy combined; and,

- WHEREAS, in the last 25 years, only two drugs have been specifically developed for children's cancer and in the last 20 years the FDA initially approved only one drug for any childhood cancer; and,
- WHEREAS, less than 5 percent of the federal government's total funding for cancer research is dedicated to childhood cancers, and only about 3 percent of funds raised for the National Cancer Institute go directly to pediatric cancer research; and,
- WHEREAS, the funding for pediatric cancer research has gone down steadily since 2003; and,
- WHEREAS, despite the facts, childhood cancer research is vastly and consistently underfunded; and,
- WHEREAS, despite the major advances in treatment, it is still critically important to conduct research and increase awareness regarding pediatric cancer.

NOW, THEREFORE, I, Max Arnowitz, Mayor of the Borough of Hillsdale do hereby proclaim September 2015 CHILDHOOD CANCER AWARENESS MONTH in the Borough of Hillsdale in order to help raise awareness of pediatric cancer and its victims.

National Sickle Cell Awareness Month, September 2015

The proclamation was read by Council President Pizzella

- WHEREAS, Sickle Cell Disease is the most common genetic disorder in the United States; and,
- WHEREAS, an estimated 100,000 people live with Sickle Cell Disease in the United States. Up to 80% are African-American but many different races are affected. Millions are affected globally; and,
- WHEREAS, Sickle Cell Disease occurs among about 1 out of every 500 African-American births; and,
- WHEREAS, Sickle Cell Disease is a group of inherited red blood cell disorders that is present at birth. To have the disease both sets of parents must pass down sickle cell genes. There is a 25% chance if both parents carry the Sickle Cell Trait. People who have SCT inherit one sickle cell gene from one parent and one normal gene from the other parent. People with SCT usually do not have any signs of the disease and live a normal life, but they can pass the trait on to their children; and,
- WHEREAS, Sickle Cell Trait occurs among about 1 in 12 African-Americans; and,
- WHEREAS, Sickle Cell Disease is diagnosed with a simple blood test. It most often is found at birth during routine newborn screening tests at the hospital. Because children with SCD are at an increased risk of infection and other health problems, early diagnosis and treatment are important; and,
- WHEREAS, Sickle Cell Disease is chronic but treatable although there is no single best treatment for all people with SCD. Treatment options are different for each person depending on the symptoms which can range from mild to severe; and
- WHEREAS, there is no universal cure for Sickle Cell Disease and the average life expectancy is now in the mid-forties years of age; and,
- NOW, THEREFORE, I, Mayor Max Arnowitz, of the Borough of Hillsdale, NJ do hereby proclaim September 2015 Sickle Cell Awareness Month in the Borough of Hillsdale in order to help to raise awareness of Sickle Cell Disease and its victims.

PRESENTATION

Access for All Advisory Committee Initiative – Maura DeNicola, Bergen County Freeholder
Maura DeNicola, Bergen County Freeholder, introduced herself, and said that she was appearing on behalf of the Division of Disability Services which is part of Bergen County's Department of Health Services. Ms. DeNicola is asking that an "Access for All Committee" be created in

Hillsdale. She gave some background stating that “Access for All” began in the Assembly and she put the resolution forward at the Freeholder Board four years ago. Ms. DeNicola said that the goal is to have each municipality create this Committee which would be a resource to recognize the needs and quality of life issues which impact the citizens of the community who are disabled. Citizens with disabilities are the fastest growing segment of the communities, and this network of committees will help satisfy the needs without “recreating the wheel”. Ms. DeNicola reported that half of the communities in Bergen County are participating in this initiative, and she has observed a lot of sharing of information.

Ms. DeNicola said that a sample resolution and ordinance had been distributed to Councilmembers, and she added that several municipalities in Bergen County created the committee by ordinance. Also included are sample by-laws of the operations of the committees, how they meet, and a list of their members. The Mayor has the authority to appoint members to this committee which includes a liaison from the Council, volunteers from the community, and members of emergency services who represent a cross section of the services provided by the municipality. The Borough of Ramsey is a recent member and they have put together activities, and are ensuring that all of the cross walks in the Borough are accessible for those who have disabilities.

Ms. DeNicola said that Hillsdale may already be doing a lot for the disabled, but sometimes there are small issues that aren’t apparent, but that could greatly affect quality of life. She suggested subtitles for Mayor and Council Meetings so that those who are hearing impaired could easily follow what is said at Council meetings. There is an issue with the Office of Emergency Management (OEM) because those with disabilities are reluctant to complete the forms which maintain the data base that is housed with the municipality. OEM needs to know who has special needs so that those residents can be better served in times of emergencies. Ms. DeNicola said that volunteers who maintain the list will ensure that it is confidential and that these families will not be making themselves vulnerable. This is particularly important for the Fire Department who would be alerted that a child with autism resides in the home and may be hiding at the time of a house fire.

Ms. DeNicola said that there are a lot of resources to help the Borough and she spoke about the annual “Access for All” summit. All elected officials and members of emergency services County-wide are invited to attend and listen to guest speakers and experts in the area of transportation and housing. The last summit in Ridgewood was a roundtable, and they were able to hear from municipalities who gave suggestions as to how they could be better served by the County. Ms. DeNicola reported that the program has been very successful in other towns and the feedback is positive. The group is hoping to strengthen the network in order to provide an effective and fiscally efficient way to assist these citizens of Bergen County.

Mayor Arnowitz asked if anyone on the Council would volunteer to be the lead person in this initiative. Deputy Mayor Pizzella came forward to volunteer. Mayor Arnowitz asked the Borough Administrator, Susan Witkowski, to send an email to residents explaining the program and asking for volunteers. He added that the same email should be sent to the Police and Fire Departments well as the Office of Emergency Management. The email should explain the program and note that Council President Pizzella will chair the Committee. Mayor Arnowitz said that when this group has been established, there should be information included in the Hillsdale Welcoming Package. He agreed with Ms. DeNicola that information on any autistic residents is key for those working in emergency services and they should all be aware of these residents.

Ms. DeNicola reported that many of the towns in southern Bergen County have created a regional “Access for All”. Members of this group meet quarterly to discuss their successes and how their programs are funded. Upon questioning by Councilperson Myerson, Ms. DeNicola said that each town tailored the Committee to their own needs based on the volunteers that came forward. This is why the adoption of a resolution is recommended when forming this committee since membership can be changed quite easily. She agreed with Mayor Arnowitz that it is important to open membership on the Committee to everyone in the community.

Mayor Arnowitz said that it is important to encourage membership from religious organizations in the town. Police Chief Francaviglia said that he is familiar with a group of parents of autistic children in Brick Township who present advice for the police on how to respond to children with these types of issues. He is trying to get the group to speak to Emergency Services groups in Hillsdale in October, and he will keep Ms. DeNicola informed as to the date and location.

Mayor Arnowitz thanked Ms. DeNicola and he added that a resolution relative for the formation of "Access for All" will be an agenda in the near future.

Michael Kaufmann – CMFO

Ms. Witkowski asked Mr. Kaufmann to speak regarding the comments and recommendations contained in the audit report. Mr. Kaufmann prepared a draft Corrective Action Plan which will be adopted by resolution at the next meeting. There was a discussion about escrow reserve funds which pay for police officers who monitor road openings to ensure public safety. Somehow the funds were released back to a developer before the last billing took place. Mr. Madaio, the Borough Attorney, said that pursuant to the ordinance, these funds should be collected in advance. After these funds are collected the police chief will be able to direct this off duty work among the officers. Mr. Madaio said that there should be a flat rate encompassing everything that is involved. Ms. Witkowski indicated that she thought there was already an ordinance to cover this, but she said she would check, and list this item under Old Business for the next Council meeting. Mr. Madaio said that any remaining money could be released back to the developer after there is verification that everyone has been paid.

Councilmember Ruocco referred to the swim club budget which was overextended late last year. Mr. Kaufman indicated that he wasn't employed in the Borough at that time, but the Edmonds software shouldn't allow over-expenditure. Councilmember Ruocco explained that a series of errors occurred because an over expenditure wasn't caught by the system. He asked if there should be a change in policy at the pool so that they monitor their own budget more carefully. Mr. Kaufman said that the staff should be looking at the account at all times to verify that funds are available. Mayor Arnowitz mentioned that the CFO is supposed to verify that there are funds available, and this policy has been in place since 1970 when he was on the Commission. Mr. Kaufman will discuss this with the staff to tighten up the procedures.

Councilmember Ruocco questioned the procedure calling for the Planning Board Attorney's fees to be approved by resolution, and subsequently published in the newspaper. He was confused because he thought that this was already the case and he asked if Mr. Kaufman had checked into this. Mr. Kaufman said it was his understanding that there was a vote among the Planning Board members not to advertise. The issue of whether this Council needs to approve the Planning Board's choice of attorney is imbedded in this particular finding. Mr. Madaio said that there should be a Request for Qualifications for legal representation issued by the Planning Board, and a resolution in addition to a legal services agreement. The internal auditor is recommending that the Council ratify the choice of Planning Board attorney. After some discussion, Mr. Madaio said that the Planning Board chooses their legal representation, but the internal auditor is saying the Council should pass a resolution pertaining to that legal representation. It was noted that that the Professional Service contract must be approved by a resolution of the governing body.

Councilmember Ruocco asked Councilmembers to be specific about who will be in charge of each of the items when they finalize their Corrective Action Plans. There is an unfavorable trend in internal audits. In 2013, there were fourteen recommendations with one repeat item, however; in 2014 there are twenty recommendations with six repeat items. This trend is unsustainable and cannot be allowed to be continued. The Council and the Borough Administrator need to reverse this trend.

Councilmember Myerson referred to the requirement that the Capital Improvement Authorization be reviewed and reconciled with the improvement ledger. He asked for an

explanation. Mr. Kaufman said that some of the balances don't match what the auditors have, and this is a hold over item from 2014 that still hasn't been addressed.

APPROVAL OF MINUTES

Combined Meeting of July 7, 2015

Motion to approve by Council President Pizzella, second by Councilmember Myerson.

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, and Council President Pizzella

Nays: Councilmember Ruocco

Absent: None

Closed Session #1, June 9, 2015, July 2, 2015, and July 7, 2015

Motion to approve by Councilmember Looes, second by Councilmember Myerson.

Council President Pizzella made a motion to table the minutes from July as there was not adequate time for review. Councilmember Looes seconded the motion.

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

Councilmember DeGise made a motion to approve the closed session minutes of June 9, 2015, second by Councilmember Looes.

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

PROFESSIONALS REPORTS/MONTHLY DEPARTMENT REPORTS

(The following correspondence on file in Borough Clerk's Office)

Police Department – Chief Francaviglia offered condolences to the family of an individual who was killed at the train station on Friday. He reminded everyone that they need to drive safely since school is back in session.

Board of Health

Councilmember Looes reported that the Hillsdale Council had approved the stigma free policy that is ongoing throughout the County. The Hillsdale Board of Health along with the Hills Valley Coalition has joined forces with the other towns in the area to promote this initiative especially in the schools.

Seniors

Councilmember Ruocco reported that the next senior's Luncheon is on October 21st, 2015, at St. Johns. He recalled that the transmission on the senior's van needs repair, and remains out of service. He is hopeful that a grant to replace the van will be successful; however, this is not expected until late in 2016. He spoke with the two Borough Administrators from Westwood relative to any assistance that they could provide. The administrator in Westwood thinks they could provide transportation on Fridays; however, that doesn't work well for anyone in Hillsdale. He suggested a possible one-year, long term leasing arrangement with a commercial leasing company for a year or a couple of days a week. He hasn't researched this option yet and it may be cost prohibitive. Ms. Witkowski indicated that she would look into this possibility.

Office of Emergency Management (OEM)

Councilmember Ruocco said that September has been declared as “National Preparedness Month” by President Obama. The theme is “Don’t Wait – Communicate and Make Your Emergency Plan Today”. The New Jersey State Police OEM is partnering with FEMA to advance citizen preparedness and they sent Councilmember Ruocco a FEMA supply kit including flyers and an emergency pet kit. He will forward this information to Ms. Witkowski who can post the information on the Borough website.

Library

Councilmember Looes stated that the Library elevator passed State inspection and is up and running. She added that there was protocol that had to be followed following the contamination issue, along with inspections. Various insurance companies had to be contacted in hopes of recovering funds relative to previous storms which complicated the process.

Stonybrook

Councilmember DeRosa had hoped that a representative from Stonybrook would be here tonight to present a report. He stated that the pool is down by \$70,000 and there is no action plan to turn things around. He will meet with the members relative to a Stonybrook Action Plan tomorrow night, and he hopes to have a meeting with the Council and the Commission on September 21st, 2015.

DPW

Mayor Arnowitz said that he met with Ms. Witkowski and the DPW yesterday. The DPW is working on the equipment and he has been assured that they will be ready for leaf pick-up. Mayor Arnowitz asked Councilmember DeRosa to monitor the situation because he and Ms. Witkowski are nervous.

Ambulance Corps

Mayor Arnowitz reported that the Ambulance Corp is going forward with the purchase of an ambulance.

Councilmember Ruocco said he received an email from a resident on Piermont Road who said his recycling hadn’t been picked up. Mayor Arnowitz reported that Ms. Witkowski had resolved this problem.

Motion to accept, receive, and file by Councilmember Looes, second by Councilmember DeRosa

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

COMMITTEE REPORTS

There were no Committee Reports this evening.

OLD BUSINESS

1. Sign Ordinance Comments – Ms. Witkowski confirmed that she is asking for comments on the sign ordinance other than the issues that were discussed at a previous presentation. She said that they intend to have a meeting with businesses in the Borough including the Chamber of Commerce. A recommendation was made to draft and distribute a new sign ordinance before the next Council meeting. In addition, the ordinance should be posted on the Borough website and an email blast should be sent to the Chamber of Commerce stating that the proposed sign ordinance is available at the Borough Hall. There will be a notification on the Borough website relative to the date and time of public hearing on the ordinance. Mayor Arnowitz said that he has tried this in the past, and only several businesses attend when the ordinance is in the discussion stage. If there were to be a large turnout a special meeting could be scheduled. There was a

request that Darlene Greene, the Borough Planner, send a red lined copy of the ordinance to Councilmembers so they will easily recognize the changes that have been made.

2. Letter from NJ Alliance for Immigrant Justice – This is a request to adopt a resolution and recognize that illegal immigrants are not allowed to receive driver’s licenses in New Jersey. Mayor Arnowitz asked if anyone objected to putting this resolution on the agenda for the next meeting. Councilmember Ruocco indicated that this is not the type of issue that needs to be debated in Hillsdale since they don’t have any decision making authority regarding the issuance of driver’s licenses. Mayor Arnowitz pointed out that Assemblyman Bob Auth and Assemblywoman Holly Schepisi have commented on some resolutions that have been passed in Hillsdale because they are read in Trenton. Councilmember Ruocco reiterated strongly that he does not want to discuss this matter. Councilmember Myerson asked him why he didn’t want to discuss this because the Council has done this several times in the past. Councilmember Ruocco said that this is not Hillsdale specific, and it is a moral, feel good type of resolution that is just a waste of time. Councilmember Myerson said that the Borough of Hillsdale should never encourage the State of New Jersey to pass anything.

Mayor Arnowitz asked for a motion to table further discussion on the New Jersey Alliance for Immigrant Justice. The motion was made by Councilmember Ruocco, second by Council President Pizzella.

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Ruocco, and Council President Pizzella

Nays: Councilmember Myerson

Absent: None

United Water Dam Tour – Ms. Witkowski has an email from the Director of Engineering for United Water stating that the target re-open date is late December. Ms. Witkowski will look into the possibility of a tour on a Saturday or weekdays after 4 P.M.

4. Stonybrook Pool Commission Report – Councilmember DeRosa had nothing further to add at this time.

NEW BUSINESS

1. Draft Corrective Action Plan for Year 2014 – Presented earlier this evening by Michael Kaufman

CORRESPONDENCE:

1. Letter dated September 2, 2015 from Varoujan Tourian re: Sewerage Contamination by Hillsdale United Methodist Church, Block 1301 and Surrounds.

Motion to receipt and file by Councilmember DeRosa, second by Councilmember Looes

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Ruocco, and Council President Pizzella

Nays: Councilmember Myerson

Abstain: Councilmember DeGise

Absent: None

2. Engineer’s Report dated September 1, 2015 from Neglia Engineering, re: PSE&G Knickerbocker Roadway Vacation Report. Vicinity Block 1212, Lot 14 and Block 1209, Lot 18 (Knickerbocker Avenue)

Motion to receipt and file by Councilmember Looes, second by Councilmember DeRosa, and unanimously approved.

3. Letter dated August 25, 2015 from County of Bergen, Office of County Executive awarding Bergen County Community Development Grant for *Handicapped Accessible Bathrooms at the Train Station* in the amount of \$49,800.

Motion to receipt and file by Councilmember Meyerson, second by Council President Pizzella

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

4. Letter dated August 11, 2015 from the Hillsdale Volunteer Fire Department re: Special Election Results held August 10, 2015 due to vacancy created.

Motion to receipt and file by Councilmember Looes, second by Council President Pizzella

Roll Call Vote

Ayes: Councilmembers DeRosa, Looes, Ruocco, and Council President Pizzella

Nays: None

Abstain: Councilmember DeGise

Absent: None

PUBLIC COMMENT

Kevin O'Brien, 61 Parkview Drive, said that at the previous he had raised a concern over the fire in Edgewater, N.J., and his concerns relative to an application for a proposed apartment complex containing 49 units in Hillsdale. He filed an OPRA request asking for the Planning Board's directive memo, email or letter asking for a review by Department Heads of the plans and their input. He did not receive anything relating to his specific request; however, he did receive a letter from the attorney for the applicant referencing a request for a review of internal fire hydrants and designated fire zones by the Fire Department. He noted a review of circulation by the Hillsdale Police Department. The fourteen page memo makes reference to the inability to gain access to the garbage and questions whether fire trucks can access the apartment complex when the parking lot is full. Mr. O'Brien concluded that it appears that the Hillsdale Planning Board never asked for input from the various departments.

Mayor Arnowitz said he attended a Planning Board Meeting where the Fire Department reviewed hydrant placement, access to the rear of the complex for laddering, and turn around space for the trucks coming in and out. He did say he doesn't recall discussions relative to many of the issues that Mr. O'Brien has mentioned. Mr. O'Brien said that the attorney for the applicant is referring to the new application dated May 22nd, 2015, and he cannot find any reports relative to this new application.

Mayor Arnowitz recalled that Mr. O'Brien brought these issues up at last week's meeting. He asked Ms. Witkowski to reach out to Emergency Services and the Borough Engineer to find out if they have made a report on the new application and if not, why. Councilmember Looes said that Mr. O'Brien is questioning whether proper protocol was followed. Mr. Madaio said that the Planning Board selects their own attorney and engineer, and this is a Planning Board issue. It appears that Mr. O'Brien wants to demonstrate the absence of documents. It would be acceptable for the Planning Board liaison to check with the Board on this point. He added that when an application is filed with the Planning Board, a copy of the applicant's submission letter is distributed to every department. These departments can comment if they feel there is a need. Mayor Arnowitz asked Council President Pizzella to handle this with the Planning Board because the Mayor and Council have no jurisdiction in this matter.

Mr. O'Brien was surprised to learn that the Planning Board Chairman was using his private email address for Planning Board business and he suggested that he have a Borough email address to support Borough activity.

There were no other comments from the public at this time, and Mayor Arnowitz closed the public comment portion of the meeting.

ORDINANCES *Adoption and Introduction*

15-15 (Adoption)

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 363 OF THE REVISED GENERAL CODE OF BOROUGH OF HILLSDALE ENTITLED 'TOBACCO SALES' TO RAISE THE AGE FOR THE PURCHASE OF TOBACCO PRODUCTS

WHEREAS, the General Code of the Borough of Hillsdale, Chapter 363 provides for Tobacco Sales; and

WHEREAS, said Code states tobacco/cigarettes shall not be sold to any person under the age of 19; and

WHEREAS, the Mayor and Council of the Borough of Hillsdale desire to amend the products to include tobacco in any form, including smokeless tobacco, cigarette paper, and electronic smoking devices.

BE IT ORDAINED, BY THE MAYOR AND COUNCIL OF THE BOROUGH OF HILLSDALE AS FOLLOWS:

Chapter 363-1 shall be amended to read as follows:

- A. It shall be unlawful to sell any cigarettes made of tobacco or of any other matter or substance which can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco, or any electronic smoking devices that can be used to deliver nicotine or other substances to the person inhaling from the device, including but not limited to, an electronic cigarette, cigar, cigarillo or pipe, or any cartridge or other component of the device or related product to a person under 19 years of age.
- B. Sign Requirements. The following six-inch by eight-inch sign shall be posted in a conspicuous place near each cash register in all retail establishments which sell tobacco products:
"SALE OF TOBACCO PRODUCTS TO ANY PERSON UNDER THE AGE OF 19 IS PROHIBITED BY LAW. Legal proof of age must be shown. A person who sells or offers to sell a product to a person under 19 years of age may be prosecuted in accordance with state and local ordinances."

Chapter 363-2 shall be amended to read as follows:

It shall be unlawful for a tobacco/cigarette retailer to sell or permit to be sold cigarettes or other tobacco products to any individual without requesting and examining identification from the purchaser positively establishing the purchaser's age as 19 years or greater, unless the seller has some other conclusive basis for determining the buyer is over the age of 19 years.

All Ordinances of parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistencies only.

In the event that any word, phrase, clause, section or provision of this Ordinance is found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause or provision shall be severable from the balance of this Ordinance and the remainder of this Ordinance shall remain in full force and effect.

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

PUBLIC HEARING

I will now open the meeting to the public

Motion to open public hearing on Ordinance 15-15 by Councilmember Looes, seconded by Council President Pizzella

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

If anyone desires to be hearing regarding Ordinance No. 15-15, please raise your hand to be recognized, come forward to the microphone, and state your names and address for the record.

Kevin O'Brien, 61 Parkview Drive, said that at the last meeting he was impressed by the speaker from Hackensack who is extremely passionate about this matter. He stated that Hillsdale was the first municipality to create a safe zone for the exchange of goods at the Police Station and the Borough should take the lead again by raising the age for tobacco purchase to twenty-one. Westwood has raised the bar and Hillsdale should work with neighboring municipalities to make it difficult for young people to buy cigarettes and related materials.

James Irwin, 40 Jefferson Street, Hackensack, said that he is moved by the fact that Mr. O'Brien is speaking in support of this ordinance. He obviously cares about the Borough, and he thanked Mr. O'Brien for his support. He again asked Hillsdale to be forward thinking and raise the age for tobacco purchase to twenty-one. He often hears the argument that if someone is eighteen and old enough to go to war they should be able to buy cigarettes; however, smoking cigarettes can cause premature death and other conditions that you would not necessarily develop if you were not a smoker. Mr. Irwin said that it is of the utmost importance to make tobacco difficult for young people to purchase which could help to discourage them from smoking.

Karen Bloomenfeld, 7 Cedar Street, Suite A, Summit, N.J., Director of Global Advisors on Smoke Free Policy, said she had provided Councilmembers with some educational resources a month ago. She said she was pleased to learn that the ordinance contains reference to electronic cigarettes. The use of e-cigarettes has tripled in one year which is very serious. Ms. Bloomenfeld said that she was also very impressed to hear the support of a resident relative to this important ordinance. She pointed out that twelve towns in New Jersey have raised the age for tobacco purchase to twenty-one, and there is a bill that has already passed the Senate which would raise the legal purchase age to twenty-one. She hopes that this bill will be successful; however, she noted that the Smoke Free Parks Bill was vetoed by the Governor last year. Ms. Bloomenfeld stated that 90% of people begin smoking before age nineteen and the Federal government estimates that 225,000 lives would be saved if the age were raised to twenty-one. The legal age for tobacco purchase on a federal level is eighteen; however, towns and states are not pre-empted from raising the age. She added that the military is moving towards being smoke free and they are doing a massive overhaul regarding the sales of tobacco and e-cigarettes. Ms. Bloomenfeld concluded by adding that her organization has worked with many communities in Bergen County on Smoke Free Parks and if Hillsdale is interested she has information available.

As there are no other comments, I entertain a motion that the public hearing on Ordinance No. 15-15 be closed.

Motion to close public hearing on Ordinance 15-15 by Councilmember Looes, second by Councilmember Myerson.

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

Now, therefore, be it resolved that this ordinance be adopted and the Clerk is authorized to advertise the same according to law.

Motion to adopt Ordinance No. 15-15 by Councilmember Looes, second by Councilmember Myerson.

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

Council President Pizzella asked Mr. Madaio if he had done the research on whether or not raising the age for tobacco purchase was constitutional. Mr. Madaio said that this is the question of preemption and he found that there have been no cases that went through the Law Division or the Appellant Division making that finding. He pointed out that there have only been ten towns that have adopted this ordinance to date. He believes Hillsdale could take a bold step, and be a cutting-edge town by raising the age; however, it would be done at the risk of lawsuits. The other option is to be consistent with State law and wait to see what happens at the State level.

Councilmember Myerson pointed out that federal law allows states and municipalities to raise the age if they chose. He said that the Borough should raise the age for tobacco purchase because smoking serves no purpose whatsoever. While he understands that businesses might be affected, saving lives is more important. Councilmember Myerson made a motion to amend the ordinance from age nineteen to twenty-one. Mr. Madaio stated that a new ordinance would be required to raise the age to twenty-one.

Councilmember DeRosa said that the federal age for purchase of tobacco is eighteen, and the state age is nineteen. This ordinance increases Hillsdale's age for tobacco purchase to nineteen. Mr. Madaio said that the issue is whether or not the ordinance is lawful, and there is a federal question about the difference between a federal law and a state law. Councilmember DeRosa said he is concerned about legal expenses if the ordinance were to be challenged. Mr. Madaio noted that if the legislature were to increase the age to twenty-one, Hillsdale would immediately raise the age to twenty-one. He reminded everyone that the goal of this ordinance was to bring the local ordinance in compliance with the state law giving the Police Chief another enforcement tool.

Councilmember Myerson reiterated that raising the age to twenty-one is the right policy. Upon questioning, Mr. Madaio said that he cannot give any assurance that there will be no lawsuits filed as a result of raising the age to twenty-one.

Mayor Arnowitz suggested getting the original ordinance in place, and then amending the ordinance at the next meeting. After more discussion, Police Chief Francaviglia said he could be directed to draft a new ordinance reflecting the age of twenty-one rather than nineteen. Council President Pizzella said he supports twenty-one; however, he thinks Hillsdale should be compliant with state law which uses the age of nineteen for the legal purchase of tobacco. They can then go forward and introduce a new ordinance next month changing the age to twenty-one.

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

Mr. Madaio said that he intends to draft a new ordinance changing the age to twenty-one in time for the next meeting.

15-17 (Adoption)

AN ORDINANCE OF THE BOROUGH OF HILLSDALE, COUNTY OF BERGEN, STATE OF NEW JERSEY TO AMEND CHAPTER 294 OF THE BOROUGH CODE ENTITLED "VEHICLES, IDLING OF"

WHEREAS, the Borough of Hillsdale has adopted §294-3, an ordinance to establish prohibited acts and exceptions pertaining to idling vehicles in the Borough; and

WHEREAS, the Borough desires to expand §294-3 regarding prohibited acts and exceptions of idling vehicles.

NOW BE IT ORDAINED, BY THE MAYOR AND COUNCIL OF THE BOROUGH OF HILLSDALE AS FOLLOWS:

§294-3 Shall be amended to read as follows:

- A. No person shall cause, suffer, allow or permit the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes if the vehicle is not in motion, with the following exceptions :
- (1) A motor vehicle at the vehicle operator's place of business where the motor vehicle is permanently assigned may idle for 30 consecutive minutes.
 - (2) A motor vehicle may idle for 15 consecutive minutes when the vehicle engine has been stopped for three or more hours and ONLY if temperature is below 25 degrees Fahrenheit.
 - (3) Buses may idle while actively discharging or picking up passengers for 15 consecutive minutes in a 60 minute period.
 - (4) No idling is allowed in a parking space with available and functioning electrification technology.
- B. The provisions of Subsection A above shall not apply to:
- (1) A motor vehicle stopped in a line of traffic.
 - (2) A motor vehicle whose primary power source is utilized in whole or part for necessary and definitely prescribed mechanical operations, such as refrigeration units for perishable loads, hydraulic lifts, "cherry pickers", or similar equipment and other than propulsion, passenger compartment heating or passenger compartment air conditioning.
 - (3) A motor vehicle being or waiting to be examined by a state or federal motor vehicle inspector.
 - (4) An emergency motor vehicle in an emergency situation.
 - (5) A motor vehicle while it is being repaired.
 - (6) A motor vehicle while it is engaged in the process of connection or detachment of a trailer or of exchange of trailers.
 - (7) Operation of auxiliary or alternate power systems for cabin comfort.
 - (8) A motor vehicle with a sleeper berth, equipped with a 2007 or newer engine, or that has been retrofitted with a diesel particulate filter *while the driver is resting or sleeping in the sleeper berth*. Other idling is still prohibited.

The remainder of §294-3 shall remain unchanged.

All Ordinances of parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistencies only.

In the event that any word, phrase, clause, section or provision of this Ordinance is found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause or provision shall be severable from the balance of this Ordinance and the remainder of this Ordinance shall remain in full force and effect.

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

If anyone desires to be heard regarding Ordinance No. 15-17, please raise your hand to be recognized, come forward to the microphone, and state your name and address for the record.

Seeing no one, I entertain a motion that the public hearing on Ordinance No. 15-17 be closed, and that it be resolved that this ordinance was posted on the bulletin board on which public notices are customarily posted and published in the Ridgewood News. Copies of said ordinance were made available to the general public.

Motion to close public hearing on Ordinance No. 15-17 by Council President Pizzella, second Councilmember DeRosa

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

Motion to adopt Ordinance No. 15-17 by Council President Pizzella, second Councilmember DeRosa.

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

RESOLUTIONS (Consent Agenda): R15192 through R15198:

R15192 Authorize the Borough Clerk to Advertise For Bids 2015 Road Program

BE IT RESOLVED by the Mayor and Council of the Borough of Hillsdale, Bergen County, New Jersey upon the recommendation of the Borough Engineer, Neglia Engineering Associates, that the plans & specifications for:

YEAR 2015 ROAD PROGRAM

Are hereby approved and the Borough Clerk is hereby authorized to advertise for bids.

R15193 Resolution to Increase Public Bidding Threshold

WHEREAS, the public bidding threshold for Municipal Contracting Units is adjusted every five years by the State Governor in conjunction with the Department of Treasury; and

WHEREAS, the Borough of Hillsdale desires to take advantage of the increased bid threshold to expeditiously purchase goods and services which ultimately saves the Borough time and money; and

WHEREAS, pursuant to the provisions of the Local Public Contracts Laws N.J.S.A. 40A:11-3, as authorized by the New Jersey State Treasurer, effective July 1, 2015 the Borough can increase its Public Bidding threshold from \$36,000.00 to \$40,000.00 if the Borough has a Qualified Purchasing Agent; and

WHEREAS, through resolution, Matthew Cavallo is designated a Qualified Purchasing Agent as issued by the Director of the Division of Local Government Services in accordance with N.J.A.C. 5:34-5 et seq. and N.J.S.A. 40A:11-3.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Hillsdale, in the County of Bergen, in the State of New Jersey hereby increases its public bidding threshold to \$40,000.00.

R15194 Resolution Authorizing Redemption & Premium

WHEREAS, the Tax Collector held a Tax Sale on May 28, 2014 and at the sale a lien was sold on Block 1119 Lot 10, also known as 78 Taylor Street, Hillsdale, NJ 07642 for 2013 Delinquent taxes; and

WHEREAS, this lien, known as Tax Sale Certificate #13-00002 was sold to C & E Tax Lien Fund I, PO Box 23-1308, New York, NY 10023 for 0% redemption fee and a \$59,000.00 premium; and

WHEREAS, East West Bank, 135 N. Los Robles Ave., Pasadena, CA 91101 has effected redemption of Certificate #13-00002 in the amount of \$37,150.87; and

NOW, THEREFORE, BE IT RESOLVED, that the Tax Collector is authorized to issue a check in the amount of \$37,150.87 payable to C & E Tax Lien Fund I for the redemption of this certificate; and

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to issue a check in the amount of \$59,000.00 (Premium) to the aforementioned lienholder.

R15195 Resolution Authorizing Refund of Tax Payment

WHEREAS, Corelogic Real Estate Tax Service, 95 Methodist Hill Dr., Suite 100, Rochester, NY 14623 and Glenn Hertzberg, 112 Central Avenue, Hillsdale, NJ 07642 paid 3rd quarter taxes resulting in an overpayment; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Hillsdale authorize the Tax Collector to refund Corelogic Real Estate Tax Service, the following taxes:

Property – 112 Central Avenue

Block 1526 Lot 8 \$2,681.02

R15196 Award the Contract for Preparing & Submitting a Sampling Protocol to First Environment to perform Air Quality Tests.

WHEREAS, there is a DEP requirement for the Hillsdale Landfill to perform air quality tests; and

WHEREAS, achieving compliance with the air permit issued by the NJDEP (PCP150001) for operating the landfill ventilation system approved by the DEP on July 27, 2015; and

WHEREAS, various conditions must be met by the Borough as per the Compliance Plan, including quarterly sampling of the methane vents, analyze the samples, submit a report to the NJDEP ; and

WHEREAS, the requirement to submit a sampling protocol to the NJDEP Bureau of Technical Services (BTS) in required for approval; and

WHEREAS, once approval is deemed by NJDEP, a separate proposal will be done for the quarterly sampling.

THEREFORE, BE IT RESOLVED, the recommendation to award the contract for preparing and submitting a sampling protocol to First Environment, 91 Fulton Street, Boonton, NJ 07005, in the amount not to exceed, \$2,800.00 per proposal submitted dated August 11, 2015.

R15197 Road Improvement Kent Road/Baylor Avenue/Saddlewood Drive Core Sampling

WHEREAS, the 2014 Road Improvement Program consisting of Kent Road, Baylor Avenue and Saddlewood Drive were funded by NJDOT grant; and

WHEREAS, upon completion of the project, a bituminous concrete core drilling test is performed in accordance with NJDIT Spec 2007; and

WHEREAS, Neglia Engineering recommends such sampling and testing be completed, which the cost will be reimbursed by the NJDOT as part of the funding for these roads; and

NOW, THEREFORE, BE IT RESOLVED that the firm of Key Tech, 210 Maple Place, P.O. Box 48, Keyport, NJ 07735 be awarded the contract to perform such duties, in the amount NTE \$1,650.00.

R15198 Authorize the Borough Clerk to Advertise a Bid for the DPW- Four Wheel Drive Articulated Wheel Loader

WHEREAS, there is a need for equipment for the DPW; and

WHEREAS, one such piece is a wheel loader which was approved is part of the 2015 Capital Budget; and

NOW, THEREFORE, BE IT RESOLVED, that the Borough Clerk is authorized to advertise for bids for a ARTICULATED WHEEL LOADER for the DPW.

Mr. Madaio asked to pull R 15193

Motion by Councilmember Ruocco to pull R 15198.

Motion made by Councilmember Looes, second by Councilmember Myerson

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

Mr. Madaio spoke about the increase of the public bidding threshold stating that the QPA raises the public bidding threshold for Hillsdale from \$36,000 to \$40,000. Eliminating the need for advertising and other administrative items will reduce overall costs for the Borough. He noted that the Requesting Quotes threshold is 15% of the total amount or about \$6,000. Council President Pizzella pointed out that there is an electrical services contractor who is close to the \$6,000. If, during the course of the year, the aggregate goes over the \$6,000 quotes are necessary. He advised Ms. Witkowski to get quotes for these services in order to avoid an audit. Mr. Madaio reiterated that this resolution brings Hillsdale's practices in compliance with the new State code.

Motion on R-15193 by Councilmember Looes, second by Councilmember DeRosa

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

Motion on 15198 by Councilmember Ruocco

Councilmember Ruocco asked for confirmation that the front end loader is referenced in the capital budget with the cost being revised to \$150,000. He suggested that the cost be referenced in the resolution.

Motion on R-15198 by Councilmember Looes, second by Councilmember Myerson

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco, and Council President Pizzella

Nays: None

Absent: None

OFF CONSENT: R15199

R 15199 Bill List

BE IT RESOLVED, by the Borough Council of the Borough of Hillsdale that the following bills in the sum of \$3,519,409.01 as authorized by the Department Head and approved by a Council member liaison, be paid; and that the Mayor, Clerk and Chief Financial Officer be and they are hereby authorized and directed to issue warrants in payment of same.

Council President Pizzella referred to 25318 and asked if they should look at this from the beginning. Mayor Arnowitz said that he was under the impression that there was something in Edmunds noting that when billings reach a certain point an alert is raised advising that the bid threshold is close to being reached. Michael Kaufman must be able to identify this, and Mr. Madaio indicated that the bill must be paid because services were rendered even though the threshold has been exceeded. He added that a list of vendors who are over the threshold needs to be reviewed by Mr. Kaufman.

Motion to approve by Councilmember DeGise, second by Councilmember Looes

Roll Call Vote

Ayes: Councilmembers DeGise, DeRosa, Looes, Myerson, Ruocco and Council President Pizzella

Nays: None

Absent: None

COUNCIL COMMENTARIES

Councilmember DeGise stated that some residents complained about the bridge that was installed near Kings Supermarket. They were concerned about the removal of the asphalt and debris left on the bridge. Ms. Witkowski said she is looking into this.

Councilmember Ruocco congratulated several groups from Pascack Valley High School on obtaining a grant from Bergen County Utilities Authority (BCUA) for environmental awareness.

Council President Pizzella expressed his condolences to the family of the person who was killed near the train station. He was impressed with the way Hillsdale handled the response to the tragedy.

Councilmember Looes echoed Council President Pizzella's comments. She received many compliments relative to the treatment of the children involved by the Police Department, and the extra effort made to ensure that the children were alright. She stated that the Police visit the schools educating children in the procedure that should be followed in an emergency situation and the children did do what they had been advised to do.

Councilmember DeRosa said that unfortunately it takes a tragedy to realize how fortunate the town is to have such a wonderful group of emergency services workers and volunteers. He reminded everyone of the 9/11 Memorial Service across from the train station on Friday. Councilmember DeRosa announced that Saturday is Town Day at Stonybrook Park.

Councilman Myerson stated that the area is in a drought situation and Hackensack Water Company is doing reverse 911 calls. He asked everyone to conserve water. Mayor Arnowitz said that there are signs posted and an email blast has gone out regarding the drought situation.

Ms. Witkowski stated that the Tax Collector will be holding the annual tax sale on Wednesday, October 21st at 10 A.M. in the Council Chambers. She learned that the previous driver of the Senior Van, Howard Minnick passed away. Ms. Witkowski reported on the harassment seminar, and said that she had found a woman who is willing to speak to the various departments in October. She is emailing dates in order to determine availability.

Mayor Arnowitz said that there are two ceremonies commemorating 9/11, one in the morning and the other at Veteran's Park in the evening. He is involved with the Fire Department commemorations and he explained that the Department lines up in uniform and walks from the Fire House to Veteran's Park. This is a silent memorial which takes half an hour and he recommended that everyone attend.

Regarding the person who was killed at the Train Station, Mayor Arnowitz said that this was a terrible accident. This type of accident has a haunting effect on personnel involved in emergency services.

ADJOURN TO CLOSED SESSION @9:45 PM

R 15200 To provide for a meeting not open to the public in accordance with the provisions of the New Jersey Open Public Meetings Act N.J.S.A. 10:4-12 *COAH litigation, personnel-DPW/Zoning/grievances.*

WHEREAS, the Borough Council of the Borough of Hillsdale is subject to certain requirements of the Open Public Meetings Act N.J.S.A. 10:4-6 et seq; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12 provides that an Executive Session not open to the public may be held for certain specified purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Borough Council of the Borough of Hillsdale to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12(b) and designated below:

___ (1) Matters required by law to be confidential.

___ (2) Matters where the release of information would impair the right to receive funds.

___ (3) Matters involving individual privacy.

___ (4) Matters relating to collective bargaining agreements

___ (5) Matters relating to the purchase, lease or acquisition of real property or the investment of public funds.

___ (6) Matters relating to public safety and property.

X (7) Matters relating to litigation, negotiations and the attorney-client privilege – *COAH litigation, shared services WCL, personnel/Zoning/DPW, grievances*

___ (8) Matters relating to the employment relationship

___ (9) Matters relating to the potential imposition of a penalty.

NOW, THEREFORE BE IT RESOLVED, by the Council of the Borough of Hillsdale assembled in public session this date that an Executive Session closed to the public be and the same is hereby authorized for discussion of matters relating to the specified items designated above. It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality.

Motion to adjourn to closed session made by Councilmember Looes, second by Councilmember DeRosa, and unanimously approved.

RECONVENE REGULAR MEETING @ 10:05 P.M.

Motion to reconvene regular session was made by Councilmember DeRosa, second by Councilmember Looes and unanimously approved

Borough Attorney Madaio said let the record reflect all members of the governing body were present for commencement of the executive session and are present for the recommencement of the open session, as well as the Borough Clerk/Borough Administrator and the Borough Attorney.

ADJOURNMENT @10:06 P.M.

Motion to adjourn was made by Councilmember Looes, second by Councilmember DeGise, and unanimously approved.

THE NEXT MEETING OF THE MAYOR AND COUNCIL WILL BE

TUESDAY, OCTOBER 6, 2015 – BEGINNING AT 7:30 p.m.

Denise Kohan, Deputy Municipal Clerk
APPROVED AS PRESENTED

Denise Kohan, Deputy Municipal Clerk