

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 6, 2008

The meeting was called to order by Mayor Armstrong at 7:00 P.M. with the opening statement that the meeting had been duly advertised and met all the requirements of the Sunshine Law. Also present were: Deputy Mayor Kievit, Councilwoman Hamilton, Councilman Ross, Manager Marianne Smith, Township Attorney Fred Semrau and Clerk Jane Bakalarczyk

SALUTE THE FLAG:

CONSENT AGENDA: ALL MATTERS LISTED BELOW ARE CONSIDERED TO BE ROUTINE IN NATURE AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF ANY DISCUSSION IS DESIRED, THAT PARTICULAR ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED SEPARATELY.

Agreements/Applications/Licenses:

1. Raffle – Hardyston Township PTA
2. Raffle – Wallkill Valley Regional High School Booster Club
3. Raffle – The Morris Museum
4. Raffle – St. John Vianney R.C. Church
5. Raffle – Order of Eastern Star
6. Microstrategies, Inc. – NICE Voice Recorder Service Plus Maintenance Agreement (Police Dept.)
7. Fire Department New Member Application – Robert A. Covert

A motion was made by Kievit to approve the consent agenda as presented, seconded by Ross. All in favor with Ross abstaining on the raffle license for the Hardyston Township PTA. Motion carried.

ORDINANCES:

1st READING: 2008-04

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 53, ALARMS, OF THE REVISED GENERAL ORDINANCES

BE IT ORDAINED, by the Township Council of the Township of Hardyston, County of Sussex and State of New Jersey as follows:

SECTION 1. Chapter 53, Alarms, Section 53-6, Violations and penalties, of the aforesaid Revised General Ordinances is hereby amended and supplemented to read as follows:

§ 53-6. Violations and penalties.

Any person who shall violate any of the terms or provisions of this article or who shall commit or do any act or thing prohibited by this article shall, upon conviction thereof, be punished in accordance with Chapter I, Article I, provided that minimum fines shall be established as follows:

- A. Failure to register: \$50.
- B. ***False alarms. The holder of any registration permit, except in the case of a permit issued for a publicly owned building, shall be assessed a penalty for each false alarm in excess of four (4) occurring in any one calendar year. The penalties shall be assessed as follows:***
 - (1) ***Fifth false alarm in the same calendar year: \$100.***
 - (2) ***Sixth false alarm in the same calendar year: \$200.***
 - (3) ***Seventh false alarm in the same calendar year: \$300.***
 - (4) ***Eighth false alarm in the same calendar year: \$400.***
 - (5) ***All subsequent false alarms in the same calendar year: \$500.***

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 6, 2008

SECTION 2. Chapter 53, Alarms, of the aforesaid Revised General Ordinances is hereby supplemented with the addition of Section 53-7, General provisions and regulations, to read as follows:

§ 53-7. General provisions and regulations.

- A. All alarm devices shall be installed in accordance with all applicable municipal and governmental laws, ordinances and requirements.**
- B. Any unauthorized equipment may be disconnected by the Chief of Police or his designated representative for noncompliance with this chapter; any person installing, maintaining or using unauthorized equipment shall be prosecuted for violation of this chapter; and each and every day said equipment is in use shall be considered a separate violation.**
- C. A registrant or his representative shall respond to the source of a signal or transmission from an alarm device as promptly as possible after the activation of such device and shall contact the Police or Fire Department dispatched to the scene. He shall relieve the police or fireman in charge whenever there is no apparent fire or criminal activity at the scene of the alarm.**
- D. Any registrant shall be deemed to have consented to inspection of the premises on which said alarm device is installed, at reasonable hours, by the Police or Fire Chief or his designated representative. This provision shall not be construed to impose a duty on the municipality to make inspections or to relieve the alarm owner from inspecting, testing and maintaining his own alarm device(s).**
- E. All costs and recurring charges incurred in the installation and maintenance of alarm systems shall be borne by the registrant.**
- F. All private alarm systems shall be maintained in good working order by the registrant and, in particular, in a manner so as to avoid the occurrence of false alarms. The occurrence of three (3) false alarms in one calendar month or at least two (2) false alarms in each of three consecutive calendar months shall constitute prima facie evidence that the system was not maintained in good working order.**

SECTION 3. Chapter 53, Alarms, of the aforesaid Revised General Ordinances is hereby supplemented with the addition of Section 53-8, Limitation on responsibility of Township, to read as follows:

§ 53-8. Limitation on responsibility of Township.

The Township of Hardyston and its various departments, agencies and officials shall be under no duty or obligation to any registrant or to any other person or persons with respect to the adequacy, operation, installation, repair or maintenance of the alarm console equipment and any allied or related equipment or services and assumes no liability in connection therewith. Upon issuance of a registration permit hereunder, the registration permit holder hereby agrees to hold and save harmless the Township of Hardyston and its departments, agencies and officials from any liability or damages suffered as a result of or arising out of improper or faulty installation, operation or maintenance of any police or fire alarm system of the registrant or the improper or faulty installation, operation or maintenance of the alarm console at the Municipal Building. No action taken by the Township or, the Township Police Department pursuant to the provisions of this section shall create any liability upon the Township or the Township Police Department by reason of any failure of any alarm system and any failure to respond to any emergency or any act of omission or commission relating to any alarm system.

SECTION 4. All ordinances of the Township of Hardyston, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 6, 2008

SECTION 6. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

A motion was made by Ross to approve Ordinance 2008-04 on first reading, seconded by Kievit. All in favor. Motion carried.

ORDINANCES:

2nd READING: 2008-03

**CALENDAR YEAR 2008
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Council of the Township of Hardyston in the County of Sussex finds it advisable and necessary to increase its CY 2008 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Council hereby determines that a 1.0% increase in the budget for said year, amounting to \$61,663.33 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of Hardyston, in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2008 budget year, the final appropriations of the Township of Hardyston shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.50%, amounting to \$215,821.66, and that the CY 2008 municipal budget for the Township of Hardyston be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried. A motion was made by Ross the approve Ordinance 2008-03 on second reading, seconded by Kievit. All in favor. Motion carried.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 6, 2008

NEW BUSINESS:

- A. Resolution opposing Senate Bill No. 555

WHEREAS, Senate Bill No. 555 would require municipalities to remit to county and local school districts, at least 10 percent and 5 percent respectively, of the annual service charge received under long term tax exemption agreements, and

WHEREAS, this Bill would significantly decrease the amount of monies municipalities receive from agreements entered into by the municipality with business entities for payment in lieu of taxes, and

WHEREAS, in time, when the Governor is asking all municipalities, counties and school districts to cut back on spending, this Bill would further deprive municipalities of much needed revenue to provide services to its community;

NOW THEREFORE BE IT RESOLVED, that the Township Council of the Township of Hardyston opposes passage of S-555;

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to our State Legislators, Senator Oroho and Assembly Members Chiusano and McHose, and to our neighboring municipalities, and to the New Jersey League of Municipalities.

A motion was made by Kievit to approve the resolution as presented, seconded by Ross. All in favor. Motion carried.

- B. Resolution urging the New Jersey Department of Transportation to consider lowering the speed limit along State Highway 94 in the Township of Hardyston between mile marker 36 and mile marker 37

WHEREAS, the posted speed limit along State Highway 94 in the Township of Hardyston between mile marker 36 and mile marker 37 is 45 mph; and

WHEREAS, the posted speed limit along State Highway 94 south of mile marker 36 in the Borough of Hamburg is 35 mph; and

WHEREAS the posted speed limit along State Highway 94 north of mile marker 37 in the Township of Vernon is 35 mph; and

WHEREAS, the Crystal Springs resort development in Hardyston Township will be constructing an access to State Highway 94 between mile marker 36 and mile marker 37 in the next several months; and

WHEREAS, the Hardyston Township Council is concerned that the current 45 mph posting between mile marker 36 and mile marker 37 in the Township is potentially hazardous given the volume of future traffic exiting the Crystal Springs resort development and given the lower speed limits to the north and south.

NOW THEREFORE BE IT RESOLVED by the Hardyston Township Council that it urges the New Jersey Department of Transportation to investigate lowering the speed limit along State Highway 94 between mile marker 36 and mile marker 37 in the Township of Hardyston; and

BE IT FURTHER RESOLVED that copies of this Resolution be forwarded to the New Jersey Department of Transportation, Senator Steven V. Oroho, Assemblyman Gary R. Chiusano, Assemblywoman Alison McHose, the Hamburg Borough Council and the Vernon Township Council.

A motion was made by Ross to approve the resolution as presented, seconded by Kievit. All in favor. Motion carried.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 6, 2008

C. Resolution opposing the closure of New Jersey State Parks

WHEREAS, over 17 million visitors use New Jersey State Parks and forests each year for camping, swimming, hiking, boating, and other recreational activities, and

WHEREAS, the New Jersey State Park system represents a vital resource in the State of New Jersey, and

WHEREAS, there are numerous business enterprises in Northwest New Jersey that rely heavily or exclusively on the commerce generated by tourists who visit New Jersey State Parks each year, and

WHEREAS, High Point State Park is the location of High Point Monument, a beautiful and necessary historic landmark dedicated to the memory of our Veterans of the Armed Forces, and

WHEREAS, the New Jersey Department of Environmental Protection is giving consideration to the full closure of High Point State Park in response to budget pressures of the New Jersey State Government, and

WHEREAS, the closure of High Point State Park will eliminate the ability of the general public to give honor due to our Veterans by closing off the High Point Monument, and

WHEREAS, the Mayor and Council of the Township of Hardyston consider it to be a travesty that any State Park would be closed because of the decades-long inability of New Jersey State Government to operate within the same spending caps and fiscal responsibility that they impose on local governments, and

WHEREAS, State Parks represent a successful and popular venue of tourism and economic stimulus generating \$3.9 billion for New Jersey's local and state economies, and

WHEREAS, the closure of any New Jersey State Parks would lead to extensive and widespread business failures in Northwest New Jersey, serving to further exacerbate the Economic Recession currently in effect, as well as increasing the loss of tax revenue by increased tax appeals created by loss of property valuation,

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Township of Hardyston does hereby oppose the closure of any New Jersey State Park, and

BE IT FURTHER RESOLVED, that the Mayor and Council of the Township of Hardyston respectfully points out to Governor Jon Corzine, NJDEP Commissioner Lisa Jackson, and the entire State Legislature that the solution to the fiscal problems of Trenton must not be sought by pursuing budget cuts that will cause the economic collapse of Northwest New Jersey.

A motion was made by Kievit to approve the resolution as presented, seconded by Hamilton. All in favor. Motion carried.

D. Resolution of the Council of the Township of Hardyston approving the first amendment to the Affordable Housing Developer's Agreement with Crystal Springs Builders, LLC

WHEREAS, The Township Council of the Township of Hardyston intends, by this resolution, to ratify the Manager's execution of the attached First Amendment to the Affordable Housing Developer's Agreement with Crystal Springs Builders, LLC in order to achieve compliance with the requirements of the regulations of the New Jersey Council on Affordable Housing (COAH) and the principles of the Mt. Laurel II Supreme Court decisions; and

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 6, 2008

WHEREAS, the attached First Amendment to the Affordable Housing Developer's Agreement will achieve compliance with Affordable Housing requirements and assist the Township in meeting its Affordable Housing requirements; and

NOW, THEREFORE, be it resolved by the Council of the Township of Hardyston, County of Sussex, State of New Jersey that the attached First Amendment to the Affordable Housing Developer's Agreement is ratified and approved and the signatures of the Township Clerk and Township Manager are hereby authorized on the attached First Amendment to Affordable Housing Developer's Agreement with Crystal Springs Builders, LLC.

A motion was made by Ross to approve the resolution as presented, seconded by Kievit. All in favor. Motion carried.

- E. Resolution accepting an amended letter of credit in the amount of \$1,380,000.00 from Crystal Springs Builders, LLC as guarantee of performance of Affordable Housing (COAH) obligations for Grand Cascades

WHEREAS, Crystal Springs Builders, LLC has submitted to the Municipal Clerk an amended Irrevocable Letter of Credit in the amount of \$1,380,000.00; and

WHEREAS, the letter of credit has been reviewed and approved as to form by the Planning Board Attorney and Township Engineer.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Hardyston that it hereby accepts the above stated bond from Crystal Springs Builders, LLC as performance securities required by the Hardyston Township Planning Board.

A motion was made by Ross to approve the resolution as presented, seconded by Kievit. All in favor. Motion carried.

- F. Resolution authorizing the Recycling Coordinator to file the 2007 Recycling Tonnage Grant Application for the Township of Hardyston

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

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

WHEREAS, the New Jersey Department of Environmental Protection and Energy is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

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

WHEREAS, a Resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and indicate the assent of the Mayor and Council of the Township of Hardyston to the efforts undertaken by the municipality and requirements contained in the Recycling Act and Recycling Regulations; and

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 6, 2008

WHEREAS, such a Resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that Hardyston Township hereby endorses the submission of a Municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection, Office of Recycling and designates Robert F. Schultz, Recycling Coordinator for the Township of Hardyston, 149 Wheatsworth Road, Hardyston, NJ 07419 to assure that the said Application is properly filed.

A motion as made by Kievit to approve the resolution as presented, seconded by Hamilton. All in favor. Motion carried.

- G. Resolution certifying to the Sussex County Board Of Chosen Freeholders that the Township of Hardyston recognizes and approves the Hardyston First Aid Squad's efforts to seek financial assistance from the County of Sussex

WHEREAS, the County of Sussex has, for several years, provided financial assistance to Emergency Rescue and First Aid Squads serving the residents of the County; and

WHEREAS, on February 28, 2001 the Sussex County Board of Chosen Freeholders adopted a resolution requiring municipalities to certify that First Aid Squad's serving their community are approved to seek financial assistance from the County of Sussex; and

WHEREAS, the volunteers of the Hardyston Township First Aid Squad have for many years provided emergency medical and rescue services to Township residents, businesses and visitors.

NOW THEREFORE BE IT RESOLVED by the Hardyston Township Council that it hereby certifies its approval of the Hardyston Township First Aid Squad seeking financial assistance from the County of Sussex.

A motion was made by Kievit to approve the resolution as presented, seconded by Hamilton. All in favor with Ross abstaining. Motion carried.

- H. 2008 Budget Hearing/Adoption

Councilman Lasinski arrived and joined the meeting at this time. Township Manager Marianne Smith gave a written and verbal presentation on the 2008 Municipal Budget. A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried. A motion was made by Ross to table the adoption of the 2008 Municipal Budget until the June 17, 2008 meeting, seconded by Lasinski. All in favor. Motion carried.

BILLS TO BE PAID: A motion was made by Kievit to approve the bill list as presented, seconded by Ross. All in favor. Motion carried.

PUBLIC PORTION: A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

ADJOURNMENT: A motion was made by Kievit to adjourn, seconded by Hamilton. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk