

## **MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 20, 2008**

The meeting was called to order by Deputy Mayor Kievit 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: Councilwoman Hamilton, Councilman Ross, Councilman Lasinski, Manager Marianne Smith 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.**

### **Monthly Reports:**

1. Municipal Clerk Report – March & April 2008
2. Tax Collector Report – March & April 2008
3. Sussex County Health Department Report – March & April 2008
4. Sussex County Public Health Nurse Activity – March & April 2008
5. Police Department Report – March & April 2008
6. HTMUA – Minutes of 3/3/08 & 4/7/08
7. Finance Officer Report – March & April 2008
8. Planning Board Minutes – February & March 2008
9. Zoning Board Minutes – March 2008
10. Zoning Officer Report – January, February, March 2008
11. Sales Listing Report – March 2008
12. Smoke Detector & CO Alarm Compliance Insp. Report – 1<sup>st</sup> Q 2008
13. Construction Certificate Activity Report – March & April 2008
14. Construction Permit Activity Report – Hardyston – March & April 2008
15. Construction Permit Activity Report – Hamburg – March & April 2008
16. Construction Department 2007 Annual Report

### **Minutes:**

1. Regular Minutes of 3/18/08
2. Regular Minutes of 4/1/08
3. Workshop Minutes of 4/1/08
4. Executive Session Minutes of 4/1/08
5. Regular Minutes of 5/6/08
6. Workshop Minutes of 5/6/08
7. Executive Session Minutes of 5/6/08

### **Agreements/Applications/Licenses:**

1. KML Technology, Inc. – 911 Emergency Phone System Service Agreement
2. Raffle – The Craig School

A motion was made by Hamilton to approve the consent agenda as presented, seconded by Ross. All in favor with Lasinski voting “No”. Motion carried.

### **OLD BUSINESS:**

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**ORDINANCES:**

**1st READING:**

**2008-05**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON AMENDING SUB-SECTION 185-90.1 F ENTITLED "GROWTH SHARE" OF SECTION 185-90.1 ENTITLED "LOW AND MODERATE INCOME HOUSING" OF THE COMPREHENSIVE LAND MANAGEMENT CODE**

Purpose Statement – The purpose of this ordinance is to amend the existing growth share ordinance of the Township Code to update it in accordance with Mount Laurel II and Council on Affordable Housing (COAH's) proposed Round 3 Affordable Housing Regulations.

**WHEREAS**, the New Jersey Council on Affordable Housing ("COAH") proposed revised Third Round Regulations, published in the New Jersey Register on January 24, 2008, which regulations will significantly increase municipalities' requirements to provide affordable housing. To address COAH's proposed Third Round Regulations and the Mount Laurel II decision, the Hardyston Township Council intends to adopt this Ordinance, which imposes Growth Share requirements, consistent with the Mount Laurel II decision and the proposed COAH regulations, on residential and certain non-residential developments within the Township.

**BE IT ORDAINED** by the Township Council of the Township of Hardyston that the Comprehensive Land Management Code of the Township of Hardyston is hereby amended as follows:

**Section 1.** Sub-Section 185-90.1F entitled "Growth Share" of Section 185-90.1 entitled "Low and Moderate Income Housing" is amended to delete the existing subsection and replace it with the following:

**185-90.1 F.Growth Share**

**a. Applicability.**

The requirements contained in this Ordinance shall be applied in Hardyston Township to all zones except the Crystal Springs portion of the CR Zone district, which is subject to separate ordinance provisions and a developer's agreement for an inclusionary development.

Responsibility for constructing affordable housing units shall be as provided for under this Ordinance. Developers that have received final approval prior to the effective date of this Ordinance shall be exempt from complying with the provisions of this Ordinance, unless the developer seeks a substantial change in approval, or the plan is abandoned, approval lapses, or the period of protection pursuant to N.J.S.A. 40:55D-52 expires without extension. The triggering mechanism for growth share responsibility shall be the issuance of a building permit for new construction that received municipal land use approvals after the adoption of this Ordinance.

**b. Affordable Units Required for Residential Developments.**

Except for residential "inclusionary" developments which are otherwise required to have a set-aside of "low" and "moderate" income units, any applicant for a residential development in Hardyston Township that includes four (4) or more residential lots and/or dwelling units shall be required to provide the number of affordable housing units equivalent to twenty-five percent (25%) of the total number of market rate units which will result from the proposed development, with any decimal amount rounded to the next highest whole number. The number of units permitted is based upon the density requirements of the zone district including the growth share units plus the incentive units allowed by this ordinance.

As incentives to internally subsidize the required affordable housing units, a developer may utilize the following incentives:

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1. For residential developments constructing the growth share affordable units on-site, the developer may build one (1) additional market-rate unit for each affordable for sale unit constructed on-site or 1.5 additional market-rate units for each affordable rental unit constructed on-site. The administration of any rental affordable units constructed on site will be the responsibility of the developer, unless an alternative arrangement is agreed upon between the developer and the Township. The affordable units may be built on a lot of one-half (½) or more acres in size, and may be single-family, duplex, triplex or quadraplex units. The density increases granted to allow the incentive one (1) market-rate unit per affordable unit(s), the affordable units, and the alternate structure and use type for affordable units shall not require a "c" or "d" variance.

2. For residential developments that make payments to the Township of Hardyston in lieu of constructing affordable units, the developer may build up to one-half (½) of a market-rate unit for each full contribution toward an affordable unit's costs.

### **c. Affordable Units Required for Non-Residential and Mixed Use (Residential and Commercial) Developments.**

An applicant for a non-residential or mixed use (residential and commercial) development in Hardyston Township that includes the creation of new jobs shall be required to provide the number of affordable housing units equivalent to one (1) affordable for every four (4) market residential units and one (1) affordable housing unit for every sixteen (16) new jobs created by the development. In accordance with the "Substantive Rules" of COAH, the calculation of the number of new jobs shall be in accordance with "Appendix D" to COAH's "Substantive Rules" (N.J.A.C. 5:94-1, et seq.), which utilizes use groups as defined by the International Building Code, which has been incorporated by reference into the Uniform Construction Code. An applicant for an industrial development in an industrial district shall provide the affordable units somewhere else in residential or commercial zone in Hardyston Township or in a manner endorsed by the Planning Board and approved by the Township Council.

As incentives to internally subsidize the required affordable housing units in non-residential and mixed use developments, developers shall be permitted to include ten (10%) percent additional impervious coverage over and above the permitted impervious coverage in the zone district in which the development is located. As an additional incentive such developers shall be permitted to construct affordable residential units above or beside retail, office and mixed use uses in order to satisfy the non-residential affordable housing obligation on-site. The construction of affordable units above or beside retail, office, and mixed uses does not permit the developer to build an additional market rate unit for every affordable unit built unless the units are addressing a portion of the residential obligation. As a third incentive to non-residential developers that construct affordable housing on site, they shall be permitted to demonstrate shared parking for mixed use developments and if demonstrated to be reasonable, reduce the parking for the affordable housing portion of the developments by 50%.

### **d. "Low" & "Moderate" Income Split.**

Fifty percent (50%) of the affordable housing units required to be produced in accordance with Subsections 2 and 3 hereinabove shall be available to "low" income households and fifty percent (50%) shall be available to "moderate" income households, provided that any single remaining unit shall be available only to a "low" income household. If only one (1) affordable unit is required it shall be a low income unit unless the Township Council authorizes it to be a moderate income unit.

### **e. Compliance With COAH's Rules.**

All affordable housing units shall fully comply with all applicable "Substantive Rules" and policies of COAH including, unless modified above, but not limited to, bedroom distribution, controls on affordability, household income qualification and eligibility, range of

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affordability, affirmative marketing and the construction phasing of the market-rate versus the affordable housing units.

### **f. Payments in Lieu.**

For any residential development which proposes four or more residential units or non-residential construction that calculates to more than 16 jobs, the developer shall be required to provide on-site production of affordable housing except in an industrial development in an industrial district. For any industrial development in an industrial district and for any fractional or partial obligation remaining after the production of the mandated affordable housing units, the developer shall investigate alternative options for the required units and or partial unit under Section g. If after thorough investigation to the satisfaction of the Township Council, none of the options are available, the developer shall pay the pro rata contribution for each new housing unit or 16 jobs. The percentage is based upon the current COAH-determined subsidy required for payments in lieu of constructing affordable units on site at the time of receipt of a building permit. This payment is currently \$180,267 per unit.

### **g. Alternative Methods of Compliance.**

Except for major subdivision or site plan approvals involving four or more units or 16 or more jobs which require on-site production of affordable housing units, and further provided the developer obtains, as a condition of approval, written permission from the Hardyston Township Council, the developer may choose to satisfy its affordable housing obligation calculated in accordance with Sections b and c, in compliance with one or more of the following alternatives as permitted by COAH's "Substantive Rules" as set forth below:

1. On-site production of affordable housing units;
2. The purchase of an existing market rate dwelling unit within the municipality and its conversion to an affordably priced unit;
3. The purchase of an existing market rate dwelling unit within the municipality and its conversion to a "supportive and special needs housing" facility (i.e., group home); and/or
4. Participation in gut rehabilitation and/or buy down/write down or buy-down/rent down programs; and/or
5. Payment in accordance with Section f.

The developer's plan for satisfying the affordable housing obligation created by the proposed development shall be submitted to the Township Planning Board or Zoning Board at the time the application for development is submitted for review and approval and shall be considered a condition for the application being determined "complete". The developer shall obtain written permission from the Township Council endorsing the developer's plan for satisfying the affordable housing obligation after the Council has received a recommendation from the Planning Board.

### **h. Other Design Considerations.**

1. More than one affordable unit may be on a building lot. Affordable single-family, duplex, triplex and quadraplex structures are hereby permitted in Hardyston Township.
2. The affordable housing structures shall be consistent in size and architectural features with the neighborhood or as approved by the Township Planning Board and/or Zoning Board.
3. Septic systems for the affordable housing units on the same lot (other than in the Hardyston Town Center, which shall be connected to the sewer system) may only share the leach field and shall be maintained with an annual maintenance fee from each unit. Each owner shall maintain other septic system components. Any

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septic system arrangement under this provision is subject to the Board of Health approval.

4. Affordable housing units must comply with the accessibility requirements of N.J.A.C. 5:94-3.14.

**i. Construction of Affordable Units.**

Residential units shall be constructed on a schedule in accordance with the COAH regulations:

Percentage of Market Rate Units Completed	Minimum Percentage of Low and Moderate Income Units Completed
25	0
25 plus 1 unit	10
50	50
75	75
90	100

Non-residential development shall be constructed based upon the same percentages above by substituting non-residential development for market rate units.

**j. Housing permitted.**

Growth share housing is a permitted use in every residential and non-residential zoning district, except industrial zone districts, to the extent that production of affordable housing units is mandated by this Ordinance. In industrial districts the growth share obligation shall be fulfilled by credits elsewhere in the Township in the non-industrial districts or as otherwise approved by developer's agreement with the Township Council.

**k. Appeals**

Developers subject to this inclusionary growth share ordinance may appeal to the reviewing Board pursuant to N.J.S.A. 40:55D-70c(1) hardship standards to demonstrate to the satisfaction of the Board that the increased density or intensity and/or reduced costs do not provide an appropriate level of compensation commensurate with the amount of affordable housing required. The reviewing Board may grant relief including, but not limited to, additional incentives or reductions in the affordable units required or any combination thereof deemed appropriate by the Board to eliminate the "hardship" and provide sufficient incentives.

**Section 2. Severability.**

If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

**Section 3. Repealer.**

All ordinances or parts of ordinances or resolutions inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

**Section 4. Effective date. – Emergency Effective Date**

This Ordinance shall take effect immediately after its final passage and publication as required by law because of the emergency of the need to comply with affordable housing obligations.

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A motion was made by Hamilton to approve Ordinance 2008-05 on first reading, seconded by Lasinski. All in favor. Motion carried.

**ORDINANCES:**

**2nd 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.***

**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***

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*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.

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

A motion was made by Hamilton and seconded by Ross to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made by Hamilton and seconded by Ross to close the meeting to the public. All in favor. Motion carried. A motion was made by Hamilton to approve Ordinance 2008-04 on second reading, seconded by Ross. All in favor. Motion carried.

**NEW BUSINESS:**

- A. DOT Presentation – Rt. 23 Improvements Project

New Jersey Department of Transportation representatives Debbie Hirt, Rick Jaffe and Nick Dogias made a presentation to the Council of the proposed design for the Route 23 Improvements Project. A motion was made by Ross to support all phases of the design presented, seconded by Hamilton. All in favor. Motion carried.

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**B. Tax Collector Resolutions**

**RESOLUTION #01-08**

**WHEREAS, Block 67.04 Lot 1.08 also known as 15 Meadow Pond Road, Hardyston and owned by Joseph & Diane Esposito, and**

**WHEREAS, on September 25, 2007 Mr. Esposito was approved for a permanently disabled Veteran and has full exempt status, and**

**WHEREAS, First American Mortgage Company has paid the November 1<sup>st</sup> 2007 and February 1, 2008 taxes in error,**

**NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund First American Mortgage Company the amount of \$ 1,847.63 representing taxes for November 2007 and February 2008.**

**RESOLUTION #02-08**

**WHEREAS, due to the late adoption of the Township of Hardyston's 2008 Municipal Budget and 2008 Sussex County Budget, the Sussex County Board of Taxation is unable to certify tax rates for the year 2008, and**

**WHEREAS, without a 2008 certified tax rate the Tax Collector of the Township of Hardyston will be unable to issue 2008 tax bills on a timely basis, and**

**WHEREAS, in accordance with Chapter 72, P.L. 1994, the Township Mayor and Council requests the Director of the Division of Local Government Services to approve the 2008 estimated tax levy exceeding 105% of the previous year's tax levy. Approval will enable the Township of Hardyston to meet its financial obligations, maintain the tax collection rate, provide uniformity for tax payments and save the unnecessary cost of interest expenses on borrowing.**

**NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston, as follows:**

- 1. The Tax Collector of the Township of Hardyston is hereby authorized and directed to prepare and issue estimated tax bills for the Township of Hardyston for the third installment of 2008. The Tax Collector shall proceed upon approval from the Director and take such actions as are permitted and required by Chapter 72, Public Laws of 1994 and N.J.S.A. 54:4-66.2 and 54:4-66.3.**
- 2. The entire estimated tax levy for 2008 is hereby set \$ 23,317,909.00. The estimated tax rate for 2008 is hereby set at \$ 3.29**

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

**C. Resolution Authorizing The Execution Of The Following Contracts/ Leases/ Interlocal Agreements/Agreements:**

- 1. Hardyston Township Board of Education – Lawn Maintenance**
- 2. Hardyston Township Board of Education – Solid Waste and Recycling Removal**
- 3. Hardyston Township Board of Education – Park Maintenance**

**BE IT RESOLVED by the Township Council of the Township of Hardyston that the execution of the following contracts/agreements is hereby authorized:**

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1. Hardyston Township Board of Education – Lawn Maintenance
2. Hardyston Township Board of Education – Solid Waste and Recycling Removal
3. Hardyston Township Board of Education – Park Maintenance

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

D. Resolution - 2008 Soil Removal Renewal – Homes By Fredrick

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE RENEWAL OF THE SOIL REMOVAL LICENSE FOR BLOCK 62, LOT 34.01 FOR THE 2008 CALENDAR YEAR SUBJECT TO THE CONDITIONS SET FORTH HEREIN**

**WHEREAS**, the Township is in receipt of a request from Homes by Fredrick, Inc. (“applicant”), for a renewal of the soil removal license for Block 62, Lot 34.01 for the 2008 calendar year; and

**WHEREAS**, the Township previously granted the soil removal license to the applicant for the 2007 calendar year with the limited condition and express understanding that the applicant could temporarily store concrete block on the property since the concrete block was to be used on two projects within the Township which were already under construction; and

**WHEREAS**, the concrete blocks continue to remain on the property which has raised concerns from the Township and the Township Engineer regarding the renewal of said soil removal license for the 2008 calendar year; and

**WHEREAS**, the applicant has since attempted to address these concerns by indicating to the Township that there will be no additional concrete blocks added to the current inventory as well as the applicant making every effort to deplete the existing inventory of concrete blocks on the site during the year; and

**WHEREAS**, this proposal has been reviewed by the Township Engineer, Robert P. Guerin, P.E., who has indicated that he finds same acceptable and has no engineering objection for the renewal of said soil removal license, so long as the applicant abides by the aforementioned terms of the proposal; and

**WHEREAS**, the Township Council is desirous of authorizing the renewal of the soil removal permit for the calendar year 2008 for Block 62, Lot 34.01 in accordance with the terms of the applicant’s proposal.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey as follows:

1. The Township Council hereby authorizes the renewal of the soil removal permit applied for by Homes by Fredrick, Inc., for Block 62, Lot 34.01 for the 2008 calendar year.
2. The renewal of the soil removal permit for Block 62, Lot 34.01 shall be conditioned upon the applicant abiding by the terms of his proposal which include the agreement that there will be no additional concrete blocks added to the current inventory as well as the applicant making every effort to deplete the existing inventory of concrete blocks on the site during the year.
3. The renewal is further conditioned upon the Township’s reservation of its rights to re-examine whether the applicant is abiding by the terms of its proposal throughout the course of the year with the provision that the Township may rescind the license if it finds that the applicant is not abiding by the terms of its proposal.
4. As a further condition for the renewal of the license, the applicant agrees to notify the Township within three (3) business days if the applicant intends on removing at least ten (10) truckloads of soil in any given day.

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5. This resolution shall take effect immediately.

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

- E. Resolution accepting Cash Bond from Riverdale Quarry for Park Drive dedication

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE ACCEPTANCE OF A CASH BOND IN ACCORDANCE WITH THE MUNICIPAL LAND USE LAW AS A MAINTENANCE GUARANTY FOR THE IMPROVEMENTS FOR THE ROADWAY KNOWN AS PARK DRIVE**

**WHEREAS**, the governing body recently authorized the final acceptance and dedication of a roadway known as Park Drive and its improvements; and

**WHEREAS**, pursuant to the Municipal Land Use Law, specifically, N.J.S.A. 40:55D-53(a)(2), a municipality is authorized to require a developer to provide a maintenance guarantee to be posted with the governing body for a period not to exceed two years after final acceptance of the improvement; and

**WHEREAS**, pursuant to said statute, the developer, Riverdale Quarry Co., Inc., has agreed to post a cash bond in the amount of \$72,266.25 as the maintenance guaranty for said improvements performed on Park Drive, for a period of two years; and

**WHEREAS**, the Township of Hardyston is desirous of accepting such cash bond as a maintenance guaranty for the improvements of Park Drive in accordance with the Municipal Land Use Law.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey as follows:

1. The Township Council hereby accepts the cash bond in the amount of \$72,266.25 from Riverdale Quarry Co., Inc., as a maintenance guaranty for the improvements for the roadway known as Park Drive in accordance with the applicable provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
2. The Township has agreed to place the maintenance guaranty in a separate interest bearing account in the name of the Township designated as "Escrow for the Maintenance of the Park Drive Roadway and Riverdale Quarry Co, Inc.", with said interest to be paid to the developer when bond is subsequently released.
3. It is further agreed between the Developer and the Township that, in the event, the Township takes action to withdraw or utilize such funds to correct any deficient improvements, it must first notify the Developer, in writing, via certified mail return receipt requested, at least thirty (30) days prior to taking such action with the limited exception in the instance of an imminent safety concern wherein the Township must provide at least seventy-two (72) hours notice to the Developer, via facsimile. In addition to the above, it is agreed that the term of the maintenance guaranty for the improvements shall be for a period of two (2) years, consistent with the applicable provisions of the Municipal Land Use Law.
4. This resolution shall take effect immediately.

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

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F. Resolution of the Township of Hardyston appointing a Municipal Housing Liaison

**WHEREAS**, the Governing Body of the Township of Hardyston petitioned the Council on Affordable Housing (COAH) for substantive certification of its Housing Element and Fair Share Plan on November 7, 2001.

**WHEREAS**, Hardyston Township's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

**WHEREAS**, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., Hardyston Township is required to appoint a Municipal Housing Liaison for the administration of Hardyston's affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.,

**WHEREAS**, Hardyston Township has amended its Ordinances to provide for the appointment of a Municipal Housing Liaison to administer Hardyston Township's affordable housing program.

**NOW THEREFORE BE IT RESOLVED**, by the Governing Body of Hardyston Township in the County of Sussex, and the State of New Jersey that Carrine L. Piccolo is hereby appointed by the Governing Body of Hardyston Township as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Section 3 –49 of the Code of the Township of Hardyston entitled Municipal Housing Liaison Ordinance of the Hardyston Township Administration Code of Government.

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

G. Resolution Opposing S-1455 – County assumption of pre-determined municipal responsibilities referendum mandate

**WHEREAS**, S-1455 would mandate a county-wide binding referendum in every county in the State on the transfer of a predetermined package of municipal responsibilities to the county; and

**WHEREAS**, S-1455 is based on the unstudied assumption that county-wide administration of municipal property tax assessment and collection, municipal animal control services and municipal public health services will result in long-term cost savings to municipalities and that the price of a service determines its value to the public; and

**WHEREAS**, the League has encouraged the Legislature to wait until such questions are studied by the Local Unit Alignment, Reorganization and Consolidation Commission, which is charged with studying and reporting on the structure and functions of county and municipal government, including local taxing districts, their statutory bases, the fiscal relationship between local governments and the appropriate allocation of service delivery responsibilities from the

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standpoint of efficiency, and the Commission will also consider optimal service levels, ratios of employees to population served and cost structures for service delivery and other best practices; and

WHEREAS, until the Commission issues its findings, the League cannot be sure that the arbitrary transfer of these four functions makes any sense or whether it makes sense for the taxpayers of every municipality in every county; and

WHEREAS, the League has commended the sponsors for recognizing the need to eliminate certain statutory requirements to greater inter-local cooperation in the delivery of public health services and it supports Section 4 of the bill, which would repeal those impediments.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Hardyston:

1. That it opposes S-1455 because it feels that the Local Unit Alignment, Reorganization and Consolidation Commission should be allowed to study and report on the structure and function of county and municipal government.
2. That it objects to the principal of increasing jurisdictional powers to the counties beyond that which is permitted under current law and requests that the State of New Jersey convene a Constitutional Convention at the earliest possible date to re-organize New Jersey State Government and, as a part of that convention, seriously consider the elimination of County Government in favor of an expanded role of existing regional divisions of the State.
3. That certified 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 Ross to approve the resolution as presented, seconded by Lasinski. All in favor. Motion carried.

H. 2008 Salary Resolution Amendment

BE IT RESOLVED by the Hardyston Township Council that the annual salaries and wages effective May 19, 2008 shall be paid as follows:

<u>Position</u>	<u>Yearly Salary</u>
Planning Intern	\$45,000.00/year

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

I. Correspondence

1. Township of Vernon
2. Franklin Borough
3. Borough of Point Pleasant
4. Township of Andover
5. Hampton Township
6. Hampton Township
7. Hampton Township
8. Franklin Borough
9. Franklin Borough
10. Township of Andover

11. Township of Pemberton
12. Lafayette Township

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 20, 2008**

13. Township of Green
14. Township of Lawrence
15. Hampton Township
16. Hampton Township
17. Borough of Hamburg
18. Lafayette Township
19. Lafayette Township
20. Borough of Hamburg
21. Sandyston Township
22. Lafayette Township
23. Lafayette Township
24. Byram Township
25. County of Sussex
26. County of Sussex
27. County of Sussex
28. County of Sussex
29. County of Sussex
30. County of Sussex
31. County of Sussex
32. County of Sussex
33. Assemblyman Gary Chiusano
34. NJ State League of Municipalities
35. NJ State League of Municipalities
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39. NJ State League of Municipalities
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68. NJ State League of Municipalities
69. State of NJ

70. State of NJ

71. State of NJ

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 20, 2008**

72. State of NJ

73. State of NJ

74. State of NJ

75. State of NJ

76. State of NJ

77. State of NJ

78. State of NJ

79. State of NJ

80. NJ Transit

81. Conspectus Newsletter

A motion was made by Hamilton to approve the correspondence as presented with the exception of #45 and #52, seconded by Lasinski. All in favor. Motion carried.

**MANAGERS REPORT:** Manager Marianne Smith gave a report on the following:

- State Budget Update
- Hardyston Day
- DOT Grant Applications

**BILLS TO BE PAID:** A motion was made by Ross to approve the bill list as presented, seconded by Lasinski. 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.

**EXECUTIVE SESSION:**

**BE IT RESOLVED** by the Township Council of the Township of Hardyston on the 20th day of May 2008, that:

1. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
2.
  - ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
  - ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
  - ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
  - ( ) b. (4) A collective bargaining agreement including negotiations.
  - ( ) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
  - ( ) b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
  - ( **X** ) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
  - ( ) b. (8) Personnel matters.

( ) b. (9) Deliberations after a public hearing that may result in penalties.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 20, 2008**

3. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Motion to adopt: Hamilton  
Seconded by: Ross  
Discussion: None

<u>MOTION</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ross	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Kievit	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Lasinski	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Hamilton	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Armstrong	<u>      </u>	<u>      </u>	<u>      </u>	<u>  x  </u>

Motion carried.

A motion was made by Lasinski to come out of Executive Session, seconded by Hamilton. All in favor. Motion carried.

**ADJOURNMENT:** A motion was made by Ross to adjourn, seconded by Lasinski. All in favor. Motion carried.

\_\_\_\_\_  
Jane Bakalarczyk, RMC/CMC  
Municipal Clerk

