

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 10, 2008

The meeting was called to order by Mayor Armstrong at 7:30 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, Councilman Lasinski, Manager Marianne Smith, Deputy Manager Robert F. Schultz, Township Attorney Dominic DiYanni of Dorsey & Semrau, and Clerk Jane Bakalarczyk

SALUTE THE FLAG:

ORDINANCES:

2nd 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

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 10, 2008

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:

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.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 10, 2008

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 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

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 10, 2008

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 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.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 10, 2008

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 Kievit to approve Ordinance 2008-05 on second reading, seconded by Ross. All in favor. Motion carried.

NEW BUSINESS:

- A. Resolution reappointing Tax Assessor

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY
REAPPOINTING SCOTT J. HOLZHAUER TO THE POSITION OF MUNICIPAL TAX
ASSESSOR FOR A FOUR YEAR TERM**

WHEREAS, Scott J. Holzhauser was duly appointed and confirmed to the position of Municipal Tax Assessor on July 1, 2004 for a four (4) year term in accordance with N.J.S.A. 40A:9-146, et seq.; and

WHEREAS, said term of appointment will expire June 30, 2008; and

WHEREAS, Scott J. Holzhauser is and has been certified as a Municipal Tax Assessor pursuant to N.J.S.A. 40A:9-148.1 and has satisfied all the requirements for said certification; and

WHEREAS, the Township Council, the appointing authority for this position within the Township of Hardyston, is desirous of reappointing Scott J. Holzhauser as Municipal Tax Assessor for the Township of Hardyston.

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. Scott J. Holzhauser is hereby reappointed to the position of Municipal Tax Assessor in the Township of Hardyston, County of Sussex, State of New Jersey, for a term of four years commencing July 1, 2008, at such compensation as shall be established by Ordinance pursuant to N.J.S.A. 40A:9-146.
2. Scott J. Holzhauser, is and has upon this reappointment attained tenure pursuant to N.J.S.A. 40A:9-146.1(c) and N.J.S.A. 54:1-35.31 et seq.
3. This Resolution shall take effect immediately.

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

- B. Resolution opposing S-1137 which expands the scope of negotiations

WHEREAS, Governing bodies are concerned about their ability to manage their employees using methods in the most appropriate and efficient manner possible; and

WHEREAS, Governing bodies further believe that it is an employers' right to hire, promote, transfer, assign or retain employees in positions deemed necessary and appropriate; and

WHEREAS, Senate Bill No. 1137 would re-define the New Jersey Public Employment Relations Commission (PERC) law by adding new mandatory subjects of collective bargaining and issues that have been historically non-negotiable would become negotiable; and

WHEREAS, S-1137 will diminish the authority of municipalities over their day to day operations and severely impair the ability to manage personnel in an effective manner; and

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 10, 2008

WHEREAS, these changes are imposed on governing bodies while under severe financial stress, and the State announced plans to substantially reduce or eliminate State aid to many municipalities; and

WHEREAS, S-1137 would increase the time and cost of negotiations which costs ultimately falls on our beleaguered property taxpayers.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Hardyston adamantly oppose adoption of S-1137 which impinges on local management prerogatives, would potentially result in protracted costly negotiations and advances encroachments by public unions.

BE IT FURTHER RESOLVED, a certified copy of this resolution is hereby forwarded to Governor Jon Corzine, Senator Oroho and Assembly Members Chiusano and McHose and the NJ League of Municipalities.

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

C. 2008-2009 Liquor License Renewal Resolution

1. Anthony Pignataro Corp.
2. Jackelise, Inc
3. Hamburg Golf Course Beverage, Inc.

WHEREAS, the following Liquor License is to be renewed effective July 1, 2008, for a one year period; and

WHEREAS, all necessary fees and documentation have been properly filed with the Hardyston Township Municipal Clerk; and

NOW THEREFORE BE IT RESOLVED that the Liquor License shall be renewed for a period of one year effective July 1, 2008 for the following license holders.

1. Anthony Pignataro Corp.- #1911-33-004-006
2. Jackelise, Inc.- #1911-44-003-008
3. Hamburg Golf Course Beverage, Inc. - #1911-33-002-009

A motion was made by Ross to approve the resolution as presented, seconded by Kievit. All in favor with Lasinski abstaining on Hamburg Golf Course Beverage, Inc. Motion carried.

D. Resolution authorizing the execution of the inter-local agreement between the Hardyston Township Board of Education and the Township of Hardyston for Technology Administrative Services

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

1. Hardyston Township Board of Education – Technology Administrative Services

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

E. Resolution – Blind Child Warning Signs

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE PLACEMENT OF A WARNING SIGN ON WEST SHORE TRAIL IN SUMMIT LAKE

WHEREAS, the Township Department of Public Works has received a request from a Township resident for the placement of a sign on West Shore Trail in Summit Lake to provide caution and warning as to the presence of a blind child who resides on such roadway; and

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 10, 2008

WHEREAS, the Township has reviewed the request and, under the recommendation of the Supervisor of the Department of Public Works and the Township Attorney, the Township of Hardyston is desirous of placing said warning sign on West Shore Trail in Summit Lake.

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 grants the request of the Township resident and hereby authorizes the Department of Public Works to place the appropriate warning signage on West Shore Trail in Summit Lake to indicate the presence of a blind child residing on said roadway.
2. The Department of Public Works shall be responsible for determining the best location for placement of the warning sign.
3. It is further understood that this is a warning sign and the sign is being placed on the roadway only as a precautionary measure with the Township accepting no liability for any damages caused by the placement of said warning sign.
4. This resolution shall take effect immediately.

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

F. Crown Castle Cell Tower Lease Agreement

A motion was made by Ross to authorize entering into a contract based on the recent proposal received from Crown Castle, seconded by Kievit. All in favor. Motion carried.

G. Resolution – Homes By Fredrick

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON,
COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO OPPOSE THE
CANCELLATION OF A SOIL REMOVAL BOND FOR HOMES BY
FREDERICK, INC. AT 201 WHEATSWORTH ROAD, AND SUSPEND
THE SOIL REMOVAL LICENSE ISSUED TO HOMES BY FREDERICK, INC.
AND CALL AND/OR DEEM IN DEFAULT THE BOND POSTED BY
SELECTIVE INSURANCE ON BEHALF OF THE APPLICANT**

WHEREAS, Homes by Frederick, Inc., located at 201 Wheatsworth Road, maintains a soil removal permit issued by the Township of Hardyston; and

WHEREAS, as a condition of such license, the applicant, by Ordinance, is required to post a Restoration Bond in the amount of \$24,000; and

WHEREAS, Selective Insurance Company of America issued such Restoration Bond under number B198545 in the sum of \$24,000 on or about December 16, 2003; and

WHEREAS, the Bond by its very terms is to remain in full force and effect, until such time as all improvements covered by the Bond have been approved or accepted by Resolution of the municipal governing body; and

WHEREAS, on or about June 2, 2008, the Township received Notice of Proposed Cancellation of the aforesaid Bond from Selective Insurance which will become effective June 30, 2008; and

WHEREAS, the Township Engineer immediately performed an inspection of the premises and prepared a report dated June 4, 2008, a copy of same being attached and

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 10, 2008

incorporated herein, which outlines various deficiencies and verified that the improvements and appropriate restoration which the Bond guarantees, has not been completed.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Hardyston, in the County of Sussex and State of New Jersey, that the soil removal permit issued to Homes by Frederick, Inc. be suspended.

BE IT FURTHER RESOLVED, that the Township Attorney and Engineer are hereby authorized to take any and all necessary action to insure that the restoration Bond in the amount of \$24,000 is either extended and/or called so that the Township maintains such collateral.

This Resolution shall take effect immediately.

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

H. Resolution supporting the Republican effort in Trenton to lower taxes and control State spending

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

BILLS TO BE PAID: A motion was made by Hamilton to approve the bill list as presented, seconded by Kievit. 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: At approximately 7:45 p.m., a motion was made by Kievit to adjourn, seconded by Lasinski. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk