

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON OCTOBER 21, 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, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Dominic DiYanni of Dorsey & Semrau. Councilman Ross and Councilman Lasinski were absent from this meeting.

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 – September 2008
2. Tax Collector Report – September 2008
3. Finance Officer Report – August 2008
4. Sussex County Public Health Nurse Activity – August & September 2008
5. Police Department Monthly Alarm Report – August 2008
6. HTMUA – Minutes of 8/4/08
7. HTMUA – Minutes of 9/15/08
8. Zoning Officer Report – August 2008
9. Planning Board - Minutes of 8/28/08
10. Zoning Board – Minutes of 9/4/08
11. EDC – Minutes of 4/10/08
12. Municipal Court Report – July & August 2008
13. Construction Permit Activity Report – Hardyston – August 2008
14. Construction Permit Activity Report – Hamburg – August 2008
15. Construction Permit Activity Report – Hardyston – September 2008
16. Construction Permit Activity Report – Hamburg – September 2008
17. Construction Certificate Activity Report – September 2008
18. Zoning Officer Report – September 2008

Minutes:

1. Regular Minutes of 9/16/08
2. Executive Session Minutes of 9/16/08
3. Workshop Minutes of 9/23/08
4. Regular Minutes of 10/7/08
5. Workshop Minutes of 10/7/08

Agreements/Applications/Licenses:

1. Raffle License – St. John Vianney R.C. Church
2. Raffle License – Wallkill Valley Booster Club

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

OLD BUSINESS:

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 21, 2008**

ORDINANCES:

1st READING:

2008-11

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND
STATE OF NEW JERSEY MAKING THE PROVISIONS OF SUBTITLE ONE OF TITLE 39
WITH VARIOUS TRAFFIC REGULATIONS APPLICABLE TO INDIAN FIELDS AT
HARDYSTON PHASE III AND REGULATING THE USE OF SAID ROADWAYS, STREETS,
DRIVEWAYS AND PARKING LOTS BY MOTOR VEHICLES**

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

SECTION 1. The Indian Fields at Hardyston Home Owners Association has filed a written consent with the Township of Hardyston that the provisions of Subtitle One of Title 39 of the revised statutes of New Jersey be made applicable to the semi-public roads, streets, driveways and parking lots located at The Indian Fields at Hardsyston (Phase III) as depicted on the attached site plan dated August 20, 2008, located in the Township of Hardsyton, County of Sussex, State of New Jersey and that the following regulations shall be enforceable:

REGULATIONS:

1. General Parking:

- A. All vehicles must park in designated areas and between the lines provided.
- B. No person shall stop or stand a vehicle upon any of the streets or parts of streets described below, except in areas covered by other parking restrictions.

<u>Name of Street</u>	<u>Sides</u>	<u>Hours</u>	<u>Location</u>
All Roads	Both	All	Entire Length

2. Through Streets and Stop Intersections:

A. Through Streets:

The following streets or parts of streets are hereby designated as Through Streets. Stop signs shall be installed on the near right side of each street intersecting the Through street except where Yield signs are provided for in the designation.

<u>Name of Street</u>	<u>Limits</u>
Forest Hill Way	Entire length within the limits of Indian Fields at Hardsyton (Phase III)
Indian Field Drive	Entire length

B. Stop Intersections:

The following described intersections are hereby designated as Stop Intersections. Stop signs shall be installed as provided therein.

<u>Intersection</u>	<u>Stop Sign(s) on:</u>
Indian Field and Lodgepole Lane	Indian Field Drive

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 21, 2008**

3. Speed Limits:

A. The speed limit for both directions of travel on the following roadways are:

<u>Name of Roadway</u>	<u>M.P.H.</u>	<u>Limits</u>
Forest Hill Way	25	Entire length within the limits of Phase III
All other roads	15	Entire length

B. Regulatory and warning signs shall be erected and maintained to effect the above designated speed limits authorized by the Department of Transportation.

4. Tow-Away Zones:

Any vehicle parked or standing as to obstruct or impede a normal flow of traffic, block entrances or exit ways, loading zones, oil fills, any grassy area, pedestrian walkway, or present in any way a safety or traffic hazard may be removed by towing the vehicle at the owners or operators expense.

Recommendations:

That all signs, posts, or other necessary materials be installed and paid for by the applicant. All signing shall conform to the current Manual on Uniform Traffic Control Devices, pursuant to N.J.S.A. 39:4-198 and N.J.S.A. 39:4-183.27.

Unless another penalty is expressly provided for by the New Jersey Statute, every person convicted of a violation of this ordinance or any supplement thereto shall be liable to a penalty of not more than \$50.00 dollars or imprisonment for a term not exceeding (15) days or both.

SECTION 2. 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 3. 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 4. This Ordinance shall take effect upon publication and as required by law and upon the posting of appropriate signs and upon approval of the Commissioner of Transportation.

Township Manager stated that the Township had submitted a request to the Department of Transportation for Title 39 for the sections of Indian Fields that do not have Title 39. She stated that the request was approved and the adoption of this ordinance is one of the requirements. She also stated that the Township has been working with the Homeowners' Association and that the Township will proceed with delivering the list and maps of where the signs are to be placed in order for a Title 39 to be enforced after this ordinance has been adopted. A motion was made by Kievit to approve Ordinance 2008-11 on first reading, seconded by Hamilton. All in favor. Motion carried. Second reading and public hearing are scheduled for November 25, 2008.

2008-12

**AN ORDINANCE SUPPLEMENTING CHAPTER 55, ALCOHOLIC BEVERAGES, OF THE
REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HARDYSTON COUNTY OF
SUSSEX, STATE OF NEW JERSEY WITH THE ADDITION OF ARTICLE III ENTITLED,
"POSSESSION OR CONSUMPTION BY UNDERAGE PERSONS"**

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

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 21, 2008**

SECTION 1. Chapter 55, Alcoholic Beverages, of the aforesaid Revised General Ordinances is hereby supplemented to establish a newly created Article III, "Possession or Consumption by Underage Persons" to read as follows:

ARTICLE III Possession or Consumption by Underage Persons

§ 55-11. Definitions.

As used in this article, the following terms shall have the meanings indicated:

GUARDIAN -- A person who has qualified as a guardian of the underage person pursuant to a testamentary or court appointment.

RELATIVE -- The underage person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

§ 55-12. Consumption of alcoholic beverages by underage person on private property prohibited.

It shall be unlawful for any person under the age of 21 years to purchase, sell, consume or have in his or her possession any alcoholic beverage in or upon any public or private street, highway, park, footway or other public or quasi-public place or in a private residence or upon any private property within the Township of Hardyston, except as hereinafter provided or as may be permitted by state statute.

§ 55-13. Exceptions.

- A. Nothing contained in this article is intended, nor shall it be construed, as prohibiting an underaged person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony or rite, or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages; provided that, if the underaged person is found to possess or consume an alcoholic beverage in the presence of and with the permission of a relative other than a parent or guardian, the police shall notify the parent or legal guardian, by certified mail, of the incident together with the name of the relative who gave permission for the possession or consumption of the alcoholic beverage by the underaged person. The notification shall include a request that the parent or guardian acknowledge and return a copy of the letter to the Police Department within 15 days of receipt.
- B. This article shall not prohibit the possession of alcoholic beverages by any underaged person while actually engaged in the performance of employment by a person who was licensed under Title 33 of the revised statutes or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; however, this article shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33:1-81 or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

§ 55-14. Violations and Penalties.

- A. Any person found guilty of violating the terms of this article shall be subject to a fine of \$250 for a first offense and a fine of \$350 for any subsequent offense. In addition, the court may, upon a finding of guilty, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privileges of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 21, 2008**

the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years. If the defendant at the time of the imposition of the sentence has a valid driver's license issued by this state, the court shall immediately collect the license and forward it to the Division of Motor Vehicles along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

- B. The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. The defendant shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of the written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.
- C. If the person convicted under this article is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this article. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement

SECTION 2. 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 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 4. This Ordinance may be renumbered for purposes of codification.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Township Attorney, Dominick DiYanni of Dorsey & Semarau, summarized the ordinance for the Council. Township Manager also explained that this will be an opportunity to have a local ordinance in place which will give the Police Department an option of charging the offender with a municipal ordinance violation as opposed to a criminal violation. Mayor Armstrong stated that this ordinance does not give the Police Department any additional power that they don't already have under State Law and that it just keeps the offense on a Municipal level rather than a County level. Township Manager stated that almost all of the Sussex County municipalities have adopted such an ordinance. A motion was made by Kievit to approve Ordinance 2008-12 on first reading, seconded by Hamilton. All in favor. Motion carried. Second reading and public hearing is scheduled for November 25, 2008.

ORDINANCES:

2nd READING:

None

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 21, 2008**

NEW BUSINESS:

- A. Chapter 159 Resolution – Over The Limit, Under Arrest 2008 Impaired Driving Crackdown

**THE DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF HIGHWAY
TRAFFIC SAFETY, OVER THE LIMIT UNDER ARREST 2008 INMPAIRED
DRIVING CRACKDOWN**

WHEREAS, N.J.S. 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof not was determined at the time of the adoption of the budget, and

WHEREAS, Said Director may also approve the insertion of any item of appropriation for equal amount,

SECTION I.

NOW THEREFORE, BE IT RESOLVED THAT THE MAYOR AND COUNCIL OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, AND STATE OF NEW JERSEY, hereby request the Director of the Division of Local Government Services to approve the Insertion of an item of revenue in the Local Municipal Budget of the Township of Hardyston for the year 2008, in the sum of \$5,000.00, which is, now available as a revenue from The Department of Law and Public Safety, Division of Highway Safety, Over the Limit Under Arrest 2008 Impaired Driving Crackdown pursuant to the provision of Statute, and

SECTION II.

BE IT FURTHER RESOLVED, that a like sum of \$5,000.00 and the name is hereby appropriated under the caption the Department of Law and Public Safety, Division of Highway Safety, Over the Limit Under Arrest 2008 Impaired Driving Crackdown Other Expenses \$5,000.00.

SECTION III.

BE IT FURTHER RESOLVED, that the above is a result of the Department of Law and Public Safety, Division of Highway Safety, Over the Limit Under Arrest 2008 Impaired Driving Crackdown Grant, and /or/ has been anticipated as a revenue from the Department of Law and Public Safety, Division of Highway Safety, Over the Limit Under Arrest 2008 Impaired Driving Crackdown, and upon receipt shall be deposited into the Township of Hardyston Current Fund, and,

BE IT FURTHER RESOLVED, that two executed copies of this resolution be filed with the Director of the Division of Local Government Services.

Township Manager explained that this resolution allows the money from this grant to be utilized in the budget for overtime that will be required by the Police Department as a result of this grant. Mayor Armstrong asked that this grant be discussed when it comes up next year due to the overworked and understaffed nature of the Police Department. A motion was made by Kievit to approve the resolution as presented, seconded by Hamilton. All in favor. Motion carried.

- B. Chapter 159 Resolution – Hardyston Township Board of Education Recycling Collection Contract Interlocal Service Agreement

Township Manager explained that this resolution allows the revenue from this interlocal agreement to be included in the budget. A motion was made by Kievit to approve the resolution as presented, seconded by Hamilton. All in favor. Motion carried.

- C. Resolution accepting a performance surety bond in the amount of \$46,386.00 and a cash bond in the amount of \$5,154.00 from Metra Industries for site improvements associated with a maintenance facility on Lot 22.02, Block 62 along Park Drive

Township Manager stated that this bond has been reviewed by the Township Planning Board Attorney and the Township Engineer and found to be acceptable. A motion was made by Hamilton to approve the resolution as presented, seconded by Kievit. All in favor. Motion carried.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 21, 2008**

D. Resolution to cancel balance in Public Assistance Fund and transfer to Current Fund

Whereas, There is a remaining balance in the Public Assistance Trust Account # 1 within the Public Assistance Fund account of the Township of Hardyston and, the Township of Hardyston no longer participates in a Public Assistance Program ; and

Whereas the Treasurer of the Township of Hardyston has received a letter from the State of New Jersey, Department of Human Services to close said account; and

Whereas, transfer said balance to Current Fund credited to surplus;

Now, Therefore, be it resolved, by the Mayor and Council of the Township of Hardyston, that the following Public Assistance account balances in the Public Assistance Fund be canceled, and transfer to Current Fund:

<u>Name</u>	<u>Amount Canceled</u>
Public Assistance Account #1	\$ 1,491.78

Township Manager explained that the Township has not participated in the Public Assistance Program for quite some time, but was awaiting permission from the State to close the account and transfer the balance. A motion was made by Kievit to approve the resolution as presented, seconded by Hamilton. All in favor. Motion carried.

E. COAH – Carrine Piccolo, Assistant Planner and Thomas F. Collins, Planning Board Attorney

Carrine Piccolo, Assistant Planner and Township Planning Board Attorney Thomas F. Collins outlined for the Council the steps the Township needs to take to begin preparing the Petition for Substantive Certification to be submitted to the Council on Affordable Housing. The deadline for submission is December 31, 2008. They also outlined recommendations for developing a fair share plan that will meet the Township's total third round affordable housing obligation and that will be in compliance with the new third round rules. It was recommended that a joint meeting with the Planning Board be scheduled. The Council agreed to proceed.

F. Correspondence

1. New Cingular Wireless PCS, LLC
2. Azrak & Associates, LLC
3. Frankford Township
4. Township of Andover
5. Lafayette Township
6. NJ State League of Municipalities
7. NJ State League of Municipalities
8. NJ State League of Municipalities
9. NJ State League of Municipalities
10. NJ State League of Municipalities
11. NJ State League of Municipalities
12. NJ State League of Municipalities
13. NJ State League of Municipalities
14. NJ State League of Municipalities
15. NJ State League of Municipalities
16. NJ State League of Municipalities
17. NJ State League of Municipalities
18. NJ State League of Municipalities
19. NJ State League of Municipalities
20. NJ State League of Municipalities

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 21, 2008**

- 21. NJ State League of Municipalities
- 22. State of NJ - DEP

A motion was made by Kievit to approve the correspondence as presented, seconded by Hamilton. 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 at approximately 8:00 p.m. to adjourn, seconded by Hamilton. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk

