

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 25, 2008**

The meeting was called to order by Deputy Mayor Kievit at 7:55 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: Councilman Ross, Councilwoman Hamilton, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Fred Semrau. Mayor Armstrong 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 – October 2008
2. Tax Collector Report – October 2008
3. Sussex County Public Health Nurse Activity – October 2008
4. Police Department Report –October 2008
5. Zoning Officer Report – October 2008
6. Municipal Court Report – September 2008
7. Municipal Court Report – October 2008
8. Construction Permit Activity Report – Hardyston – October 2008
9. Construction Permit Activity Report – Hamburg – October 2008
10. Construction Certificate Activity Report – Hardyston - October 2008
11. Smoke Detector & CO Alarm Compliance Inspections – 3rd Q 2008
12. Sales Listing Report – 1/1/08 – 10/31/08
13. Planning Board – Minutes of 9/25/08
14. Zoning Board – Minutes of 10/2/08

Minutes:

1. Regular Minutes of 10/21/08

Agreements/Applications/Licenses:

1. Raffle License – Hamburg PTA
2. Fire Department New Member Application – Kelly L. Berkemeyer

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

OLD BUSINESS:

ORDINANCES:

1st READING: None

ORDINANCES:

2nd 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

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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

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.

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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 explained that this ordinance is to finalize the Title 39 requirements with respect to the Indian Fields Development Phase III and it regulates the use of the roadways, streets, driveways and parking lots by motor vehicles. She further explained that this will give our police officers the ability to write summonses in the third section of the development, and it specifies the roads that are regulated under this ordinance and other specifications such as miles per hour. Mayor Kievit opened the meeting to the public. No public comment. Mayor Kievit closed the meeting to the public. A motion was made by Hamilton to approve Ordinance 2008-11 on second reading, seconded by Ross. All in favor. Motion carried.

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:

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:

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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 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

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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.

DISCUSSION:

Township Manager deferred to Township Attorney Fred Semrau for an overview of the above ordinance. She also stated that Police Chief Bret Aley and Becky Carlson from the Center for Prevention and Counseling are present in support of the ordinance. Chief Aley stated that he was in favor of the ordinance and that Hardyston was one of the last towns in Sussex County to pass this ordinance. Ms. Carlson read a statement to the Council from Freeholder Glen Vetrano in support of the ordinance. She stated that according to drug surveys done over the past several years, underage drinking remains the biggest problem in Sussex County. She thanked the Council for looking at this issue and thanked Chief Aley for bringing this ordinance to the attention of the Council. Township Attorney Fred Semrau stated that this ordinance gives flexibility with enforcement and does not necessarily give the police any additional rights to interfere with one's constitutional rights. He stated that it is directed to be able to work with minors and address concerns that arise from underage drinking. Deputy Mayor Kievit opened the meeting to the public. No public comment. Deputy Mayor Kievit closed the meeting to the public.

A motion was made by Ross to approve Ordinance 2008-12 on second reading, seconded by Hamilton. All in favor. Motion carried.

NEW BUSINESS:

- A. Resolution authorizing release of performance bond to Crystal Springs Builders, LLC for the Grand Cascades Lodge site improvements

WHEREAS, the Hardyston Township Planning Board granted approval to Crystal Springs Builders, LLC for the Grand Cascades Lodge site improvements; and

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WHEREAS, as a condition of said approval of the Grand Cascades Lodge site improvements, Crystal Springs Builders, LLC was required to post a performance guarantee with the Township of Hardyston for the said site in the amount of \$433,740.00; and

WHEREAS, Crystal Springs Builders, LLC has requested a release of this bond due to completion of site improvements; and

WHEREAS, the Township Engineer has reviewed the request of Crystal Springs Builders, LLC and after inspection of the site, observed that all site improvements noted in the performance bond estimate dated May 21, 2007 have been completed and are in good condition, and has recommended release of this bond.

NOW THEREFORE BE IT RESOLVED by the Hardyston Township Council that the performance bond be released to Crystal Springs Builders, LLC in accordance with the recommendation of the Township Engineer.

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

B. 2008 Salary Resolution Amendment – Housing Rehabilitation Program Inspector

BE IT RESOLVED by the Hardyston Township Council that the annual salaries and wages effective October 7, 2008 shall be paid as follows:

<u>Position</u>	<u>Annual Salary</u>
Housing Rehabilitation Program Inspector	\$300.00 per Housing Unit

Township Manager explained that this is a correction to the original resolution approved on October 7, 2008. A motion was made by Ross to approve the resolution as presented, seconded by Hamilton. All in favor. Motion carried.

C. Resolution authorizing the execution of an interlocal agreement with Wantage Township for Animal Control 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. Interlocal Agreement with Wantage Township for Animal Control Services

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

D. Correspondence

1. Township of Frankford
2. Borough of Ogdensburg
3. Township of Sparta
4. William C. Mack, Esq.
5. NJ State League of Municipalities
6. NJ State League of Municipalities
7. NJ State League of Municipalities
8. NJ State League of Municipalities
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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
21. State of NJ
22. State of NJ
23. State of NJ
24. State of NJ
25. State of NJ
26. Passaic River Coalition

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

BILLS TO BE PAID: A motion was made by Ross to approve the bill list 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 Ross at approximately 8:10 p.m. to adjourn, seconded by Hamilton. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk

