

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JANUARY 19, 2010

The meeting was called to order by Mayor Kievit at approximately 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 Kula, Councilman Miller, Manager Marianne Smith and Clerk Jane Bakalarczyk. Deputy Mayor Ross was absent from this meeting.

SALUTE THE FLAG

PRESENTATION – Plaque Honoring the Memory of Judge Richard Honig

Mayor Kievit and the Council unveiled a bronze plaque that will be placed on the dais in honor and remembrance of Judge Richard Honig.

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 – December 2009
2. Tax Collector Report – December 2009
3. Construction Certificate Activity Report – December 2009
4. Construction Permit Activity Report – Hardyston – December 2009
5. Construction Permit Activity Report – Hamburg – December 2009
6. Construction Permit Activity Report – Franklin – December 2009
7. HTMUA – Minutes of 12/7/09
8. Sussex County Public Health Nurse Activity – December 2009
9. Zoning Officer Report – December 2009
10. Municipal Court Report – December 2009
11. Sales Listing Report – 1/1/09 – 12/31/09
12. Smoke Detector & CO Alarm Compliance Inspections – 1/1/09 – 12/31/09
13. Police Department Report – December 2009

Agreements/Applications/Licenses:

1. Raffle – Special Olympics NJ
2. Fire Department New Member Application – Anthony S. Rosta, Jr.

Minutes:

1. Regular Minutes of 11/10/09
2. Reorganization Minutes of 1/5/10

A motion was made by Hamilton to approve the consent agenda as presented, seconded by Kula. All in favor with Miller abstaining on the minutes of 11/10/09. Motion carried.

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ORDINANCES:

1st READING:

2010-01

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF
NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 3, "ADMINISTRATION OF
GOVERNMENT" OF THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF
ARTICLE XV, ENTITLED "CRIMINAL HISTORY BACKGROUND CHECKS OF EMPLOYEES
AND VOLUNTEERS OF YOUTH SERVING ORGANIZATIONS"**

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

SECTION 1. Chapter 3, Administration of Government, of the aforesaid Revised
General Ordinances is hereby amended and supplemented with the addition of Article XV,
"Criminal History Background Checks of Employees and Volunteers of Nonprofit Youth Serving
Organizations", to read as follows:

**ARTICLE XV Criminal History Background Checks of Employees and Volunteers
of Nonprofit Youth Serving Organizations**

§ 3-58. Definitions.

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

CRIMINAL HISTORY RECORD BACKGROUND CHECK — A determination
whether a person has a criminal record by cross-referencing that person's
individual data with those on file with the Federal Bureau of Investigation,
Identification Division, and the State Bureau of Identification of the Division of
State Police.

EMPLOYEES — All full-time, part-time and seasonal employees of the
Hardyston Township Recreation.

SPONSORED PROGRAM — Recreation programs run directly and jointly by the
Township, including oversight, control and/or fiscal contribution.

STATE BUREAU OF IDENTIFICATION — The entity located within the New
Jersey State Police responsible for retrieving criminal background information on
individuals as requested by state, local or private entities.

VOLUNTEER — A person who has direct, non-supervised and ongoing
interaction in the course of his/her service with minors. This includes, but is not
limited to, a coach, assistant coach and manager of a team.

VOLUNTEER REVIEW OPERATION ("VRO") — The unit located within the
State Bureau of Identification that is responsible for administering criminal
background checks for volunteer coaches as specified in this article.

YOUTH-SERVING ORGANIZATION - Any corporation, association or other
organization which provides recreational, cultural, charitable and social activities
for persons younger than 18 years of age.

§ 3-59. Request for criminal background check; costs.

- (A) The Township of Hardyston requires that all employees and volunteers of youth-
serving organizations involved in sponsored programs and/or utilizing the
Township's recreational facilities request through the Hardyston Township Police
Department that the State Bureau of Identification and the Federal Bureau of
Investigation ("FBI") conduct a criminal history record background check on each
prospective and current coach of nonprofit youth-serving organizations in
accordance with N.J.A.C. 13:59-1.1 et seq. and with the procedures and
guidelines adopted by the VRO. No person will be permitted to act as an
employee or volunteer until the results of the background checks have been
received and reviewed by the Manager of the Township.

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- (B) The Hardyston Township Police Department shall conduct the criminal history record background check(s) only upon receipt of the written consent to the check(s) from the prospective or current employee or volunteer or from the organization itself.
- (C) The VRO shall advise the Township Police Department of the eligibility of the prospective or current coach. Any information received by the Township Manager shall be confidential.
- (D) The organization shall bear the costs for conducting such checks for prospective or current coaches participating in cosponsored programs in accordance with the regulations established by the VRO.

§ 3-60. Conditions under which person is disqualified from service.

A person may be disqualified from serving as an employee or volunteer of a nonprofit youth serving organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

- (A) In New Jersey, any crime or disorderly persons offense:
 - (1) Involving danger to the person, meaning those crimes and disorderly persons offenses as set forth in N.J.S.A. 2C:11-1, et seq., such as criminal homicide; N.J.S.A. 2C:12-1, et seq., such as assault, reckless endangerment, threats, stalking; N.J.S.A. 2C:13-1, et seq., such as kidnapping; N.J.S.A. 2C:14-1, et seq., such as sexual assault; or, N.J.S.A. 2C:15-1, et seq., such as robbery;
 - (2) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq., such as endangering the welfare of a child;
 - (3) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes.
 - (4) Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except Paragraph (4) of Subsection (a) of N.J.S.A. 2C:35-10.
- (B) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in Subsection 33-34(A) of this section.

In addition, a person shall be disqualified from serving as an employee or volunteer of a nonprofit youth serving organization if such individual fails to consent to submit to a criminal history record background check pursuant to this Article.

§ 3-61 Submissions; exchange of background check information.

- (A) Prospective or current employees and volunteers of youth-serving organizations for sponsored programs and/or for utilizing Township recreational facilities shall submit their names, addresses, fingerprints, written consent, and any other necessary information to the organization for the criminal history record background check to be performed. The organization shall submit this documentation to the Hardyston Township Police Department, who shall refer the information to the State Bureau of Investigation for the background check. Thereafter, the Township Recreation Department shall conduct periodic background checks after the date of the initial background check, but not less than every 36 months.
- (B) The Hardyston Township Police Department shall act as a clearinghouse for the collection and dissemination of information obtained as a result of conducting criminal history record background checks pursuant to this section.

§ 3-62. Limitations on access and use of criminal history record information.

- (A) Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to authorized personnel of the youth serving organization, on a need-to-know basis, as authorized by federal or

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state statute, rule or regulation, executive order, administrative code, local ordinance or resolution regarding obtaining and dissemination of criminal history record information obtained under this section.

- (B) Such persons or organizations shall limit their use of criminal history record information solely to the authorized purpose for which it was obtained, and criminal history record information furnished shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. This record shall be destroyed immediately after it has served its intended and authorized purpose. Any person violating the federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

§ 3-63. Determination by Township Police Department; appeal process.

- (A) The VRO shall make a recommendation based on the provisions of N.J.S.A. 15A:3A-1 et seq. as to whether the prospective or current volunteer coach is being recommended. The VRO will provide the Hardyston Township Police Department with a letter of recommendation or nonrecommendation for each individual for whom the VRO completed a background check.
- (B) The Township Manager shall promptly notify a prospective or current employee or volunteer who receives a letter of nonrecommendation from the VRO. Individuals who receive a letter of nonrecommendation from the VRO will not be permitted to participate as an employee or volunteer. Such individuals may obtain a copy of their criminal history record by contacting the VRO in writing. The individuals shall then have 30 days from the receipt of notification from the Township to petition the appeals committee consisting of the Director of the Township Recreation Department, the Township Manager and the Township Police Chief for a review and to cite reasons substantiating the review.
- (C) Individuals who receive a letter of nonrecommendation from the VRO may be permitted to serve as an employee or volunteer if they affirmatively demonstrate rehabilitation to the appeal committee. In determining whether a person has affirmatively demonstrated clear and convincing evidence of rehabilitation, the appeals committee may consider the following factors in conjunction with the provisions of N.J.S.A. 15A:3A-1 et seq.:
 - (1) The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
 - (2) The nature and seriousness of the offense;
 - (3) The circumstance under which the offense occurred;
 - (4) The date of the offense;
 - (5) The age of the person when the offense was committed;
 - (6) Whether the offense was an isolated or repeated incident;
 - (7) Any social conditions which may have contributed to the offense; and
 - (8) Any evidence of rehabilitation, including good conduct in prison or the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs or the recommendation of those who have had the person under their supervision.
- (D) In all instances, the final determination of whether an individual will be permitted to serve as an employee or volunteer utilizing the Township's recreational facilities will lie in the sole discretion of the appeals committee, who must vote unanimously.
- (E) The appeals committee shall promptly advise the prospective or current employee or volunteer whether he or she is qualified.
- (F) When the Township Police Department receives a letter of nonrecommendation from the VRO, the Police Department shall file that letter within its Department and it shall keep the written notification on file for three years from the date it was issued.
- (G) The Department of Recreation may request the Police Department to review its files to determine if there is written notification on file stating whether a criminal history record background check of a current or prospective employee or

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volunteer reveals a disqualifying offense or stating that the person has affirmatively demonstrated rehabilitation under this act.

§ 3-64. Exemptions.

The Township shall only permit the following exemptions under this Article:

- (A) Any person who, by virtue of their occupation, is required by statute to undergo a Federal and State criminal history record background check similar in nature to the requirements contained herein, and who can provide proof of the results of such background check, is exempt from the requirement hereunder if such check was conducted within the past year. After such demonstration of proof of compliance, such individual shall then be subject to subsequent checks pursuant to Section 33-35(A).
- (B) Any active employees of local, county and state law enforcement agencies.
- (C) If the organization already utilizes a different means for obtaining criminal history record background checks, such as Little League baseball, then such organization may annually submit its own certification certifying the names of the individual employees and/or volunteers and providing proof that such criminal history record background check was performed for that year. In addition, the organization must also submit to the Department of Community Services and Recreation and the Township Police Department, the guidelines and parameters of such independent background check company for the conducting of its background checks. In the event the Police Department determines that the independent background check company's guidelines and parameters are insufficient, then the Township reserves the right to not grant the exemption under this Subsection to the organization.

§ 3-65. Remedies for breach by youth-serving organizations.

Any violation of this chapter by a youth-serving organization is considered a serious threat to the health and life of the youth of the Township. As a result, upon violation, the Township may suspend or terminate use of Township facilities, and the youth-service organization and the officer who executed the affidavit shall be subject to fines and other penalties. In determining the remedy such factors as whether the breach was intentional, the severity of the noncompliance, and the good-faith steps taken to cure the violation should be considered.

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.

A motion was made by Hamilton to approve Ordinance 2010-01 on first reading, seconded by Miller. All in favor. Motion carried.

ORDINANCES:

2nd READING:

None

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NEW BUSINESS:

A. Tax Collector Resolutions

1. #05-10 - Added Assessment Refund – 18 Tamarack Trail (Robert & Darcy Kitchell)

RESOLUTION # 05-10

WHEREAS, Block 88 Lot 14 also known as 18 Tamarack Trail and owned by Robert & Darcy Kitchell was assessed an Added Assessment for 2008 and 2009, and

WHEREAS, based on information from Scott Holzhauer, Tax Assessor the property was the subject of an erroneous Added Assessment based on information supplied by the homeowner,

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund the payments already made on these added Assessments in the amount of \$ 694.45.

2. #06-10 – Refund – Crystal Springs Builders, LLC

RESOLUTION # 06-10

WHEREAS, Block 16 Lot 1.02 and Block 16 Lot 1.02 QFarm also know as 3700 Route 94 rear and owned by Crystal Springs Builders, LLC, and

WHEREAS, the Tax Assessor had created these lots for the 2009 Tax Book to create development “pods” and golf course holes from the 124 acre tract known as the Shotmeyer Tract-Phase II. , and

WHEREAS, erroneously the Tax Assessor overlooked the deletion of these lots for 2009, as the tax book was already filed for the year end and now a refund is due for the February and May tax quarters of 2009 and the August and November 1st 2009 taxes need to be forgiven,

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund the payments already made on these lots for February and May 1 2009 tax quarters in the amount of \$ 7,394.16 and to forgive August and November 2009 taxes in the amount of \$ 7,483.76.

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

B. 2010 Quarry and Soil Removal License Renewals

1. Beaver Run Farms
2. Eastern Concrete Materials, Inc.
3. Shotmeyer Brothers, Inc.
4. North Church Gravel, Inc.

A motion was made by Hamilton to approve the above 2010 Quarry and Soil Removal License renewals as per the recommendations stated in the correspondence received from the Township Engineer, seconded by Kula. All in favor. Motion carried.

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C. Resolution #11-10 – Wallkill Water Franchise Area

A motion was made by Hamilton to approve the resolution as presented, seconded by Kula. All in favor. Motion carried. A copy of the resolution is on file in the Clerk's Office.

D. Resolution #12-10 – Wallkill Sewer Franchise Area

A motion was made by Hamilton to approve the resolution as presented, seconded by Kula. All in favor. Motion carried. A copy of the resolution is on file in the Clerk's Office.

E. Correspondence

1. Hardyston Township Municipal Utilities Authority
2. Careaga Engineering, Inc.
3. County of Sussex
4. County of Sussex
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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20. NJ State League of Municipalities
21. NJ State League of Municipalities
22. NJ State League of Municipalities
23. NJ State League of Municipalities
24. NJ State League of Municipalities
25. State of NJ
26. State of NJ
27. State of NJ
28. State of NJ
29. State of NJ

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

MANAGERS REPORT: Township Manager gave a verbal update on the following:

Solar Energy Generating Facility – Township Manager stated that the solar project is wrapped up and inspection by the Office of Clean Energy is expected within the next couple of weeks.

Improvements to North Church Road DPW Facility - Township Manager stated that plans have been received from the architect, but they still need refining.

Status of Municipal Property Revaluation – Township Manager stated that the revaluation is still on schedule and letters will be going out to taxpayers in approximately two weeks. Once the taxpayers receive the letters, they will be given the opportunity to meet with the revaluation company to go over their new assessments.

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BILLS TO BE PAID: A motion was made by Hamilton to approve the bill list as presented, seconded by Kula. 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 19th day of January, 2010, 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.
 - (**X**) 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.
 - () 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.
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: Kula

MOTION	YES	NO	ABSTAIN	ABSENT
Ross	_____	_____	_____	___x___
Kievit	___x___	_____	_____	_____
Kula	___x___	_____	_____	_____
Hamilton	___x___	_____	_____	_____
Miller	___x___	_____	_____	_____

Motion carried.

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

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ADJOURNMENT: A motion was made by Hamilton to adjourn at approximately 8:00 p.m., seconded by Miller. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk