

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 4, 2011**

The meeting was called to order by Mayor Kula 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: Deputy Mayor Miller, Councilwoman Hamilton, Councilman Ross, Manager Marianne Smith and Clerk Jane Bakalarczyk. Councilman Kievit was 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.

At this time, Mayor Kula called for a moment of silence in memory of Roger Kabbash who passed away recently. Mr. Kabbash was a volunteer for a number of years serving on various Hardyston Township boards.

Agreements/Applications/Licenses:

1. Raffle – NRA Foundation NJ State Fund Committee

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

ORDINANCES:

2nd READING:

2011-14

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CERTAIN PORTIONS OF CHAPTER 88, FEES, OF THE REVISED GENERAL ORDINANCES TO INCLUDE FEES FOR RESUBMISSIONS, REAPPROVALS AND AMENDMENTS TO SITE PLANS AND GENERAL DEVELOPMENT PLANS, AND AMENDING THE REQUIREMENTS FOR MINIMUM ESCROW DEPOSITS

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

SECTION 1. Chapter 88, Fees Section 88-3, Land Use Fees, Subsection A. (3) of the aforesaid Revised General Ordinances is hereby amended to read as follows:

(3) Site plans - application fees.

(a) Preliminary site plan application: \$200 base fee plus \$10 per 100 square feet of proposed building space plus \$0.50 per 1,000 square feet of disturbed land area (including areas to be re-vegetated.).

(b) Final site plan application: 50% of preliminary site plan application fee.

(c) Resubmission, re-approval or substantial amendment to prior approval: \$2.50 per 100 square feet of the proposed total building space if any changes are proposed to buildings plus \$0.25 per 1,000 square feet of the land area to be disturbed based on the amendment (including areas to be re-vegetated.) Minimum application fee shall be \$500.00

(d) Minor Site Plans: \$100.00

SECTION 2. Chapter 88, Fees, Section 88-3, Land Use Fees, Subsection H. (1) (d) of the aforesaid Revised General Ordinances is hereby amended to read as follows:

(d) Escrow amounts for land disturbance. The escrow funds for review of applications involving land disturbance, but not site improvements or review of conceptual plans, shall be calculated as follows:

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Area of Land Disturbance	Escrow Fund
Over 5,000 square feet	0.1 x area of disturbance
Concept Plan Review	\$500

(e) Minimum escrow deposits for land-use applications shall be as follows: follows:

		Minimum Escrow Deposit
Subdivision:		
Initial subdivision	Minor	\$1,000
	Preliminary	\$1,500
	Final	\$1,000
Amendment	Minor	\$500
	Preliminary	\$750
	Final	\$500
Site plan:		
Initial subdivision	Minor	\$1,000
	Preliminary	\$1,500
	Final	\$1,000
Amendment	Minor	\$500
	Preliminary	\$750
	Final	\$500
Conditional Use:		
Only		\$750
As part of another application		\$200
Variance:		
Only a, b, c, 35/36		\$700
As part of another application		\$200
Only "d" variance		
10 acres or less		\$1,000
More than 10 acres		\$1,500
As part of another application		
10 acres or less		\$250
More than 10 acres		\$400

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SECTION 3. Chapter 88, Fees, Section 88-3, Land Use Fees, Subsection (N) of the aforesaid Revised General Ordinances is hereby amended to read as follows:

N. Application fee for General Development Plan and/or Master Plan/preliminary approval for planned developments.

(1) Fee shall be the total of the following:

- (a) Five dollars per acre of total project area.
- (b) Ten dollars per proposed residential unit.
- (c) Ten dollars per room for hotel or conference center development.
- (d) Five dollars per 100 square feet of nonresidential buildings, excluding hotels and conference centers.

(2) Fee for Amendments to the General Development Plan and/or Master Plan/preliminary approval for a planned development shall be the total of the following:

- (a) Two dollars and Fifty cents per acre of the additional area which would be disturbed based on the amendment.**
- (b) Five dollars for each residential unit in any residential or multi-use building being added, modified or eliminated from the approved plan**
- (c) Five dollars per room for hotels and conference center added, modified or eliminated from the approved plan.**
- (d) Two dollars and Fifty cents per 100 square feet of non-residential building or non-residential portion of a multi-use building being added modified or eliminated excluding hotels and conference centers.**

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, 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 6. This Ordinance may be renumbered for purposes of codification.

SECTION 7. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

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 Hamilton to approve Ordinance 2011-14 on second reading, seconded by Ross. All in favor. Motion carried

NEW BUSINESS:

A. Tax Collector Resolutions

- 1. Resolution #66-11 – Refund – Corelogic Mortgage Company for payment made in error for Block 17.04, Lot 48, 98 Briar Court

RESOLUTION #66-11

WHEREAS, Block 17.04 and Lot 48 also known as 98 Briar Court, Hardyston and owned by Salvatore & Stephanie Buonocore, and

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WHEREAS, Corelogic Mortgage Company has paid the August quarter in error in the amount of \$ 2,415.39

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund Corelogic for an erroneous tax payment on 98 Briar Court Hardyston in the amount of \$ 2,415.39.

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

- B. Resolution #73-11 – Resolution recognizing October as National Domestic Violence Awareness Month

RESOLUTION #73-11

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

WHEREAS, Domestic Violence is a pattern of abusive behavior that a person uses against a partner, former partner, or family member to control that person; and,

WHEREAS, one in four women will experience domestic offenses in her lifetime (approximately 31 percent women Nation-wide have been reportedly abused), and,

WHEREAS, the New Jersey State Federation of Women’s Clubs of the General Federation of Women’s Clubs (GFWC) continues to address the issue of Domestic Violence for it members and the GFWC-Walkkill Valley Woman’s Club.

NOW, THEREFORE, I, Mayor Stanley J. Kula, with other members of the governing body of the Township of Hardyston do hereby proclaim that the month of October to be National Domestic Violence Awareness Month in our community, and do hereby join the dedicated volunteers of NJSFWC of GFWC and GWFC-Walkkill Valley Woman’s Club to aid domestic violence, to support our local domestic violence shelters and agencies, and to promote the National Domestic Violence Hotline, 1-800-799-SAFETY (7233).

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

- C. Resolution #74-11 – Resolution recognizing October as Breast Cancer Awareness Month

RESOLUTION #74-11

**RESOLUTION RECOGNIZING OCTOBER AS
BREAST CANCER AWARENESS MONTH**

WHEREAS, October is National Breast Cancer Awareness Month; and

WHEREAS, Gilda Radner, who after receiving care while she had breast cancer, called for the establishments of centers, which would be available at no cost to support people with cancer and their families and friends; and

WHEREAS, Gilda’s Clubs were established in honor of Gilda Radner; and

WHEREAS, The Wellness Communities, have joined Gilda’s Clubs in support of its work; and

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WHEREAS, Gilda's spirit lives on at every Gilda's Club and Wellness Communities, where members join with other "experts" living with cancer to both give and receive benefits of love and laughter through the unique Gilda's Club and Wellness Communities programs; and

WHEREAS, thousands of members now attest to the fact that Gilda's Club and Wellness Communities have helped change their lives by restoring control enabling them to plan their own emotional and social support, thus strengthening and enriching their entire family; and

WHEREAS, the New Jersey State Federation of Women's Clubs of the General Federation of Women's Clubs (NJSFWC/GFWC) is partnering with Gilda's Club and Wellness Communities to provide volunteer and financial support to further the programs of Gilda's Club and Wellness Communities.

NOW, THEREFORE, I, Mayor Stanley J. Kula, with other members of the governing body of the Township of Hardyston do hereby proclaim that the month of October honors the memory of Gilda Radner and to recognize her tremendous concerns for those individuals in their fight against cancer, and the NJSFWC of GFWC, and the GFWC-Walkkill Valley Woman's Club in their support of this worthy organization.

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

- D. Resolution #75-11 – Performance Bond Reduction – Crystal Springs Builders Shotmeyer Tract – Phase 2 – Grand Cascades Subdivision

RESOLUTION #75-11

RESOLUTION REDUCING THE PERFORMANCE BOND IN THE AMOUNT OF \$450,000.00 AND A CASH BOND IN THE AMOUNT OF \$50,000.00 FROM CRYSTAL SPRINGS BUILDERS FOR SITE IMPROVEMENTS RELATING TO GRAND CASCADES HOTEL SUBDIVISION (AKA SHOTMEYER TRACT – PHASE 2)

WHEREAS, the Hardyston Township Planning Board granted approval to Crystal Springs Builders, LLC for the Grand Cascades Hotel Subdivision, aka Shotmeyer Tract – Phase 2; and

WHEREAS, as a condition of said approval, Crystal Springs Builders, LLC was required to post a performance guarantee with the Township of Hardyston for the said site in the amount of \$775,918.80 and;

WHEREAS, Crystal Springs Builders, LLC subsequently requested a reduction in the bonding amount due to substantial completion of site improvements; and

WHEREAS, the Hardyston Township Council approved the request of Crystal Springs Builders, LLC and reduced the total bond amount to \$500,000.00 which included a performance bond in the amount of \$450,000.00, and a cash bond in the amount of \$50,000.00; and

WHEREAS, the Township Engineer has determined that many of the items guaranteed by this performance bond have subsequently been included in a performance bond for a further subdivision of a portion of the same property said subdivision being known as Cloverdale West – Phase IA and

WHEREAS, the Township Engineer recommends that the duplicate bonding be addressed by reducing the performance bond for Site Improvements relating to Grand Cascades Hotel Subdivision (aka Shotmeyer Tract – Phase 2) to the following::

Total Bond Amount	\$150,000.00
Surety amount	\$135,000.00
Cash amount	\$ 15,000.00

NOW THEREFORE BE IT RESOLVED by the Hardyston Township Council that the bond for the Grand Cascades Hotel Subdivision, aka Shotmeyer Tract – Phase 2 be reduced in accordance with the recommendation of the Township Engineer.

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A motion was made by Ross to approve the resolution as presented, seconded by Hamilton. All in favor. Motion carried. Councilman Kievit was absent from this meeting and did not participate or vote.

- E. Resolution #76-11 – Resolution authorizing the sale of certain lands and properties which are no longer needed for public use by the Township

RESOLUTION #76-11

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING
THE SALE OF CERTAIN LANDS AND PROPERTIES WHICH ARE NO LONGER
NEEDED FOR PUBLIC USE BY THE TOWNSHIP**

WHEREAS, Hardyston Township is the owner of certain lands and premises within Hardyston Township; and

WHEREAS, the Mayor and Township Council of Hardyston Township does hereby determine that the lands and properties set forth in Schedule A are no longer needed for public use; and

WHEREAS, Hardyston Township desires to make available for public sale lands, with the right of prior refusal to be afforded to adjacent property owners pursuant to N.J.S.A. 40A:12-13.2.

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. Hardyston Township hereby declares that the lands and premises set forth in **Schedule A** are no longer needed for public use and should be sold in accordance with appropriate statutes of the State of New Jersey.
2. The Township Council of Hardyston Township hereby authorizes the Township Clerk to offer for sale to the highest bidder by open public sale at auction the property set forth in **Schedule A** attached hereto and made a part hereof.
3. The public sale shall take place at the **Hardyston Municipal Building, 149 Wheatsworth Road, Suite A, Hardyston, New Jersey on December 6, 2011 at 6:00 p.m.** or as soon thereafter as the matter can be heard and publicly announced, provided the sale is not cancelled.
4. The public sale, if not cancelled, shall take place by open public sale at auction to the highest bidder.
5. The successful bidder at the time of the sale must present cash or a check or a money order, **payable to Hardyston Township**, in an amount that equals ten percent (10%) of the sales price. This deposit shall be non-refundable. The balance of the purchase price shall be paid to the Township no later than sixty (60) days following the acceptance by the Township and the tender of marketable title to the purchaser and submitted to the Township. The purchaser shall be entitled to possession immediately following the closing of title.
6. The Township makes no representation as to the title or any other aspects of the land to be sold. However, if an individual or entity would like to perform an on-site inspection(s) or testing, the interested party must first seek and obtain approval from the Township Manager. The individual or entity wishing to perform such inspection or testing must: (a) provide proof of insurance; (b) provide proof that the individual or entity performing the testing or inspection is licensed to engage in such business;

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7. (c) specify the expected date and time of the testing or inspection; (d) specify the nature, scope and location of the testing or inspection; (e) enter into a hold-harmless agreement with the Township; and (f) provide the Township with a copy/copies of the results of the testing or inspection.
8. At closing of title, purchaser shall also pay to the Township a buyer's premium in the amount of ten percent (10%) of the bid amount.
9. The Township reserves the right to accept or reject any and all bids at the public sale and not to award to the highest bidder. Such decision will be made by the Township Council at a Public Meeting within 30 days from the date of such sale.
10. In the event Hardyston Township is unable to convey clear and marketable title, insurable at regular rates by a title insurance company authorized to do business in the State of New Jersey, the Township shall forthwith return to the purchaser the deposit and neither party shall have any further rights against the other. The acceptance of a deed by the purchaser from the Township shall extinguish any claims the said purchaser may have against Hardyston Township in connection with the quality of title conveyed.
11. All conveyances by the Township shall be made by way of a Quit Claim Deed, unless an adequate title binder prepared at the expense of the purchaser is forwarded to the Township prior to the conveyance and discloses that the Township holds marketable title in which case a Bargain and Sale Deed with Covenants Against Grantor's Acts will be the form of conveyance. The Township will include with its deed a metes and bounds description based upon a survey if a survey and metes and bounds description is obtained by the purchaser.
12. The Township Council of Hardyston Township reserves the right to waive any and all defects and informalities in any proposal and to accept or reject the highest responsible and responsive bidder deemed to be in the best interests of the Township.
13. In those cases where the property being offered is an under-sized lot, adjoining property owners shall be given the first right to bid. If purchased by an adjoining property owner, the under-sized property shall merge into the purchaser's current lot. Furthermore, the property shall not be further subdivided as the conveyance is being made to accommodate the adjoining property owner as to his/her current residence, not for subdivision purposes.
14. If no adjoining property owners bid, the bidding will be opened to the public. The deed of conveyance for all under-sized lots that are sold to any party other than an adjoining property owner shall contain a restriction that the lot cannot be built upon. If it is a conforming lot, then no such deed restrictions shall be placed on the transfer of title. The Township will not represent, warrant or guarantee the right to build on or improve any of the properties listed for sale. All properties will be subject to all Federal, State, Local Laws and Ordinances.
15. A public notice of sale shall be published in the Township's official newspaper at least once a week for two consecutive weeks, the last publication being no earlier than seven (7) days prior to the date set forth for the public sale, which notice shall contain the condition of this sale in accordance with N.J.S.A. 40A:12-13(a).
16. In the event the successful bidder fails to close on the property, he shall forfeit ten percent (10%) of the purchase price.
17. The resolution shall take effect immediately.

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

At this time, a motion was made by Miller to appoint James Homa, who currently holds the Alternate 1 position on the Hardyston Township Zoning Board, to Full Member to fill the unexpired term of Roger Kabbash, seconded by Ross. 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.

EXECUTIVE SESSION:

BE IT RESOLVED by the Township Council of the Township of Hardyston on the 4th day of October, 2011, 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.
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: Ross
Seconded by: Hamilton

MOTION	YES	NO	ABSTAIN	ABSENT
Ross	<u> x </u>	_____	_____	_____
Kievit	_____	_____	_____	<u> x </u>
Kula	<u> x </u>	_____	_____	_____
Hamilton	<u> x </u>	_____	_____	_____
Miller	<u> x </u>	_____	_____	_____

Motion carried.

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

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

Jane Bakalarczyk, RMC/CMC
Municipal Clerk