

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON AUGUST 7, 2012**

The meeting was called to order by Mayor Miller 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 Hamilton, Councilman Cicerale, Councilman Kula, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Fred Semrau of Dorsey & Semrau. Councilman Ross 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.**

**Agreements/Applications/Licenses:**

1. Raffle – Tri-State Actors Theater, Inc.

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

**ORDINANCES:**

**1<sup>st</sup> READING:** None

**ORDINANCES:**

**2<sup>nd</sup> READING:** None

**NEW BUSINESS:**

- A. Resolution #38-12 – Resolution authorizing the submission of an application for the 2013 New Jersey Governor’s Council on Alcoholism and Drug Abuse Grant

**RESOLUTION #38-12**

**A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR THE 2013 NEW JERSEY GOVERNOR’S COUNCIL ON ALCOHOLISM AND DRUG ABUSE GRANT**

**WHEREAS**, The Township Council of the Township of Hardyston, County of Sussex, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all age; and,

**WHEREAS**, the Hardyston Township Council further recognizes that it is incumbent upon not only the public officials but upon the entire community to take action to prevent such abuses in our community; and,

**WHEREAS**, the Hardyston Township Council in partnership with the Franklin Borough Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Sussex;

**NOW, THEREFORE, BE IT RESOLVED** by the Township of Hardyston, County of Sussex, State of New Jersey hereby recognizes the following:

1. The Township Council does hereby authorize submission of an application for the Franklin/Hardyston Alliance Coalition Municipal Alliance grant for calendar year **2013** in the amount of **\$12,474.00**
2. The Township Council acknowledges the terms and conditions for administering the Municipal Alliance Grant, including the administrative compliance and audit requirements.

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

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- B. Resolution #39-12 - Resolution of the Township Council of the Township of Hardyston denying the request for the release of K. Hovnanian's performance bonds for the Tannery and Cedars at Crystal Springs

**RESOLUTION #39-12**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY DENYING THE REQUEST FOR THE RELEASE OF K. HOVNANIAN'S PERFORMANCE BONDS FOR THE TANNERY AND CEDARS AT CRYSTAL SPRINGS**

**WHEREAS**, on June 28, 2012, K. Hovnanian Homes made a written request to the Township of Hardyston for the release of the following Performance Bonds:

1. Tannery Hill Performance Bond #11127343355;
2. The Cedars #11133325214; and

**WHEREAS**, the Hardyston Township Municipal Utilities Authority has advised the Township that there are several required conditions that have not been satisfied that is part of the acceptance of the improvements and release of said Bonds, including but not limited to the following:

1. Escrow funds have not been posted to cover engineering and legal expenses;
2. Final inspection by the Engineer needs to be completed once the escrows are replenished;
3. Providing that the improvements are in an acceptable condition, the Developer must provide a policy of title insurance demonstrating that the property has clear title to be conveyed to the Hardyston Township Municipal Utilities Authority.
4. The Developer must post a two (2) year Maintenance Bond to the satisfaction of the Township.
5. K. Hovnanian Homes must execute any required Deed of Easement to the Hardyston Township Municipal Utilities Authority

**WHEREAS**, failure to comply with these conditions of approval are the basis to recommend that the request to release the Performance Bonds be denied.

**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 request of K. Hovnanian Homes for the release of the Performance Bonds posted with the Township for the project known as The Cedars and Tannery Hill is hereby denied for the reasons stated herein.

**BE IT FURTHER RESOLVED**, that a copy of this Resolution be forwarded to Kelly A. Higgins, Bond Manager at K. Hovnanian at Tannery Hill, Inc and K. Hovnanian at The Cedars at 110 Fieldcrest Avenue, Edison, New Jersey 08837.

This Resolution shall take effect immediately.

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

- C. Resolution #40-12 – Resolution supporting the Drive Sober or Get Pulled Over 2012 Crackdown

**RESOLUTION #40-12  
RESOLUTION SUPPORTING THE DRIVE SOBER OR GET PULLED OVER 2012  
CRACKDOWN**

**WHEREAS**, impaired drivers on our nation's roads kill someone every 30 minutes, 50 people per day, and almost 18,000 people each year; and

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**WHEREAS**, 25% of motor vehicle fatalities in New Jersey are alcohol related; and

**WHEREAS**, an enforcement crackdown is planned to combat impaired driving; and

**WHEREAS**, the summer season and the Labor Day holiday in particular are traditionally times of social gatherings which include alcohol; and

**WHEREAS**, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the state to participate in the *Drive Sober or Get Pulled Over 2012 Statewide Crackdown*; and

**WHEREAS**, the project will involve increased impaired driving enforcement from August 17 through September 3, 2012; and

**WHEREAS**, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways;

**THEREFORE, BE IT RESOLVED** that HARDYSTON TOWNSHIP declares its support for the *Drive Sober or Get Pulled Over 2012 Statewide Crackdown* from August 17 through September 3, 2012 and pledges to increase awareness of the dangers of drinking and driving.

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

- D. Resolution #41-12 – Resolution authorizing the submission of a grant application for the Drive Sober or Get Pulled Over 2012 Crackdown Grant

**RESOLUTION #41-12**

BE IT RESOLVED by the Township Council of the Township of Hardyston that the Township Manager is hereby authorized to apply for the following:

1. New Jersey Division of Highway Traffic Safety – Application for “*Drive Sober or Get Pulled Over 2012 Statewide Crackdown*” Grant

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

- E. Resolution #42-12 - Resolution authorizing the execution of the following shared service agreement:

1. Street Sweeping – Borough of Hamburg

**RESOLUTION #42-12**

**RESOLUTION AUTHORIZING THE EXECUTION OF THE FOLLOWING CONTRACTS/ LEASES/ INTERLOCAL AGREEMENTS/AGREEMENTS**

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

- a. Street Sweeping – Borough of Hamburg

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

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- F. Resolution #43-12 - Resolution of the Township Council of the Township of Hardyston, endorsing only the submittal of a loan application to be made by Lake Gerard property owners association to the State of New Jersey, Department of Environmental Protection, Dam Safety Section, Dam Restoration Loan

**RESOLUTION #43-12**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY ENDORSING ONLY THE SUBMITTAL OF A LOAN APPLICATION TO BE MADE BY LAKE GERARD PROPERTY OWNERS ASSOCIATION TO THE STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, DAM SAFETY SECTION, DAM RESTORATION LOAN**

**WHEREAS**, Lake Gerard Property Owners Association is a private lake association in Hardyston Township; and

**WHEREAS**, the dam on this property is in need of repair to comply with state standards governing same; and

**WHEREAS**, the State of New Jersey, Department of Environmental Protection, Dam Safety Section, Dam Restoration Loan offers loans to private entities to effectuate such dam repairs with the condition that the municipality within which the dam is located co-signs the loan; and

**WHEREAS**, Lake Gerard Property Owners Association wishes to make application to participate in the DEP loan program.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Hardyston does hereby endorse only the application for a DEP loan to effectuate dam repairs at the Lake Gerard Property Owners Association in the Township of Hardyston; and

**BE IT FURTHER RESOLVED** that Lake Gerard Property Owners Association shall provide the Township with a complete copy of their loan application; and

**BE IT FURTHER RESOLVED**, that the Township reserves the right to consider co-signing the loan, once such commitment is received.

This Resolution shall take effect immediately.

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

**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 7th day of August, 2012, 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.

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- ( ) 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: Hamilton  
 Seconded by: Kula

| <b>MOTION</b> | <b>YES</b> | <b>NO</b> | <b>ABSTAIN</b> | <b>ABSENT</b> |
|---------------|------------|-----------|----------------|---------------|
| Ross          | _____      | _____     | _____          | ___x___       |
| Kula          | ___x___    | _____     | _____          | _____         |
| Hamilton      | ___x___    | _____     | _____          | _____         |
| Miller        | ___x___    | _____     | _____          | _____         |
| Cicerale      | ___x___    | _____     | _____          | _____         |

Motion carried.

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

**ADJOURNMENT:** A motion was made by Hamilton to adjourn at approximately 7:35 p.m., seconded by Kula. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC  
 Municipal Clerk