

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
OCTOBER 16, 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 Ross, Councilman Cicerale, Councilman Kula, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Tracy Wang of Dorsey & Semrau.

SALUTE THE FLAG

SWEARING IN CEREMONY: Police Department - Nick Calandra – Mayor Carl Miller administered the Oath of Office to Nick Calandra for his promotion to Sergeant.

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 2012
2. Tax Collector Report – September 2012
3. Construction Certificate Activity Report – September 2012
4. Construction Permit Activity Report – Hardyston – September 2012
5. Construction Permit Activity Report – Hamburg – September 2012
6. Construction Permit Activity Report – Franklin – September 2012
7. Construction Permit Activity Report – Newton – September 2012
8. Construction Permit Activity Report – Sussex – September 2012
9. Police Department Report – September 2012
10. Municipal Court Report – September 2012
11. Sussex County Health Department Report – September 2012

Agreements/Applications/Licenses:

1. Raffles – St. John Vianney R.C. Church
2. Raffles – Jefferson Center Ice Hockey, Inc.

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

ORDINANCES:

1st READING: 2012-10

BOND ORDINANCE AUTHORIZING THE APPROPRIATION OF A SUM NOT TO EXCEED \$3,027,000 AND AUTHORIZING THE ISSUANCE OF REFUNDING BONDS AND/OR NOTES OF THE TOWNSHIP OF HARDYSTON, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$3,027,000, TO REFUND, IN FULL OR IN PART, THE OUTSTANDING BALANCE OF GENERAL IMPROVEMENT BONDS, SERIES 2004A OF THE TOWNSHIP AND TO FINANCE THE COSTS OF ISSUANCE OF SUCH REFUNDING BONDS ON BEHALF OF THE TOWNSHIP AND TO PROVIDE FOR THE ISSUANCE OF SUCH REFUNDING BONDS

WHEREAS, the Township Of Hardyston, County of Sussex, State of New Jersey (the “Township”) issued \$3,300,000 General Obligation General Improvement Bonds, Series 2004A dated October 1, 2004, (the bond issues identified and set forth above are hereinafter referred as the “Outstanding Bonds”) pursuant to the provisions of the Local Bond Law of New Jersey, N.J.S.A. 40A:2-1 *et seq.* (the “Law”) for purposes of providing funds for various capital improvements in and for the Township; and

WHEREAS, the Outstanding Bonds maturing on or prior to October 1, 2014 are not subject to redemption prior to maturity, however there is the principal amount of \$2,750,000 of

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the Outstanding Bonds that remain outstanding and will mature in various amounts between October 1, 2015 and October 1, 2023 inclusive which are subject to redemption prior to maturity; and

WHEREAS, the Township now desires to authorize and issue refunding bonds to refund the principal amount of the Outstanding Bonds maturing in the years 2015 through the final maturity in 2023, to authorize the execution of a refunding agreement to provide for the acquisition of obligations of the United States of America, the principal of and interest on which shall provide for the payment of the principal of and interest on the Outstanding Bonds, and to pay the cost of issuance of such refunding bonds, in order to provide for debt service savings to the Township;

NOW THEREFORE BE ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY (Not less than Two-third (2/3) of All Members Thereof Affirming and Concurring), **AS FOLLOWS:**

Section 1. The Township Of Hardyston, in the County of Sussex, State of New Jersey, hereby authorize to an aggregate amount not to exceed \$3,027,000 for the payment, refunding or funding of all of part principal of and interest on the principal amount of \$2,750,000 outstanding Bonds of the Township maturing in the years 2015 through 2023.

Section 2. An aggregate amount not exceeding \$70,000 for items of expense listed and permitted under Section 40A:2-51(b) and 40A:2-53(a) of the Law has been reserved for the cost of issuance expenses relating to the refunding bonds authorized herein.

Section 3. In order to finance the cost of refunding the Outstanding Bonds in the aggregate principal amounts stated in Section 1 hereof, negotiable refunding bonds are hereby authorized to be issued in the aggregate principal amount not exceeding \$3,027,000 pursuant to the Law (the "Refunding Bonds"), consisting of one issue of general improvement refunding bonds in the principal amount not exceeding \$3,027,000. The Refunding Bonds shall pay interest at a rate or rates per annum as may be hereinafter determined within the limitation prescribed by Law. Said issue of general improvement refunding bonds shall mature in annual installments which may not exceed the limitations prescribed in Section 40A:2-26(b) of the Local Bond Law, and as set forth in N.J.A.C.5:30-2.5 of the regulations issued pursuant thereto. In addition, the Outstanding Bonds shall be paid and redeemed on the next call date after issuance of same through the proceeds from the sale held in escrow pledged to the payment of the principal and interest on the Outstanding Bonds to be refunded. The Refunding Bonds shall be sold at private sale by resolution of the Township Council to Janney Montgomery Scott LLC. All matters with respect to Refunding Bonds not determined by this ordinance or a resolution of the Township Council shall be determined by the Chief Financial Officer in accordance herewith, and with the Local Bond Law.

Section 4. The Chief Financial Officer of the Township is directed to report in writing to the Township Council at the meeting next succeeding the date when any sale or delivery of Refunding Bonds pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate, the maturity schedule of the Refunding Bonds sold, the price obtained, and the terms of the escrow, as well as any other material terms of the transaction.

Section 5. The Chief Financial Officer of the Township is hereby authorized to determine such details relating to the issuance of the Refunding Bonds and is directed to provide such details to the Township Council and the Director of the Division of Local Government Services for the Director's approval, including the final maturity schedule, the terms of the redemption of the Outstanding Bonds, the deposit, securing, regulations, escrow investments, disposition or application of refunding bond proceeds pending such escrow and redemption and the specific terms and conditions relating thereto and any information required by law, or resolution of the Local Finance Board.

Section 6. The Chief Financial Officer is further authorized to determine the terms of any contract with the holders of the Refunding Bonds with respect to the establishment of, and the making of provisions for the funding of the escrow fund and the amount, source, securing,

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regulation and disposition thereof for escrow and redemption of the Outstanding Bonds, and enter into any contracts or agreements to implement the refunding program, including agreements for bond, insurance, rating agencies, investment banking, printing, legal services and financial advisor services, which terms and agreements shall not be inconsistent herewith.

Section 7. A certified copy of this Refunding Bond Ordinance as adopted on first reading shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs, of the State of New Jersey prior to final adoption, together with a complete statement in the form prescribed by the Director and signed by the Chief Financial Officer of the Township as to the indebtedness to be financed by the issuance of the Refunding Bonds authorized herein.

Section 8. This Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

A motion was made by Ross to approve Ordinance 2012-10 on first reading, seconded by Hamilton. All in favor. Motion carried.

ORDINANCES:

2nd READING: None

NEW BUSINESS:

- A. Proclamation to designate January 11 as Human Trafficking Awareness Day

**PROCLAMATION TO
DESIGNATE JANUARY 11 AS HUMAN TRAFFICKING AWARENESS DAY**

WHEREAS, human trafficking is a borderless crime against individuals that violates the most basic human rights and deprives victims of every shred of personal freedom; and

WHEREAS, human trafficking occurs when a person is recruited, harbored, obtained, or exported through force, fraud, or coercion for the purposes of sexual or labor exploitation, involuntary servitude, and other types of mental and physical abuse; and

WHEREAS, human traffickers target impoverished and marginalized children, women and men, isolating them from society and supportive networks and exploiting them for personal and monetary gain; and

WHEREAS, human trafficking is the fastest growing criminal enterprise in the world today, and is tied with arms smuggling as the second largest international criminal industry, falling only behind the illicit drug trade; and

WHEREAS, the United Nations' International Labor Organization has estimated that at least 12.3 million adults and children worldwide are currently in forced labor, bonded labor, or forced prostitution; and it is estimated that more people are now harmed by Human Trafficking worldwide than have been at any other point in human history. Approximately 80% of the victims are women and girls, and 50% are younger than age 18; and

WHEREAS, many victims trafficked into the U.S. do not speak or understand English and are unable to communicate to seek rescue. Under U.S. law, any person under 18 involved in the commercial sex industry is considered a Human Trafficking victim; and victims include U.S. citizens and documented immigrants; and

WHEREAS, we recognize that New Jersey is a prime location for Human Trafficking because it is a major national and international transportation corridor and a culturally diverse state; and

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WHEREAS, human trafficking is modern-day slavery, a practice that is in direct opposition to the fundamental principles of liberty and human rights upon which our nation was founded; and

WHEREAS, on February 1, 1865, President Abraham Lincoln signed the 13th Amendment to the United States Constitution. Once ratified, it officially outlawed slavery and involuntary servitude except as punishment for a crime; and

WHEREAS, Although the federal government and the State of New Jersey have enacted laws to prosecute human traffickers and protect the victims of human trafficking, traffickers use techniques to keep their victims enslaved that severely limit self-reporting and that require broad public awareness of human trafficking issues for enforcement and prevention to occur; and

WHEREAS, the New Jersey State Constitution declares that all persons are by nature free and independent and have certain natural and unalienable rights; and

WHEREAS, the people of New Jersey, regardless of political persuasion, creed, race, or national origin, stand together with the global community to protect the fundamental freedoms and rights of all persons, to fight the proliferation of human trafficking in all of its forms, and to assist survivors of modern day slavery; and

WHEREAS, the Township of Hardyston stands committed to protecting human rights and individual freedom by eliminating human trafficking.

WHEREAS, the Township of Hardyston is resolved to support the goals and ideals of observing a National Day of Human Trafficking Awareness on January 11 of each year and to support all efforts by individuals, businesses, organizations, and governing bodies to raise awareness of and opposition to Human Trafficking.

WHEREAS, the Township commends the work of the NJ Coalition Against Human Trafficking for its statewide efforts to end human trafficking through education, advocacy, and assistance to survivors and to increase coordination and visibility of New Jersey's commitment to end human trafficking.

NOW, THEREFORE, I, Carl B. Miller, Mayor, do hereby proclaim January 11 of each year as: Human Trafficking Awareness Day in the Township of Hardyston, to raise awareness about the signs and consequences of human trafficking, to promote opposition to human trafficking in all of its forms, and to encourage support for the survivors of human trafficking throughout the State of New Jersey and across the world to put an end to this criminal activity and restore freedom and dignity to its survivors.

A motion was made by Ross to approve the proclamation, seconded by Kula. All in favor. Motion carried.

- B. Resolution #59-12 – Resolution accepting a maintenance bond which includes a surety in the amount of \$25,471.80 and a cash bond in the amount of \$2,830.20 from Crystal Springs Builders, LLC and authorizing release of performance guaranty including surety bond #929487957 in the amount of \$183,336.91 and cash bond in the amount of \$20,370.77 for the Cornwall at Crystal Springs

RESOLUTION #59-12

RESOLUTION ACCEPTING A MAINTENANCE BOND WHICH INCLUDES A SURETY IN THE AMOUNT OF \$25,471.80 AND A CASH BOND IN THE AMOUNT OF \$2,830.20 FROM CRYSTAL SPRINGS BUILDERS, LLC AND AUTHORIZING RELEASE OF PERFORMANCE GUARANTY INCLUDING SURETY BOND #929487957 IN THE AMOUNT OF \$183,336.91 AND CASH BOND IN THE AMOUNT OF \$20,370.77 FOR THE CORNWALL AT CRYSTAL SPRINGS

WHEREAS, as part of the Planning Board approval, Crystal Springs Builders, LLC was required to post performance bonds for certain site improvements; and

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WHEREAS, Crystal Springs Builders, LLC has posted performance bond #929487957 and a cash bond in compliance with the Planning Board approval and based upon the recommendation of the Township Engineer; and

WHEREAS, Crystal Springs Builders, LLC has requested a release of these bonds due to completion of improvements; and posting of a maintenance bond in the amount of \$28,302.00 as recommended by the Township Engineer; and

WHEREAS, the Township Engineer has reviewed the request of Crystal Springs Builders, LLC, inspected the site and has found the improvements in the Cornwall at Crystal Springs to be complete and in good condition; and

WHEREAS, the Township Engineer has recommended release of this performance bond

NOW THEREFORE BE IT RESOLVED by the Hardyston Township Council that the maintenance bond be accepted and the performance and cash bond be released 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.

C. Resolution #60-12 - 2011 Audit Resolution

**GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT
FORM OF RESOLUTION #60-12**

WHEREAS, N.J.S.A. 40A: 5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2011 has been filed by a Registered Municipal Accountant with the *Municipal Clerk* pursuant to N.J.S.A. 40A: 5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, That the *Township Council* of the Township of Hardyston, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

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

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- D. Resolution #61-12 - Resolution accepting a maintenance bond which includes a surety in the amount of \$20,741.40 and a cash bond in the amount of \$2,304.60 from Crystal Springs Builders, LLC and authorizing release of performance guaranty including surety bond #929487955 in the amount of \$40,521.60 and cash bond in the amount of \$4,502.40 for the Bramble at Crystal Springs

RESOLUTION #61-12

RESOLUTION ACCEPTING A MAINTENANCE BOND WHICH INCLUDES A SURETY IN THE AMOUNT OF \$20,741.40 AND A CASH BOND IN THE AMOUNT OF \$2,304.60 FROM CRYSTAL SPRINGS BUILDERS, LLC AND AUTHORIZING RELEASE OF PERFORMANCE GUARANTY INCLUDING SURETY BOND #929487955 IN THE AMOUNT OF \$40,521.60 AND CASH BOND IN THE AMOUNT OF \$4,502.40 FOR THE BRAMBLE AT CRYSTAL SPRINGS

WHEREAS, as part of the Planning Board approval, Crystal Springs Builders, LLC was required to post performance bonds for certain site improvements; and

WHEREAS, Crystal Springs Builders, LLC has posted performance bond #929487955 and a cash bond in compliance with the Planning Board approval and based upon the recommendation of the Township Engineer; and

WHEREAS, Crystal Springs Builders, LLC has requested a release of these bonds due to completion of improvements; and posting of a maintenance bond in the amount of \$23,046.00 as recommended by the Township Engineer; and

WHEREAS, the Township Engineer has reviewed the request of Crystal Springs Builders, LLC, inspected the site and has found the improvements in the Bramble at Crystal Springs to be complete and in good condition; and

WHEREAS, the Township Engineer has recommended release of this performance bond.

NOW THEREFORE BE IT RESOLVED by the Hardyston Township Council that the maintenance bond be accepted and the performance and cash bond be released 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.

- E. Resolution #62-12 – Chapter 159 – Drive Sober or Get Pulled Over 2012 Statewide Crackdown

Resolution #62-12

NEW JERSEY DIVISION OF HIGHWAY TRAFFIC SAFETY
DRIVE SOBER OR GET PULLED OVER 2012 STATEWIDE 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 2012, in the sum of \$4,311.84, which is, now available as a revenue from New Jersey Division of Highway Traffic Safety Drive Sober or Get Pulled Over 2012 Statewide Crackdown pursuant to the provision of Statute, and

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SECTION II.

BE IT FURTHER RESOLVED, that a like sum of \$4,311.84 and the name is hereby appropriated under the caption New Jersey Division of Highway Traffic Safety Drive Sober or Get Pulled Over 2012 Statewide Crackdown, Other Expenses \$4,311.84.

SECTION III.

BE IT FURTHER RESOLVED, that the above is a result of New Jersey Division of Highway Traffic Safety Drive Sober or Get Pulled Over 2012 Statewide Crackdown and /or/ has been anticipated as a revenue from the New Jersey Division of Highway Traffic Safety Drive Sober or Get Pulled Over 2012 Statewide 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.

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

F. Correspondence

1. Hampton Township
2. Lafayette Township
3. Byram Township
4. State of NJ
5. State of NJ
6. State of NJ
7. State of NJ
8. Lan Associates
9. Eastern States Environmental Associates, Inc.

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

MANAGERS REPORT: Township Manager stated that budget discussions will begin soon. She also stated that discussions will continue with Hamburg and Ogdensburg with regard to recreation and recommendations will be discussed at the next workshop meeting.

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.

ADJOURNMENT: A motion was made by Hamilton to adjourn at approximately 7:15 p.m., seconded by Ross. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk