

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
JANUARY 22, 2013**

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

Monthly Reports:

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

Agreements/Applications/Licenses:

1. Electronic Police Forms, LLC – 2013 Annual Maintenance/Support - Police Department
2. R & R Radar, Inc. – Traffic Radar Maintenance Agreement - Police Department
3. Security Design Group, LLC/Meridien – Service Agreement - Access Control & Security Alarm System – Police Department
4. Trailer Court License Renewal – Russell & Eileen Post
5. Trailer Court License Renewal – Stanley Tabaka

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

ORDINANCES:

1st READING: None

ORDINANCES:

2nd READING: None

NEW BUSINESS:

- A. Resolution #07-13 – Resolution authorizing the execution of the lease termination agreement and general release with Nextel of New York, Inc.

RESOLUTION #07-13

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE
TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND
STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF
THE LEASE TERMINATION AGREEMENT AND GENERAL
RELEASE WITH NEXTEL OF NEW YORK, INC.**

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WHEREAS, the Township of Hardyston (“Township”) entered into a Communications Site Lease Agreement (“Lease Agreement) with Nextel of New York, Inc. (“Nextel”) for use of property located at 29 Stockholm Vernon Road, Hardyston, NJ 07640 as a communications facility; and

WHEREAS, in accordance with the Lease Agreement, Nextel notified the Township by letter dated December 4, 2012, of its intent to terminate the Lease Agreement; and

WHEREAS, the Township and Nextel have agreed to terminate the Lease Agreement, effective March 31, 2013, by entering into the Lease Termination Agreement and General Release.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Hardyston, in the County of Sussex and State of New Jersey, that the Mayor and Township Manager are hereby authorized and directed to execute the attached Lease Termination Agreement and General Release with Nextel of New York Inc. to terminate the Communications Site Lease Agreement.

This Resolution shall take effect immediately.

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

B. Tax Collector Resolutions

1. Resolution #08-13 – Tax appeal refund – Block 35, Lot 3.01 – Sean & Sharon Duffy – 55 Silver Grove Road

RESOLUTION # 08-13

WHEREAS, Block 35 Lot 3.01 and owned by Sean & Sharon Duffy and also know as 55 Silver Grove Road, and

WHEREAS, the Tax Assessor has placed an added assessment on the property for improvements and the homeowner has paid the amount in full, and

WHEREAS, a Tax Appeal was granted and a refund in the amount of \$ 1,015.43 has been granted.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund Sean & Sharon Duffy the amount of \$ 1,015.43 for a tax appeal granted on added assessments placed on the property.

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

- C. Resolution #09-13 – Resolution in opposition to the approved process for non-SHBP Health Insurance Plans as proposed by N.J.A.C. 5:30-18.1 through 18.4 and N.J.A.C. 6A:23A**

Resolution #09- 13

**Opposition to the Approval Process for Non-SHBP Health Insurance Plans As Proposed By
N.J.A.C. 5:30-18.1 through 18.4 and N.J.A.C. 6A:23A**

Whereas, The New Jersey Local Finance Board and the New Jersey Department of Education have proposed rules requiring that all labor contracts providing for health insurance outside the State Health Benefits Program need to be approved by the State and requiring that local entities and school boards perform a static comparison of health insurance costs to State Health Benefit Program costs; and

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Whereas, These rules are in conflict with Section 42.c of Chapter. 78, which is ostensibly used as authority for the regulation, but is actually meant only to apply to public entities wishing to enter into contract that included a contribution schedule from employees that substitutes for that as laid out in the statute; and

Whereas, The regulations, as proposed, extends this authority to require all public entities electing not to provide health benefits through the State Health Benefits Plan (SHBP) and the School Employees' Health Benefits Program (SEHBP) to submit to the process established under the proposed regulation; and

Whereas, This interpretation that is contrary to the regulations is supported by:

- The plain reading of the statute;
- The explanation contained in Local Finance Notice (LFN) 2011-20R, Section VI. Alternate Employee Health Care Contribution; and
- The following language from the "Statement" found at page 121, line 35 of the Bill (underlining added)::

The bill allows boards of education and units of local government, that do not participate in the SHBP or SEHBP, to enter into contracts for health care benefits coverage, as may be required to implement a collective negotiations agreement, and agree to different employee contribution rates if certain cost savings in the aggregate over the period of the agreement can be demonstrated. The savings must be certified to the Department of Education or the Department of Community Affairs, as appropriate.

; and

Whereas, the proposed regulation is cumbersome and places a significant burden on any public body intending to utilize the employee contribution schedule contained within the law, but wishing obtain health benefits outside the SHBP or SEHBP; and

Whereas, the de facto effect of this regulation, if adopted, will be to drive public bodies into the SHBP or SEHBP and stifle competition; and

Whereas, New Jersey already has one of the nation's most uncompetitive health insurance markets according to the Henry J. Kaiser Family Foundation (October 2011):

- In the individual market, one carrier, Horizon BCBS, controls 73% of the market with only two carriers having 5% or more of the market.
- The same carrier controls over 75% of the governmental market, largely by virtue of its relationship with the SHBP and SEHBP.
- Finally, Horizon controls 43% of the small group market; and

Whereas, If the regulation causes a significant number of local entities to move to the SHBP and SEHBP, a negative result will be to increase market concentration and further reduce carrier competition in the State; and

Whereas, This will result in an increase in fully insured costs for other persons, governmental entities, not for profits, and business in the State; and

Whereas, The regulations' definition of "net employer cost" is not inclusive of all relevant items and should be modified:

- For instance, members of JIFs own a proportionate share of fund surplus that should be included in a valid comparison.
- Likewise, JIF members receive dividends that reduce net employer cost.
- Finally, JIF rates could include supplemental assessments that represent a liability to the member regardless of whether it stays in the joint insurance fund or moves to the SHBP.; and

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Whereas, Most local entity labor contracts cover multiple year periods:

- A comparison using the most current year is misleading and invalid because the comparison can change in subsequent years.
- In addition, school districts that belong to health JIFs renew on July 1 of each year.
- The differences in renewal cycles between the health JIF, the SEHBP, and the commercial market will further complicate comparisons; and

Whereas, The regulations do not address differences in plan design between an employer plan and the plan or plans offered by the SHBP and the SEHBP and such differences are critical to any valid comparison of plan economics; and

Whereas, The regulations do not address legal restraints on local entities considering their obligations to retirees, and obligations to employee groups that are not a part of the contract in question; and

Whereas, In situations where a local health plan has negotiated benefits that are richer than, or even different than, those provided by the SHBP and SEHBP, the local unit will be subject to sanctions for failing to honor its labor agreements; and

Whereas, The comparison is burdensome to local units and of limited use given that the requested details do not allow for a valid comparison of net cost and benefits; and

Whereas, SEHBP rates are reduced by the amount of the A4 retiree surcharge paid by entities not in the state plan and the rates for local school districts not in the SEHBP are increased by the surcharge further limiting the fairness and utility of the comparison; and

Whereas, SEHBP and SHBP rates in the past have been impacted by one time sources of revenue such as the Tobacco settlement and the use of one time sources of revenue that are not available to local units does not permit for a fair and valid comparison; and

Whereas, The regulations favor the SEHBP and SHBP to the exclusion of health joint insurance funds (JIFs) that have faithfully served New Jersey local government, under enabling statutes, for over 20 years:

- Health JIFs are a valid alternative for entities with unique plan designs, good loss experience, and a willingness to participate in JIF governance.
- Health JIFs are the largest “shared services” effort in the State for local government from a revenue standpoint.
- To the extent that the regulations operate to the disadvantage of health JIFs, the regulations are in opposition to, and indeed are hostile to, statutes that authorize JIF creation and operation.
- By extension, the regulations foster a “big government” mentality and are hostile to both “shared services” and “home rule” concepts.
- If the regulation seeks to encourage “due diligence”, then members of the SEHBP and SHBP should also be required to compare their claims and cost to the health JIF and commercially insured alternatives.

Now, Therefore, Be It Resolved, That, for the foregoing reasons, we respectfully beseech that the Departments modify and reissue the proposed regulations to:

- Apply only when a local unit proposes an employee contribution schedule different from that contained in the statute;
- Require any comparison to take into consideration differences in plan design and eligibility;
- Require the evaluation criteria to consider dividends received from a health JIF and shares of surplus retained by the health JIF;
- Promote, rather than undermine, healthy competition among the various options available to local units shopping for health insurance;

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Be It Further Resolved that certified copies of this resolution be forwarded to Governor Christie, the NJ Local Finance Board, the NJ Department of Education, and to local legislative representatives.

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

D. Junkyard/Auto Auction and Soil Removal/Quarry License Renewals:

1. Central Auto Liquidators – Junkyard & Auto Auction License
2. Beaver Run Farms – Soil Removal & Quarry
3. Shotmeyer Brothers, Inc. – Soil Removal
4. Eastern Concrete Materials, Inc. – Quarry
5. North Church Gravel, Inc. – Soil Removal

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

E. Eastern Concrete Materials – Request for hours of operation waiver for Wash Plant operation

A motion was made by Ross to approve the request to run the wash plant from 6:00 am to 11:00 pm, Monday through Friday throughout 2013, as weather permits, with the standard provision that the permission is only granted as long as no complaints are received as recommended by the Township Engineer, seconded by Kula. All in favor. Motion carried.

F. Resolution #10-13 – Resolution consenting to the proposed Water Quality Management (WQM) Plan Amendment entitled “Sussex County Water Quality Management Plan

RESOLUTION #10-13

A RESOLUTION CONSENTING TO THE PROPOSED WATER QUALITY MANAGEMENT (WQM) PLAN AMENDMENT, ENTITLED: SUSSEX COUNTY WATER QUALITY MANAGEMENT PLAN

WHEREAS, the Township of Hardyston desires to provide for the orderly development of wastewater facilities within the Township and throughout Sussex County; and

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) requires that proposed wastewater treatment and conveyance facilities and wastewater treatment service areas, as well as related subjects, be in conformance with an approved WQM plan; and

WHEREAS, a proposed WQM plan amendment noticed in the New Jersey Register on the 7th of January, 2013 for the Sussex County Water Quality Management Plan - Sussex County Future Sewer Service Area Map has been prepared by the County of Sussex;

NOW, THEREFORE, BE IT RESOLVED on this 22nd day of January, 2013, by the Township Council of the Township of Hardyston that:

1. The Hardyston Township Council hereby consents to the amendment entitled Sussex County Water Quality Management Plan and the associated Sewer Service Area map, which was publically noticed and prepared by the Sussex County Division of Planning, for the purpose of its incorporation into the applicable WQM Plan.
2. This consent resolution shall be forwarded to the New Jersey Department of Environmental Protection in accordance with N.J.A.C 7:15-3.4 and to the County of Sussex, Department of Engineering and Planning.

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

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- G. Resolution #11-13 – Resolution authorizing the execution of a shared service agreement for the following:

Recreation – Littell Community Center - Franklin Borough

RESOLUTION #11-13

**RESOLUTION AUTHORIZING THE EXECUTION OF THE FOLLOWING SHARED
SERVICE AGREEMENT**

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

1. Recreation – Littell Community Center - Franklin Borough

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

- H. Resolution #12-13 – Resolution adopting Senator Robert E. Littell Community Center Procedures, Rules and Regulations

RESOLUTION #12-13

**RESOLUTION ADOPTING SENATOR ROBERT E. LITTELL COMMUNITY CENTER
PROCEDURES, RULES AND REGULATIONS**

BE IT RESOLVED, by the Township Council of the Township of Hardyston that it hereby adopts the Senator Robert E. Littell Community Center Procedures, Rules and Regulations.

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

- I. Correspondence

1. Sandyston Township
2. Sandyston Township
3. Hampton Township
4. Sussex County Municipal Utilities Authority
5. State of NJ
6. State of NJ
7. State of NJ
8. Nicholson & Askin, LLC

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

MANAGERS REPORT:

- Township Manager stated that the 2013 municipal budget should be ready for Council review at the next workshop meeting.
- Township Manager stated that William Hickerson, Office of Emergency Management, is working on the figures to submit to FEMA for reimbursement for costs associated with Hurricane Sandy.
- Township Manager stated that the police officer interviews to fill the vacancies will be held tomorrow.
- Township Manager stated that the Affirmative Marketing Plan is being implemented to start the sale of the 7 market rate units purchased as part of the Township's market to affordable program.
- Township Manager stated that it has been confirmed that Ridgefield Commons did transfer to a new developer.

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- Township Manager discussed the request from Scenic Lakes Community Association for road improvement cost estimates.
- Township Manager stated that the Wellness Plan has been implemented and was well received by the employees.

BILLS TO BE PAID: A motion was made by Ross 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 Kula to adjourn at approximately 7:35 p.m., seconded by Ross. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk