

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 11, 2013

The meeting was called to order by Mayor Hamilton at approximately 9:10 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, Councilman Cicerale, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Tracy Wang of Dorsey & Semrau.

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. Raffles – The Craig School

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 #41-13 – 2013 – 2014 Annual Liquor License Renewals

RESOLUTION #41-13

WHEREAS, the following Liquor License is to be renewed effective July 1, 2013, for a one year period; and

WHEREAS, all necessary fees and documentation have been properly filed with the Hardyston Township Municipal Clerk; and

NOW THEREFORE BE IT RESOLVED that the Liquor License shall be renewed for a period of one year effective July 1, 2013 for the following license holders.

1. Anthony Pignataro Corp. – #1911-33-004-006
2. Crystal Springs Beverages, Inc.- #1911-33-006-009
3. HGF, Inc.- #1911-33-005-009
4. Grand Cascades Lodge Liquor, LLC - #1911-36-007-001
5. RBAA, LLC - #1911-44-003-010
6. Hamburg Golf Course Beverage, Inc. - #1911-33-002-010

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

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 11, 2013

B. Resolution #42-13 – Shared Service Agreement – Sewer Operator – Sussex Borough

RESOLUTION #42-13

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. Sewer Operator – Sussex Borough

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

C. Resolution #43-13 – Agreement for Installation of Electric Distribution Facilities – JCP&L

RESOLUTION #43-13

RESOLUTION AUTHORIZING THE EXECUTION OF THE FOLLOWING CONTRACTS/AGREEMENTS

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

1. JCP&L – Agreement for Installation of Electric Distribution Facilities – Helipad Site

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

D. Resolution #44-13 – Estimated Tax Bills

**TOWNSHIP OF HARDYSTON
RESOLUTION # 44-13**

WHEREAS, due to the late adoption of the Township of Hardyston 2013 Municipal Budget and 2013 Sussex County Budget, the Sussex County Board of Taxation is unable to certify tax rates for the year 2013, and

WHEREAS, without a 2013 certified tax rate the Tax Collector of the Township of Hardyston will be unable to issue 2013 tax bills on a timely basis, and

WHEREAS, in accordance with Chapter 72, P.L. 1994, the Township Mayor and Council requests the Director of the Division of Local Government Services to approve the 2013 estimated tax levy not exceeding 105% of the previous year's tax levy. Approval will enable the Township of Hardyston to meet its financial obligations, maintain the tax collection rate, provide uniformity for tax payments and save the unnecessary cost of interest expense on borrowing.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston, as follows:

1. The Tax Collector of the Township of Hardyston is hereby authorized and directed to prepare and issue estimated tax bills for the Township of Hardyston for the third installment of 2013. The Tax Collector shall proceed

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 11, 2013

upon approval from the Director and take such actions as are permitted and required by Chapter 72, Public Laws of 1994 and N.J.S.A. 54:4-66.2 and 54:4-66.3.

2. The entire estimated tax levy for 2013 is hereby set \$ 27,407,423.00. The estimated tax rate for 2013 is hereby set at \$ 2.371.

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

- E. Resolution #45-13 – K. Hovnanian – Release of Bonds

RESOLUTION #45-13

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE RELEASE AND RETURN OF PERFORMANCE BOND #1113325214 FOR THE CEDARS AT CRYSTAL SPRINGS, PERFORMANCE BOND #111332662300 FOR THE BLUFF AT CRYSTAL SPRINGS, AND PERFORMANCE BOND #11127343355 FOR TANNERY HILL AT CRYSTAL SPRINGS

WHEREAS, MCNJ, Inc. is the successor entity to K. Hovnanian at the Cedars, Inc. (“KHC”), K. Hovnanian at The Bluff, Inc. (“KHB”) and K. Hovnanian at Tannery Hill, Inc. (“KHT”), entities formed by K. Hovnanian Companies, L.L.C. and/or its predecessor entity to take title to and/or develop property located in the Township of Hardyston, Sussex County, New Jersey; and

WHEREAS, K. Hovnanian constructed a development known as “Crystal Springs” and broken down into smaller communities known as The Cedars at Crystal Springs, the Bluff at Crystal Springs and Tannery Hill at Crystal Springs; and

WHEREAS, in connection with that development, K. Hovnanian posted performance bond #1113325214 for the Cedars at Crystal Springs, performance bond #111332662300 for the Bluff at Crystal Springs and performance bond #11127343355 for Tannery Hill at Crystal Springs; and

WHEREAS, K. Hovnanian has requested the release or reduction of the performance bonds in connection with the aforementioned development; and

WHEREAS, the Township of Hardyston previously rejected the request for release or reduction of the performance bonds; and

WHEREAS, on or about March 19, 2013, MCNJ, Inc. filed suit in Superior Court in Sussex County in the matter of *MCNJ, Inc. t/a K. Hovnanian at The Cedars, Inc.; K. Hovnanian at the Bluff, Inc.; and K. Hovnanian at Tannery Hill, Inc. v. Township of Hardyston, Hardyston Township Council, Hardyston Township Engineer and Hardyston Township Municipal Utilities Authority*, Docket No. SSX-L-151-13, seeking to compel the Township’s Acceptance of the Bonded Improvements and the Township’s release of the Performance Guarantees; and

WHEREAS, the Parties have agreed to resolve the dispute and as a part of that resolution, the Township has agreed to the release of performance bonds #1113325214, #111332662300, and #11127343355 and the related guarantees.

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 Township shall undertake the following actions in accordance with the settlement agreement executed between the parties:

1. Authorize the release and return of all Performance Guarantees as follows:

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JUNE 11, 2013

- (a) Release Performance Bond No. 11133325214, presently in the amount of \$12,119.62, and the related cash portion of the Performance Guarantee in the amount of \$1,346.63.
 - (b) Release Performance Bond No. 11133262300, presently in the amount of \$20,813.76, and the related cash portion of the Performance Guarantee in the amount of \$2,312.64.
 - (c) Release Performance Bond No. 11127343355, presently in the amount of \$22,777.20, and the related cash portion of the Performance Guarantee in the amount of \$2,530.80.
2. Waive any requirement to post Maintenance Guarantees, pertaining to the Bonded Improvements.

BE IT FURTHER RESOLVED, that the release of the performance bonds as set forth herein shall be subject to the release of the Township of Hardyston, Hardyston Township Council, Hardyston Township Engineer and Hardyston Township Municipal Utilities Authority from the litigation by MCNJ, Inc.

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Township Engineer and MCNJ, Inc. for their records.

This Resolution shall take effect immediately.

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

A motion was made by Miller to authorize the Hardyston Tax Assessor to seek a directive from the County Tax Board to embark on the "hybrid" reassessment in an effort to stabilize future tax appeals, seconded by Ross. All in favor. Motion carried.

The Council agreed to reschedule the regular public meeting and the workshop meeting scheduled for July 2, 2013. The meetings will be rescheduled to July 9, 2013.

A motion was made by Ross to make a \$100.00 donation to St. Mary's Catholic Church, 425 West Blackwell St., Dover, NJ in memory of Patricia Frances Reisen, wife of former Hardyston Health Officer, Fred Reisen, seconded by Miller. All in favor. Motion carried.

BILLS TO BE PAID: A motion was made by Ross to approve the bill list as presented, seconded by Miller. 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 Ross to adjourn at approximately 9:20 p.m., seconded by Kula. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk