

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
SEPTEMBER 23, 2015**

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 Cicerale, Councilman Verrilli, Councilman Kula, Councilwoman Hamilton, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Dawn Sullivan 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.**

**Monthly Reports:**

1. Municipal Clerk Report – August 2015
2. Tax Collector Report – August 2015
3. Construction Certificate Activity Report – August 2015
4. Construction Permit Activity Report – Hardyston – August 2015
5. Construction Permit Activity Report – Hamburg – August 2015
6. Construction Permit Activity Report – Franklin – August 2015
7. Construction Permit Activity Report – Newton – August 2015
8. Construction Permit Activity Report – Sussex – August 2015
9. Construction Permit Activity Report – Wantage – August 2015
10. Police Department Report – August 2015
11. Municipal Court Report – August 2015
12. SCHD Report – July 2015
13. Littell Community Center Report – August 2015

**Minutes:**

1. Workshop Minutes of 9/9/15
2. Regular Minutes of 9/9/15

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

**ORDINANCES**

**1st READING: None**

**ORDINANCES**

**2nd READING: 2015-15**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON,  
COUNTY OF SUSSEX, AND STATE OF NEW JERSEY TO  
ACQUIRE BLOCK 63, LOT 27.06 FROM CJS INVESTMENTS**

**WHEREAS**, the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq., provides that a municipality may, by ordinance, provide for the acquisition of real property or an interest therein by purchase, gift, devise, lease, exchange, or condemnation in the manner provided in the Eminent Domain Act, N.J.S.A. 20:3-1 et seq.; and

**WHEREAS**, CJS Investments agreed to convey Block 63, Lot 27.06, consisting of approximately 0.98 acres of land, located in the Township in consideration of the payment of \$90,000.00; and

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**WHEREAS**, the Mayor and Council have determined that it is in the interest of the Township to acquire the said property for future public use; and

**WHEREAS**, funds are available for this purpose.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey, as follows:

**SECTION 1.** The Township of Hardyston hereby authorizes the acquisition of Block 63, Lot 27.06 for the total sum of \$90,000.00.

**SECTION 2.** The said land to be conveyed to the Township of Hardyston is shown on Schedule A which is attached hereto and made a part hereof.

**SECTION 3.** The Mayor and Township Clerk and all other proper officers and employees of the Township are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this ordinance.

**SECTION 4.** No debt is to be authorized by the enactment and passage of this ordinance.

**SECTION 5.** 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 6.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this ordinance.

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

A motion was made to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made to close the meeting to the public. All in favor. Motion carried. A motion was made by Cicerale to approve Ordinance 2015-15 on second reading, seconded by Verrilli. All in favor. Motion carried.

**NEW BUSINESS:**

- A. Resolution #60-15 – Governing Body Certification of the Annual Audit

**GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT  
FORM OF RESOLUTION #60-15**

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 2014 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

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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 Verrilli to approve the resolution as presented, seconded by Cicerale. All in favor. Motion carried.

- B. Resolution #61-15 – Shared Service Agreement – Ogdensburg Borough – Street Sweeping

**RESOLUTION #61-15**

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. Street Sweeping – Ogdensburg Borough

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

- C. Resolution #62-15 – Municipal Shared Services Defense Agreement

**RESOLUTION #62-15**

**WHEREAS**, the Mayor and Council of the Township of Hardyston entered into the Municipal Shared Services Defense Agreement (“MSSDA”) on behalf of the Township of Hardyston for the purpose as set forth therein, which included retaining a common expert in the Declaratory Judgment action (“Litigation”) that was filed in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Decision”), docketed in the Superior Court of New Jersey, Law Division, Sussex County as Docket No. SSX-L-431-15; and

**WHEREAS**, the MSSDA identified Dr. Robert Burchell, a distinguished professor at Rutgers University, as the expert to be retained; and

**WHEREAS**, Dr. Burchell became ill and has been unable to complete the obligations under the Research Agreement as set forth in the MSSDA; and

**WHEREAS**, as a result, Rutgers University has exercised its right to terminate the Research Agreement as permitted under its terms; and

**WHEREAS**, the MSSDA requires modification to allow the members to retain one or more alternative experts, consultants and/or other professionals for the Litigation; and

**WHEREAS**, an Amendment to the MSSDA (“Amendment”) has been prepared to effectuate the modification; and

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**WHEREAS**, the Mayor and Council of the Township of Hardyston recognizes that the Litigation requires immediate action and may require further expedited actions by its counsel determined to be necessary and appropriate; and

**WHEREAS**, the Mayor and Council of the Township of Hardyston has determined that it is in the best interests of the citizens of the Township of Hardyston to approve the Amendment, and/or to affirm and ratify the Amendment, and to authorize their designated counsel to take actions on behalf of the municipality with regard to the multiplicity of issues raised and associated with the continued implementation of the MSSDA;

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

1. The terms and conditions of the Amendment to MSSDA attached hereto are hereby approved, and/or ratified and confirmed.
2. The Mayor, Township Clerk, and/or Deputy Clerk, are hereby authorized to execute the aforesaid Amendment.
3. The Mayor and Council of the Township of Hardyston hereby authorizes Jeffrey R. Surenian, Esq., to execute an agreement on behalf of the Township of Hardyston with Econsult Solutions, Inc.

The Mayor and Council of the Township of Hardyston hereby further authorizes Jeffrey R. Surenian, Esq., to execute on behalf of the Township of Hardyston with the approval of the Township's designated counsel such other agreement(s) as are advisable to effectuate the purposes of the MSSDA as amended.

4. The Mayor and Council of the Township of Hardyston further authorizes its designated counsel to approve such other changes to the MSSDA as may be necessary to effectuate its purposes, and to take action on behalf of the municipality with regard to the multiplicity of issues raised and associated with the implementation of the MSSDA provided that the action will not require the municipality to appropriate and commit any additional funding for the MSSDA.

In the event such changes and actions require the municipality to appropriate and commit any additional funding for the MSSDA, the Township of Hardyston shall only be responsible for such funding if it authorizes same.

5. If additional monies are needed to effectuate the intent and purpose of the MSSDA, no such services shall be authorized by designated counsel without further action from the Township of Hardyston.
6. This Resolution shall take effect immediately.

**BE IT FURTHER RESOLVED** that a notice of this action shall be printed once in the official Township Newspaper.

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

- D. Resolution #63-15 - Resolution authorizing execution of agreement between the Hardyston/Franklin Municipal Alliance and the Sussex County Board of Chosen Freeholders

**RESOLUTION #63-15**

**RESOLUTION AUTHORIZING THE EXECUTION OF THE FOLLOWING CONTRACTS/ LEASES/ SHARED SERVICE AGREEMENTS/AGREEMENTS**

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

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1. Hardyston/Franklin Municipal Alliance – Sussex County Board of Chosen Freeholders

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

- E. Resolution #64-15 – 2015-2016 Annual Liquor License Renewal – Hamburg Golf Course Beverage, Inc.

**RESOLUTION #64-15  
HARDYSTON TOWNSHIP  
LIQUOR LICENSE RENEWAL**

**WHEREAS**, the following Liquor License is to be renewed effective July 1, 2015, 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, 2015 for the following license holder.

1. Hamburg Golf Course Beverage, Inc. - #1911-33-002-010

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

- F. Resolution #65-15 – Shotland Bauer, LLC – Irrevocable Letter of Credit No. 202 Boiling Springs Savings Bank – Pembridge – Phase 2

**RESOLUTION #65-15**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON,  
COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE TOWNSHIP  
COUNCIL TO CALL THE PERFORMANCE BOND ON THE PEMBRIDGE – PHASE 2 PART  
OF SHOTMEYER TRACT PROJECT**

**WHEREAS**, Shotland Bauer, LLC is in the process of construction of a development project known as Pembridge – Phase 2 Part of Shotmeyer Tract Project; and

**WHEREAS**, in connection with the project, on October 6, 2014 an Irrevocable Letter of Credit was issued by Boiling Springs Savings Bank for the benefit of the Township; and

**WHEREAS**, said Irrevocable Letter of Credit has an expiration date of October 6, 2015; and

**WHEREAS**, as of September 9, 2015 the project had not been completed and no new Letter of Credit or performance bond had been issued by Boiling Springs Savings Bank, or other financial institution; and

**WHEREAS**, by letter dated September 9, 2015, Shotland Bauer, LLC was informed that a performance bond, new Letter of Credit or cash collateral must be provided to the Township prior to September 18, 2015; and

**WHEREAS**, counsel for Shotland Bauer, LLC has advised the Township attorney that an extension of the Irrevocable Letter of Credit is being sought, but has not been obtained as of September 23, 2015;

**WHEREAS**, the Township Council has determined that it is in the best interests of the Township to call the Irrevocable Letter of Credit at this time.

**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:

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- 1) The Irrevocable Letter of Credit issued in favor of the Township of Hardyston on behalf of Shotland Bauer, LLC (Irrevocable Letter of Credit No. 202) is being called as of this date, the Township attorney shall inform the Boiling Springs Savings Bank of the default and the Irrevocable Letter of Credit being called; and
- 2) If Shotland Bauer, LLC provides the Township Engineer with a valid Letter of Credit, performance bond, or cash collateral before October 6, 2015, the Township Attorney will withdraw the proceedings to call the Irrevocable Letter of Credit.

**BE IT FURTHER RESOLVED**, that a copy of this Resolution shall be provided to the Township Engineer and Shotland Bauer, LLC.

This Resolution shall take effect immediately.

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

G. Correspondence

1. Lafayette Township
2. Lafayette Township
3. State of NJ
4. State of NJ
5. Saul Ewing, LLP

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

**BILLS TO BE PAID:** A motion was made by Kula 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. Resident Marty Schweighardt stated that he was in the process of contacting possible guest speakers for the Veteran Memorial Celebration to be held at the municipal building on November 7, 2015 at noon. 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 Kula. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC  
Municipal Clerk