

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
OCTOBER 14, 2015**

The meeting was called to order by Mayor Miller at approximately 8:45 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 Fred Semrau 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. Raffle License – Hamburg PTA
2. Fire Department New Member Application – Frank P. Chiofalo IV

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

**ORDINANCES**

**1st READING: 2015-16**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX,  
STATE OF NEW JERSEY ESTABLISHING A NEW CHAPTER 186 TO BE ENTITLED  
“ABANDONED PROPERTIES” OF THE CODE OF THE TOWNSHIP OF HARDYSTON  
AND PROVIDING FOR THE REGISTRATION OF ABANDONED PROPERTIES AND  
PROPERTIES PENDING FORECLOSURE**

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

**SECTION 1.** The Code of the Township of Hardyston is hereby amended and supplemented with a new Chapter 186 entitled “Vacant Residential and Nonresidential Premises and Buildings Pending Foreclosure”, which Chapter shall read as follows:

**Chapter 186 Abandoned Properties**

**Article I. Vacant Residential and Nonresidential Premises**

**§ 186-1. Definitions.**

As used in this Chapter, the following terms shall have the meanings indicated:

**ABANDONED PROPERTY** - As defined in accordance with the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78, et seq., shall mean the following:

- A. Except as provided in section 6 of P.L.2003, c. 210 (N.J.S.A. 55:19-83), any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the zoning officer that:

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- (1) The property is in need of rehabilitation in the reasonable judgment of the zoning officer, and no rehabilitation has taken place during that six-month period;
  - (2) Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the zoning officer pursuant to this section;
  - (3) At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of the Revised Statutes as of the date of a determination by the zoning officer pursuant to this section; or
  - (4) The property has been determined to be a nuisance by the zoning officer in accordance with Section 5 of P.L.2003, c. 210 (N.J.S.A. 55:19-82).
- B. A property which contains both residential and non-residential space may be considered abandoned pursuant to P.L.2003, c. 210 (N.J.S.A. 55:19-78 et al.) so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the zoning officer and the property meets the criteria of either subsection (1) or subsection (4) of this section.

**EVIDENCE OF VACANCY** - Any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is or has been vacant for three (3) or more months. Such evidence would include but is not limited to, evidence of the existence of two or more of the following conditions at a property: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnected utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds or shutters; the absence of furnishings or personal items consistent with residential habitation; statements by neighbors, delivery agents, or government employees that the property is vacant or abandoned; infestation by insects, vermin, rats or other pests; windows or entrances that are boarded up or closed off; multiple window panes that are damaged, broken or unrepaired; doors that are smashed, broken, unhinged or continuously unlocked; a risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property; or any uncorrected violation of a municipal building, housing or similar code during the preceding year. Property determined to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78, et seq., shall also be deemed to be vacant property for the purposes of this ordinance.

**OWNER** - Shall include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c. 127, Sec. 17), or any other entity determined by the Township of Hardyston to have authority to act with respect to the property.

**VACANT PROPERTY** - Any building used or to be used as a residence which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased for a period of at least three months, and any commercial property that has not been legally occupied or at which substantially all lawful construction operations have ceased for a period of at least three months, and which exhibits evidence of vacancy such that a reasonable person would believe that the property is vacant. Any property that contains all building systems in working order, is being maintained on a regular basis, has not been cited by the Township for any violation of municipal ordinance within such time and is being actively marketed by its owner for sale or rental shall not be deemed vacant.

**§ 186-2. General Requirements.**

- A. The owner of any vacant property, as defined herein, shall within thirty (30) days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later, file a registration statement for each such vacant property with the Township of

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Hardyston Clerk on forms provided by the Clerk for such purposes, as well as any additional information that the Clerk may reasonably request. The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31 as long as the building remains vacant property and shall pay a registration or renewal fee in the amount of \$250.00 for each vacant property registered.

- B. Any owner of any building that meets the definition of vacant property prior to the date of adoption of this ordinance shall file a registration statement for that property within 60 days of adoption. The registration statement shall include the information required under Section 186-3 of this Article, as well as any additional information that the Township may reasonably require.
- C. The owner shall notify the Clerk within thirty (30) days of any change in the registration information by filing an amended registration statement on a form provided by the Clerk for such purpose.
- D. The registration statement shall be deemed prima facie proof of the information therein contained in any administrative enforcement proceeding or court proceeding instituted by the Township of Hardyston against the owner or owners of the property.

### **§ 186-3. Registration statement requirements; property inspection.**

- A. After filing a registration statement or a renewal of a registration statement, the owner of any vacant property shall provide the Township of Hardyston Zoning Officer with access to the property, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. If an inspection is required of the interior of the property due to complaints or other cause, the inspection shall be performed by the Construction Official or their designee. The fee for such inspection shall be \$75.00.
- B. The registration statement shall include the name, street address, and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding, on behalf of such owner or owners in connection with the enforcement of any applicable code. The designated agent must have a contact number that will be available 24 hours per day on an emergency basis. The statement shall also include the name of the person responsible for maintaining and securing the property, if different from the designated agent.
- C. An owner who is a natural person and who meets the requirements of this Ordinance as to availability of a contact number on a 24-hour emergency basis may designate him or herself as agent.
- D. By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purpose of this section until the owner notifies the Township of Hardyston of a change of the authorized agent or until the owner files a new annual registration statement. The designation of an authorized agent in no way releases the owner from any requirement of this ordinance.

### **§ 186-4. Fee schedule.**

The registration fee for each building that has become vacant or abandoned property shall be \$250.00.

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**§ 186-5. Requirements for owners and other persons as to vacant and abandoned property.**

- A. The owner of any building that has become vacant or abandoned property, and any person maintaining, operating or collecting rent for any such building that has become vacant, shall immediately post a sign affixed to the inside of the building indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process (if designated pursuant to Section 186-3), and the person responsible for the day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent. The sign shall be of a size and placed in such a location so as to be legible, to the extent possible, from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 15" x 17".
- B. Basic equipment and facilities. Every unoccupied or vacant residential or nonresidential property must comply with the following minimum standards for basic equipment and facilities:
- (1) Plumbing. All plumbing fixtures shall be properly installed and be in sound condition and good repair. The property shall be winterized, by the cessation of water service to the property, and the draining of water lines.
  - (2) Electricity. Every existing outlet and fixture shall be properly connected. Wiring and service lines shall be maintained in good and safe working condition.
  - (3) Heating plant. The heating plant shall be maintained in a safe condition.
  - (4) Cooking equipment. All cooking equipment shall be maintained in a safe condition.
  - (5) Electrical and gas utility services shall be discontinued until the property is again legally occupied or demolished, or until repair or rehabilitation of the property is complete.
- C. Storage and boarding up of building.
- (1) No room within any vacant or unoccupied property shall be used for storage of junk, rubbish or wastes, furniture or building materials not intended to be used in the existing property.
  - (2) The boarding up of doors and windows shall not be permitted except with the permission of the zoning officer or construction official in emergency situations. When doors and windows are boarded up, they shall be covered with no less than one-half-inch exterior plywood or equivalent.
  - (3) Buildings on vacant properties shall be secured against unauthorized entry until the building is again legally occupied or demolished, or until repair or rehabilitation of the property is complete.
- D. Safe and sanitary maintenance. All unoccupied or vacant properties shall comply with the following minimum standards for safe and sanitary maintenance:
- (1) Every foundation, exterior wall or exterior roof shall be weathertight, watertight and rodent-proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
  - (2) Every floor, interior wall and ceiling shall be substantially rodent-proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

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- (3) Every window, exterior door and basement or cellar door and hatchway shall be weathertight, watertight, rodent-proof and locked and shall be kept in sound condition and good repair.
  - (4) Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.
  - (5) Every yard shall be properly graded so as to prevent the accumulation of stagnant water.
  - (6) There shall be a controlled method of disposing of water from roofs by use of gutters and downspouts, which shall be installed and maintained in sound condition, free of leaks and obstructions.
  - (7) Every dwelling's cellar, basement and crawl space shall be maintained from excessive dampness and leakage.
  - (8) The exterior of every structure or accessory structure shall be maintained free of broken windows, loose shingles, crumbling stone or brick or excess peeling paint.
  - (9) The exterior of the premises and the condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereof shall reflect a level of maintenance in keeping with the standards of the neighborhood and such that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property owners nor an element leading to the progressive deterioration and downgrading of the neighborhood with the accompanying diminution of property values.
- E. Further responsibilities of owners. All owners of unoccupied or vacant buildings shall be required to comply with the following standards:
- (1) Any yard area (front, side and rear) adjacent to an unoccupied or vacant building shall be cleared and maintained free of trash, solid debris or any other materials that cause litter to accumulate to unhealthy and blighting proportions.
  - (2) Grass and weeds shall not be permitted to grow or remain on the side, front and/or rear yards of any unoccupied or vacant building so as to exceed a height of 10 inches.
  - (3) Unoccupied or vacant buildings shall not be utilized for storage of any hazardous materials, whether solid or liquid, including the yard portion of that building.
  - (4) When a vacant dwelling is found to be infested with rats, termites, roaches and/or any other insects and vermin, the owner shall undertake an expedient means of extermination of such nuisances.
  - (5) All doors and/or lids on appliances, on furniture utilized for storage or on heating furnaces shall be locked in order to deny entry to an individual where the potential for physical harm or death may result should said door or lid close and prevent the individual's escape.
  - (6) Provision shall be made for the cessation of the delivery of mail, newspapers and circulars to the property.
- F. The standards and requirements of this section shall apply as long as any dwelling remains vacant or unoccupied. Upon occupancy, the other appropriate sections of this chapter shall prevail.

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### **§ 186-6. Administration; enforcement.**

- A. The Township of Hardyston Mayor and Council may issue rules and regulations for the administration of the provisions of this Article.
- B. The provisions of this article shall be enforced as set forth and pursuant to Article II of this Chapter to the full extent applicable.

### **§186-7. Violations; penalties.**

- A. Any owner who is not in full compliance with this Article or who otherwise violates any provision of this ordinance or of the rules and regulations issued hereunder shall be subject to a fine of not less than \$100.00 dollars and not more than \$2,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this ordinance shall be recoverable from the owner and shall be a lien on the property.
- B. For purposes of this ordinance, failure to file a registration statement in time, failure to provide correct information on the registration statement, failure to comply with the provisions of Section 186-3, or such other matters as may be established by the rules and regulations of the Mayor and Council of the Township of Hardyston shall be deemed to be a violation of this ordinance.

### **§ 186-8. Compliance with other provisions**

Nothing in this ordinance is intended to nor shall be read to conflict or prevent the Township of Hardyston from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Township Code and/or the Uniform Construction Code. Further, any action taken under any such code provision other than the demolition of a structure shall not relieve an owner from its obligations under this Article.

## **Article II. Buildings Pending Foreclosure**

### **§ 186-9. Purpose.**

The intent of this Article is to provide standards to maintain safe and sanitary conditions for vacant properties pending foreclosure, and to provide for responsibility on the part of foreclosing creditors for the care, maintenance, security and upkeep of residential properties.

### **§ 186-10. Service of notice, contents.**

- A. A creditor serving a summons and complaint in an action to foreclose on a mortgage on property located with the Township of Hardyston shall serve the Township Clerk with a notice indicating that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property. The Notice may contain information about more than one property and shall be provided by mail or electronic communication at the discretion of the Township Clerk.
- B. The Notice shall be served within 10 days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property.
- C. Within 60 days of adoption, any creditor that has initiated a foreclosure proceeding on any residential property which is pending in Superior Court shall provide to the Township Clerk with a notice as described below for all residential properties in the Township for which the creditor has pending foreclosure actions.

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D. The notice shall contain:

- (1) The name and contact information for the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations;
- (2) Whether the property being foreclosed on is an affordable unit pursuant to the "Fair Housing Act";
- (3) The street address, lot and block number of the property; and
- (4) The full name and contact information of an individual located within the state authorized to accept service on behalf of the creditor.
- (5) In the event the creditor that has served a summons and complaint in an action to foreclose on a residential property is located out-of-state, the notice shall also contain the full name and contact information of an in-state representative or agent who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned.

**§ 186-11. Creditor responsibility.**

- A. Pursuant to the provisions of N.J.S.A. 40:48-2.12s and N.J.S.A. 46:10B-51, a creditor filing a summons and complaint to foreclose a lien on a residential property that is vacant and abandoned, whether the filing of the summons and complaint is made before or after the determination that the property is vacant and abandoned, shall be responsible for the care, maintenance, security, and upkeep of the exterior of the residential property. This obligation applies whether the determination that the property is vacant and abandoned is made by a zoning officer pursuant to the provisions of this Chapter or other applicable law.

**§ 186-12. Violation of state or local law at property on list; responsibility of creditor.**

- A. The appropriate local zoning officer shall notify the creditor if:
- (1) the owner of a property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a property is otherwise vacated subsequent to the filing of the summons and complaint, but prior to the vesting of title in any third party; and
  - (2) If the property is found to be nuisance or in violation of any applicable state or local code.
- B. The creditor shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by State law or by ordinance.

**§ 186-13. Notification of violation.**

In the event of a violation of state law or a local ordinance, the Township shall serve the creditor with a notice that shall include a description of the condition(s) that gave rise to the violation and the state law or local ordinance that has been violated, and shall provide a period of not less than 30 days from the creditor's receipt of the notice for the creditor to remedy the violation, provided that in the event that the violation presents an imminent threat to public health and safety, the notice may, in the discretion of the Township, provide that the violation shall be remedied within 10 days of the creditor's receipt of the notice.

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**§ 186-14. Repair by Township.**

If the Township expends public funds in order to abate a nuisance or correct a violation at a property in which the creditor was given notice pursuant to the provisions of Section 186-13, but failed to abate the nuisance or correct the violation as directed, the Township shall have the same recourse against the creditor as it would have had against the title owner of the property, including but not limited to the recourse provided at N.J.S.A. 55:19-100.

**§ 186-15. Violations and penalties.**

- A. An out-of-State creditor subject to this Article found by the municipal court, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to this Article shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period set forth in paragraph (1) of subsection a. of Section 17 of P.L.2008, c.127 (N.J.S.A. 46:10B-51) and Section 186-11 of this Ordinance for providing notice to the Township Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
- B. A creditor subject to this Article found by the municipal court, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this Article shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice."

**Section 2.** This Ordinance may be renumbered for codification purposes.

**Section 3.** 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 4.** 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 5.** This Ordinance shall take effect immediately following adoption and publication as required by law.

A motion was made by Hamilton to approve Ordinance 2015-16 on first reading, seconded by Kula. All in favor. Motion carried.

**2015-17**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX,  
STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 185,  
ZONING, SECTION 185-25(A), BULK REQUIREMENTS FOR EXISTING SINGLE  
FAMILY HOMES IN UNSUBDIVIDED LAKE COMMUNITIES WITHIN IN THE  
MIDD-10 ZONE , OF THE REVISED GENERAL ORDINANCES**

**BE IT ORDAINED** by the Municipal Council of the Township of Hardyston, County of Sussex, State of New Jersey, as follows:



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- B. Resolution #67-15 – Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Wits End Road Resurfacing project.

**Resolution # 67-15**

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Wits End Road Resurfacing project.

NOW, THEREFORE, BE IT RESOLVED that Council of Hardyston Township formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2016-Wits End Road Resurfacing -00346 to the New Jersey Department of Transportation on behalf of Hardyston Township.

BE IT FURTHER RESOLVED that Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Hardyston Township and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

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

C. Generator Bid

A motion was made by Hamilton to approve the request of SREC Resources, Inc. for a 45 day extension to complete the work of providing and installing one generator at Fire House No. 1 and one generator at the municipal building due to a manufacturer delay, seconded by Kula. All in favor. Motion carried.

D. Capital Planning Project – Firehouse Upgrade

A motion was made by Hamilton to consent to move to the next stage as presented, investigating next steps for ownership and also getting bid documents prepared and putting it out to bid as designed, 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 Verrilli. 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 8:50 p.m., seconded by Cicerale. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC  
Municipal Clerk