

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JULY 22, 2020

The meeting was called to order by Mayor Kula 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 Miller, Councilman Verrilli, Councilman Kaminski, Manager Carrine Piccolo-Kaufer, Clerk Jane Bakalarczyk and Township Attorney Fred Semrau of Dorsey & Semrau via conference call. Councilwoman Hamilton was absent from this meeting.

SALUTE THE FLAG

MAYOR'S VOLUNTEER AWARD – Mayor Kula and Recreation Director Becky Westra presented the award to Robert Califano for his many years of service on the Recreation Committee.

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 – June 2020
2. Tax Collector Report – June 2020
3. Construction Certificate Activity Report – June 2020
4. Construction Permit Activity Report – Hardyston – June 2020
5. Construction Permit Activity Report – Hamburg – June 2020
6. Construction Permit Activity Report – Franklin – June 2020
7. Construction Permit Activity Report – Newton – June 2020
8. Construction Permit Activity Report – Sussex – June 2020
9. Construction Permit Activity Report – Wantage – June 2020
10. Municipal Court Report – June 2020
11. Littell Community Center Report – June 2020
12. Land Use Report – June 2020
13. Police Department Report – June 2020

Agreements/Applications/Licenses:

1. Raffle License – Nicholas Wihlborg Foundation, Inc.

Minutes:

1. Regular Minutes of 4/22/20
2. Special Minutes of 5/8/20
3. Regular Minutes of 5/27/20
4. Regular Minutes of 6/24/20

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

ORDINANCES

1st READING: None

ORDINANCES

2nd READING: None

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NEW BUSINESS:

- A. Resolution #44-20 – Resolution authorizing the issuance of not exceeding \$1,795,000 Bond Anticipation Notes of the Township of Hardyston

RESOLUTION #44-20

RESOLUTION AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$1,795,000 BOND ANTICIPATION NOTES OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AS FOLLOWS:

Section 1. Pursuant to a bond ordinance of The Township of Hardyston, in the County of Sussex (the “Township”) entitled: “Bond ordinance appropriating \$4,825,000, and authorizing the issuance of \$4,595,000 bonds or notes of the Township, for various improvements or purposes authorized to be undertaken by the Township of Hardyston, in the County of Sussex, New Jersey”, finally adopted on November 28 2018 (#2018-13), bond anticipation notes of the Township in a principal amount not exceeding \$1,795,000 shall be issued for the purpose of temporarily financing the improvement or purpose described in Section 3 of said bond ordinance, including (to any extent necessary) the renewal of any bond anticipation notes heretofore issued therefor.

Section 2. All bond anticipation notes (the “notes”) issued hereunder shall mature at such times as may be determined by the treasurer, the chief financial officer or the acting chief financial officer of the Township (the “Chief Financial Officer”), provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer and shall be signed and sealed by officials and officers of the Township in any manner permitted by N.J.S.A. §40A:2-25. The Chief Financial Officer shall determine all matters in connection with the notes issued hereunder, and the Chief Financial Officer’s signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes at not less than par from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the notes hereunder is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 3. Any note issued pursuant to this resolution shall be a general obligation of the Township, and the Township’s faith and credit are hereby pledged to the punctual payment of the principal of and interest on the notes and, unless otherwise paid or payment provided for, an amount sufficient for such payment shall be inserted in the budget and a tax sufficient to provide for the payment thereof shall be levied and collected.

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Section 4. The Chief Financial Officer is hereby authorized and directed to do all other matters necessary, useful, convenient or desirable to accomplish the delivery of the notes to the purchasers thereof as promptly as possible, including (i) the preparation, execution and dissemination of a Preliminary Official Statement and Final Official Statement with respect to the notes, (ii) preparation, distribution and publication, if necessary, of a Notice of Sale with respect to the notes, (iii) execution of a Continuing Disclosure Undertaking, with respect to the notes in accordance with Rule 15c2 12 promulgated by the Securities and Exchange Commission and (iv) execution of an arbitrage and use of proceeds certificate certifying that, among other things, the Township, to the extent it is empowered and allowed under applicable law, will do and perform all acts and things necessary or desirable to assure that interest paid on the notes is not included in gross income under Section 103 of the Internal Revenue Code of 1986, as amended.

Section 5. All action heretofore taken by Township officials and professionals with regard to the sale and award of the notes is hereby ratified, confirmed, adopted and approved.

Section 6. This resolution shall take effect immediately.

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

- B. Resolution #45-20 – Resolution revising the established bidding threshold for the Qualified Purchasing Agent

RESOLUTION #45-20

RESOLUTION REVISING THE ESTABLISHED BIDDING THRESHOLD FOR THE QUALIFIED PURCHASING AGENT

WHEREAS, P.I. 2009, C. 166, codified as N.J.S.A. 40A:11-2 et seq. supplementing and amending Chapter 11 of Title 40A of the New Jersey Statutes allows local contracting units in New Jersey to create the position of Qualified Purchasing Agent and increase the bidding threshold; and

WHEREAS, the Township of Hardyston has an established position of Qualified Purchasing Agent within the Township of Hardyston; and

WHEREAS, Grant Rome possesses the designation of Qualified Purchasing Agent as issued by the Director of the Division of Local Government Services in accordance with N.J.A.C. 5:34-5 et seq.; and

WHEREAS, pursuant to N.J.S.A. 40A:11-3(a), the Township of Hardyston desires to reauthorize the Qualified Purchasing Agent to award contracts on behalf of the Township of Hardyston that do not exceed the total sum of \$44,000.00 in a contract year, without the public advertising for bids.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Hardyston, County of Sussex and State of New Jersey that pursuant to N.J.S.A. 40A:11-3 (a) that it does hereby authorize Grant Rome, as Qualified Purchasing Agent, to award contracts on behalf of the Township of Hardyston, that do not exceed \$44,000.00 in a contract year, without public advertising for bids; and

BE IT FURTHER RESOLVED, that in accordance with N.J.A.C. 5:34-5.2, the Township Clerk is hereby authorized and directed to forward a certified copy of this resolution and a copy of Grant Rome's certification to the Director of the Division of Local Government Services.

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

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C. Resolution #46-20 – Resolution canceling outstanding checks

Resolution #46-20

Whereas, there are certain Outstanding Checks in the Clearing Account balances of the Township of Hardyston and, the checks have been outstanding for more than 180 days; and

Whereas, it is necessary to formally cancel said balances so that the balances may be returned to the proper accounts, or credited to surplus;

Now, therefore, be it resolved, by the Mayor and Council of the Township of Hardyston, that the following check balances in the Clearing Account be canceled:

Clearing Account Check#	Amount Canceled
33544	\$ 330.00
33623	\$ 60.00
Net Payroll Check#	Amount Canceled
33325	\$ 45.03
33749	\$ 45.03
140	\$ 5.66

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

D. Resolution #47-20 – Resolution for approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Big Spring Road Improvements – Phase II project

A motion was made by Miller to approve the resolution as presented, seconded by Kaminski. All in favor. Motion carried. The resolution is on file in the Clerk’s Office.

E. Resolution #48-20 – Resolution awarding contract for Silver Grove Road and Park Drive Improvements to Morris County Cooperative Pricing Council Vendors

Resolution #48-20

**NEW JERSEY DEPARTMENT OF TRANSPORTATION
DIVISION OF LOCAL AID
AND ECONOMIC DEVELOPMENT
RECOMMENDATION OF AWARD
STATE AID PROJECT**

BE IT RESOLVED

that the **Hardyston Township Council** hereby recommends to the New Jersey Department of Transportation that the contract for

Silver Grove Road and Park Drive Improvements
(Name of Project)

in the **Township of Hardyston** County of **Sussex**
(Name of Municipality)

be awarded to **the following Morris County Cooperative Pricing Council Vendors:**

Tilcon New York, Inc (MCCPC Contract #6) whose bid amounted to \$ 292,160.00

Campbell Foundry Company (MCCPC Contract #14) whose bid amounted to \$8,993.00

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Denville Line Painting, Inc (MCCPC Contract #36) whose bid amounted to \$8,909.00

Garden State Highway Products, Inc (MCCPC Contract #28) whose bid amounted to \$108.69

whose bids amounted to \$ **310,170.69** subject to the approval of the Department.

That the presiding officer of this body be and is hereby directed to sign for and on its behalf the contract in the prescribed form for said construction.

That the clerk of this body be and is hereby directed to seal said contract with the corporate seal of this body and to attest to the same.

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

- F. Resolution #49-20 – Resolution authorizing the public display of fireworks at Hardyston Day on September 26, 2020 (Rain date September 27th)

RESOLUTION #49-20

RESOLUTION AUTHORIZING THE PUBLIC DISPLAY OF FIREWORKS AT HARDYSTON DAY ON SEPTEMBER 26, 2020 (RAIN DATE SEPTEMBER 27th)

WHEREAS, the Hardyston Township Recreation Committee has submitted an application to the Hardyston Township Council for permission for the public display of fireworks on September 26, 2020 (rain date - September 27, 2020) in conjunction with the Township’s Hardyston Day events; and

WHEREAS, the Township of Hardyston has adequate insurance coverage for the day of the event,

NOW, THEREFORE, BE IT RESOLVED by the Hardyston Township Council, in accordance with Chapter 94 of the Hardyston Township Code regarding “Fire Prevention” and the Uniform Fire Code, that permission is hereby granted to the Hardyston Township Recreation Committee for the public display of fireworks on September 26, 2020; and

BE IT FURTHER RESOLVED that the Hardyston Township Recreation Committee must obtain a permit from the Hardyston Township Fire Official and comply with all requirements imposed by the Hardyston Township Fire Official. Failure to obtain a permit or adhere to all of the said requirements will render this permission null and void and subject to enforcement proceedings, fines and penalties as permitted by law. A certified copy of this Resolution shall be provided to the Hardyston Township Fire Official.

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

- G. Resolution #50-20 – 2020 – 2021 Annual Liquor License Renewals

1. Anthony Pignataro Corp. – #1911-33-004-006 – Tony’s Pizza – Rt. 23
2. RBAA, LLC - #1911-44-003-010 – Sussex County Discount Wine & Liquors – Rt. 94

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**RESOLUTION #50-20
HARDYSTON TOWNSHIP
LIQUOR LICENSE RENEWAL**

WHEREAS, the following Liquor License is to be renewed effective July 1, 2020, 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, 2020 for the following license holders.

1. Anthony Pignataro Corp. - #1911-33-004-006
2. RBAA, LLC - #1911-44-003-010

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

- H. Resolution #51-20 – Resolution authorizing the use of the public rights-of-way by Planet Networks, Inc.

RESOLUTION #51-20

RESOLUTION OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX AND STATE OF NEW JERSEY, AUTHORIZING THE USE OF THE PUBLIC RIGHTS-OF-WAY BY PLANET NETWORKS, INC.

WHEREAS, Planet Networks, Inc. ("Planet Networks") is a telecommunications services provider authorized by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout New Jersey; and

WHEREAS, Planet Networks has petitioned the Township of Hardyston for consent to use the public rights-of-way to place its telecommunication facilities aerially on existing and new utility poles and/or in underground conduit; and

WHEREAS, Planet Networks has or will enter into agreements with the utility companies for the use of their poles; and

WHEREAS, N.J.S.A. 48:3-19 provides that "[t]he consent of the municipality shall be obtained for the use by a person of the poles of another person unless each person has a lawful right to maintain poles in such street, highway or other public place."; and

WHEREAS, N.J.S.A. 27:16-6 provides, in part, that "[t]he board of chosen freeholders shall not grant an easement, right of way, or use in, under or over, any portion of a county road in a municipality, unless the governing body of the municipality . . . shall consent thereto."; and

WHEREAS, N.J.S.A. 48:17-8 provides that, "[a]ny telegraph or telephone company organized under the laws of this or any other State, or of the United States may erect, construct and maintain the necessary poles, wires, conduits, and other fixtures for its lines, in, upon, along, over or under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles, and through, across or under any of the waters within this State and upon, through or over any other land, subject to the right of the owners thereof to full compensation for the same"; and

WHEREAS, it is in the best interest of the Township and its citizens to grant such consent to Planet Networks.

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

1. The Township Council does hereby grant permission and authority to Planet Networks, Inc. to install fiber optic cables and related facilities on existing utility poles within the public rights-of-way and to install new utility poles, upon the following terms and conditions:
 - a. Planet Networks shall adhere to all applicable federal, State, and local laws in connection with its use of the public right-of-way.
 - b. Planet Networks shall obtain any applicable permits in connection with the installation of its facilities.
 - c. Planet Networks shall indemnify, defend and hold harmless the municipality, its officials, agents, and employees, from and against any claim of liability, damages or loss resulting in bodily injury or property damage arising out of Planet Network's use of the public right-of-way, except to the extent such loss, injury or property damage resulting from the acts or omissions of the municipality.
 - d. Planet Networks shall procure and maintain, at its cost and expense, commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence and shall include the municipality as an additional insured on said insurance policy.
 - e. Planet Networks shall be responsible for the repair of any damage to pavement or any structure arising from its construction, installation or maintenance of its facilities.
 - f. Notwithstanding any provision contained herein, neither the municipality nor Planet Networks shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this consent.
 - g. If a new Planet Networks utility pole is to be installed in the public right of way within the Township, Planet Networks, Inc., agrees to submit an escrow of \$750 for the application.
 - h. In addition, Planet Networks, Inc. shall provide an escrow of \$750 and reimburse the Township for any actual costs and any services rendered by the Township or its professionals in connection with the granting of this consent and use of the public right of way.
 - i. The term of this consent shall be fifteen (15) years.
 - j. Planet Networks, Inc. will supply the Township in advance of the installation of the fiber optics with appropriate mapping and notification of the installation of the fiber optic at least fifteen (15) days before undertaking such work.
2. The Mayor is hereby authorized to execute and the Clerk to attest to any other documents necessary to effectuate the terms of this resolution.
3. This Resolution shall take effect immediately.

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

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- I. Resolution #52-20 - Shared Service Agreement – Hamburg Borough – Recreation Field Coordinator

RESOLUTION #52-20

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 shared service agreement is hereby authorized:

1. Recreation Field Coordinator – Hamburg Borough

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

- J. Resolution #53-20 – Resolution accepting a performance bond in the amount of \$90,396.00 and a cash bond in the amount of \$10,044.00 from Lam Development Group, LLC for Cloverdale East Phase 1

RESOLUTION #53-20

RESOLUTION ACCEPTING A PERFORMANCE BOND IN THE AMOUNT OF \$90,396.00 AND A CASH BOND IN THE AMOUNT OF \$10,044.00 FROM LAM DEVELOPMENT GROUP, LLC FOR CLOVERDALE EAST – PHASE 1

WHEREAS, the Hardyston Township Planning Board granted approval to Lam Development Group, LLC for Cloverdale East – Phase 1; and

WHEREAS, as a condition of said approval of Cloverdale East – Phase 1, Lam Development Group, LLC was required to post a performance guarantee with the Township of Hardyston for the said site in the amount of \$100,440.00 and;

WHEREAS, Lam Development Group, LLC has submitted to the Municipal Clerk a performance bond in the amount of \$90,396.00 and a cash bond in the amount of \$10,044.00; and

WHEREAS, the performance bond has been reviewed and approved as to form by the Township Attorney and Township Engineer.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Hardyston that it hereby accepts the above stated bonds from Lam Development Group, LLC for Cloverdale East – Phase 1 as performance securities required by the Hardyston Township Planning Board.

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

- K. Resolution #54-20 – Resolution releasing the maintenance bond posted by Beazer Homes Corp. for site work performed at Indian Field – Phase III, Block 67, Lot 16.01

RESOLUTION #54-20

RESOLUTION RELEASING THE MAINTENANCE BOND POSTED BY BEAZER HOMES CORP. FOR SITE WORK PERFORMED AT INDIAN FIELD – PHASE III, BLOCK 67, LOT 16.01

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WHEREAS, the Hardyston Township Planning Board granted approval for Final Major Subdivision Approval for Indian Field at Hardyston, Phase III , Block 67, Lot 16.01; and

WHEREAS, as Beazer Home Corp. was required to post a performance bond as part of the Planning Board approval for public improvements; and

WHEREAS, Beazer Home Corp. requested and received a release of the aforementioned performance bond by resolution of the Township Council on May 23, 2018; and

WHEREAS, as condition of the release of the performance bond Beazer Home Corp. has posted a maintenance bond in the amount of \$114,259.05 in compliance with the Planning Board approval and upon the recommendation of the Township Engineer; and

WHEREAS, the maintenance bond period of two years has expired and there is no additional improvements necessary; and

WHEREAS, the Township Engineer has therefore recommended that the maintenance bond should be released.

NOW THEREFORE BE IT RESOLVED by the Hardyston Township Council that the maintenance bond for Indian Field – Phase III, Block 67, Lot 16.01 in the amount of \$114,259.05 , be released in accordance with the recommendation of the Township Engineer.

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

L. Recycling and Park Maintenance

A motion was made by Miller to authorize the Township Manager to seek bids for recycling and park maintenance, since the current contracts will be expiring at the end of the year, seconded by Verrilli. All in favor. Motion carried.

M. Correspondence

1. West Milford Township
2. Town of Newton
3. State of NJ
4. State of NJ
5. State of NJ
6. Saul Ewing Arnstein & Lehr, LLP

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

BILLS TO BE PAID: A motion was made by Verrilli to approve the bill list as presented, seconded by Kaminski. 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 Miller to adjourn at approximately 7:25 p.m., seconded by Verrilli. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk