

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
SEPTEMBER 30, 2021**

The meeting was called to order by Mayor Kaminski 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 Kula, Councilman Miller, Councilman Verrilli, Manager Carrine Piccolo-Kaufer, 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.**

**Monthly Reports:**

1. Municipal Clerk Report – August 2021
2. Tax Collector Report – August 2021
3. Construction Certificate Activity Report – August 2021
4. Construction Permit Activity Report – Hardyston – August 2021
5. Construction Permit Activity Report – Hamburg – August 2021
6. Construction Permit Activity Report – Franklin – August 2021
7. Construction Permit Activity Report – Newton – August 2021
8. Construction Permit Activity Report – Sussex – August 2021
9. Construction Permit Activity Report – Wantage – August 2021
10. Municipal Court Report – August 2021
11. Police Department Report – August 2021
12. Land Use Report – August 2021
13. Sussex County Health Department Report – August 2021

**Minutes:**

1. Special Minutes of 6/9/21
2. Executive Minutes of 6/9/21
3. Workshop Minutes of 6/23/21
4. Regular Minutes of 6/23/21
5. Regular Minutes of 7/28/21
6. Executive Minutes of 7/28/21

**Agreements/Applications/Licenses:**

1. Fire Department – New Member Application – Ryan Webb and Jeffrey M. Kral, Jr.

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

**ORDINANCES**

**1<sup>ST</sup> READING:** None

**ORDINANCES**

**2<sup>ND</sup> READING:** 2021-07

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CERTAIN PORTIONS OF CHAPTER 185, ZONING OF THE REVISED GENERAL ORDINANCES TO PERMIT DRIVE-THRU ESTABLISHMENTS IN CERTAIN ZONES AS A CONDITIONAL USE AND ESTABLISH STANDARDS FOR DRIVE-THRU ESTABLISHMENTS**

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**Purpose Statement-** the purpose of this Ordinance is to amend the Township of Hardyston Zoning Ordinance establish standards for commercial drive-thru establishments, and permit said establishments as a conditional use in the B-1 and B-2 zones, and as an accessory use to a permitted shopping center use in the C-R zone.

**BE IT ORDAINED** by the Township Council of the Township of Hardyston as follows:

1. Section 185-4, Definitions, is hereby amended as follows:

a. Drive-in use is hereby repealed and replaced with the following:

DRIVE THROUGH FACILITY– A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premise and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle.

b. The following definitions are hereby added as follows:

RETAIL, DRIVE-THROUGH (also referred to as retail drive-through) – A retail business as defined herein that by design, physical facilities, service or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their vehicle.

2. Subsection C, Conditionally permitted uses, of Article VIII, B-1 Neighborhood Business District, Section 185-34, Use Regulations is hereby amended to add the following:

(6) Drive through facilities for a use/commercial activity permitted as a principal use in the B-1 zone

3. Subsection C, Conditionally permitted uses, of Article IX, B-2 Highway-Business Service District, Section 185-36, Use Regulations is hereby amended to read as follows:

(2) Drive through facilities for a use/commercial activity permitted as a principal use in the B-2 zone

4. Subsection H, Drive-in drinking and eating establishments, of Section 185-58, Specific Conditions for conditions for conditional uses, of Article XVI Regulations Governing Conditional Uses is hereby repealed and replaced with following:

H. Drive through facilities.

(1) Queues:

(a) Queues shall be wholly contained on the subject property and shall not interfere with parking spaces, loading spaces,

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circulation aisles, ingress/egress driveways, or emergency vehicle access.

- (b) Queues shall be incorporated into the overall site circulation plan and shall therefore not have separate dedicated ingress/egress to surface streets. Additional site ingress/egress driveways dedicated to queues shall not be permitted.
  - (c) Queue length shall be measured from the point at which queued drivers are required to wait the longest for the proposed service, whether that be the initial ordering point or the point of service delivery, back to the point at which entering the queue cannot interfere with parking spaces, loading spaces, circulation aisles, ingress/egress driveways, or emergency vehicle access. Under no circumstances shall parking spaces, loading spaces, circulation aisles, ingress/egress driveways, or emergency vehicle accesses or surface roadways and shoulders be considered acceptable parts of a queue.
  - (d) Applicants shall provide a traffic study prepared by a licensed professional documenting relevant and verifiable local/regional traffic data of peak hour drive-through turn-over rates for the proposed use, and/or using corporate/industry data for similar uses or nationwide Institute of Traffic Engineers (ITE) data if no other data is available. The required queue length, per service delivery lane, shall be determined by utilizing the latest NJDOT Highway Access Permit System calculation for peak hour trips of the proposed use, dividing by the accepted hourly turn-over rate per service delivery lane, rounding the product up to the nearest integer, and multiplying by 20 feet per vehicle. Where there proposed use does not exactly match NJDOT or ITE nomenclature the closest use with the highest peak hour shall be used.
  - (e) Minimum Length. In no instance shall the queue length be less than 200 feet (10 vehicles x 20 feet) per service delivery lane.
  - (f) Minimum Width. In no instance shall a queue lane be less than 10 feet wide.
  - (g) Bypass Lane. Queue lanes shall have a bypass lane not less than 12 feet wide to permit queued drivers the opportunity to exit the queue and reenter the parking lot and/or to allow emergency vehicles and other motorists to circulate passed the queue through the parking lot. Where there are multiple side by side queues, such as but not limited to car washes and banking institutions, the bypass lane shall be adjacent to the outermost queue.
  - (h) Queue entrances, exits, height restrictions, lanes, and directionals shall be appropriately signed and striped. Stop signs shall be provided where the queue exit intersects site circulation aisles.
  - (i) Trash and recycling receptacles must be provided within the queue at a rate of 1 for every 100 feet of queue length.
- (2) Buffer. Where adjoining properties are zoned or used for residential purposes there shall be a solid 6 foot fence and a minimum 3 feet wide landscape buffer with dense shrubbery that matures at a minimum 6 feet height. The fence and buffer shall be installed continuously adjacent to the queue and/or bypass lane inclusive of locations where vehicle headlights entering and exiting the queue can shine across the property

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line. The buffering is intended to protect adjoining properties from light, noise, and exhaust fumes.

- (3) Noise. The maximum volume of any exterior speakers used for taking orders shall not exceed 65dB. There shall be no speakers or sound making devices that are not part of the ordering system and no ambient background music shall be permitted.
- (4) Hours of Operation. Where adjoining property is zoned or used for residential purposes:
  - (a) Drive-through hours are restricted to 7 a.m. to 10:00 p.m. for all potential uses.
  - (b) Where the hours of operation for the drive-through use are less than those permitted for the internal use, the closing and opening of the drive-through must be clearly signed for approaching drivers.
- (5) Light. Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in Article XXVIII Outdoor Lighting of the Zoning Ordinance. Drive-through lighting, inclusive of menu boards and ordering stations, shall be turned off when not in operation. Excepting that a lit "Drive-Thru Closed" sign conforming with shielding and light trespass requirements is permitted at the queue entrance to alert approaching drivers.
- (6) Pedestrian walkways. Pedestrian walkways must have clear visibility, and be emphasized by enhanced paving or markings when they intersect the queues. Drive-through lanes shall be designed and placed to minimize their crossing principal pedestrian access ways or otherwise impeding pedestrian access. The entrance/exit doors of internal uses shall be located in such a manner that a person entering/exiting such use is not required to immediately cross a drive-through exit lane.
- (7) Parking. The provision of drive-through service facilities shall not justify a reduction in the number of required off-street parking spaces for the accompanying use.

5. Subsection BB, Shopping Center, of Section 185-58, Specific Conditions for conditions for conditional uses, of Article XVI Regulations Governing Conditional Uses is hereby amended and supplemented to read as follows:

**BB. Shopping center.**

- (1) Principal uses and structures permitted in a shopping center.

- (a) A shopping center, as defined in § 185-4, which may include the following uses:
  - i. Retail sales of goods.
  - ii. Retail sales of personal services and minor appliance or office machinery repair.
  - iii. Delicatessens, bakeries, candy stores, food markets and grocery stores.

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- iv. Restaurants.
- v. Banks.
- vi. Offices.
- vii. Fitness centers.

(2) Permitted accessory uses and structures.

- (a) Other uses customarily incidental to the principal permitted use.
- (b) Drive through facilities associated with the principal permitted use subject to the conditions for drive through facilities in Subsection H of Section 185-58.

- 6. Severability. If any article, 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 and they shall remain in full force and effect.
- 7. Repealer. All existing ordinances or parts of existing ordinances which are inconsistent with the terms of this ordinance are to the extent of such inconsistency repealed.
- 8. Effect. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

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. Township Attorney and Township Manager confirmed before the vote that they vetted all potential conflicts of interest and determined that none existed on behalf of the Council, and that the Council could all vote and participate with respect to this matter. A motion was made by Verrilli to approve Ordinance 2021-07 on second reading, seconded by Kula. All in favor. Motion carried.

**NEW BUSINESS:**

- A. Proclamation recognizing Nicholas DaSilva for surviving his battle with cancer and declaring the month of September as childhood cancer awareness month in Hardyston Township

**PROCLAMATION**

**PROCLAMATION RECOGNIZING NICHOLAS DASILVA FOR SURVIVING HIS BATTLE WITH CANCER AND  
DECLARING THE MONTH OF SEPTEMBER AS CHILDHOOD CANCER AWARENESS MONTH IN HARDYSTON  
TOWNSHIP**

**WHEREAS**, Nicholas DaSilva, of the Township of Hardyston, New Jersey bravely fought and is in remission from Burkett's Lymphoma – Non Hodgkin's Lymphoma, a form of pediatric cancer; and

**WHEREAS**, in gratitude to all those who helped him and his family on his journey to recovery the DaSilva family and the Township of Hardyston would like to help raise awareness for childhood cancer; and

**WHEREAS**, each year, pediatric cancer interrupts the childhood and limits the potential of thousands of young Americans, and it remains the leading cause of disease-related death for children; and

**WHEREAS**, September has been declared as National Childhood Cancer Awareness Month and in effort to raise awareness everyone is encouraged to go GOLD to show support and promote recognition of those young lives affected by cancer; and

**WHEREAS**, during Childhood Cancer Awareness Month, we come together to remember all those whose lives were cut short by pediatric cancer, to recognize the loved ones who know too well the pain it causes, and to support every child and every family battling cancer each day. We join with their loved ones and the researchers, health care providers, and advocates who support them as we work

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toward a tomorrow where all children are able to pursue their full measure of happiness without the burden of cancer.;

**NOW THEREFORE, BE IT PROCLAIMED**, by the Mayor and Council of the Township of Hardyston that it hereby recognizes

*NICHOLAS DASILVA & THE DASILVA FAMILY*  
**FOR SURVIVING CHILDHOOD CANCER**  
**BE IT FURTHER PROCLAIMED THAT**  
**SEPTEMBER 2021**  
**SHALL BE KNOWN AS**  
*CHILDHOOD CANCER AWARENESS MONTH*  
**IN THE TOWNSHIP OF HARDYSTON**

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

B. Tax Collector Resolutions

1. Resolution #85-21 – Disabled Veteran Exemption – Richard Maida – 48 Tamarack Trail, Block 92, Lot 29

**RESOLUTION**  
**#85-21**

**WHEREAS**, Block 92 Lot 29 also known as 48 Tamarack Trail owned by Richard Maida, and

**WHEREAS**, on April 3, 2021 Mr. Maida was approved for permanently disabled Veteran and has full exempt status through the Department of Veteran Affairs, and

**WHEREAS**, Mr. Scott Holzhauer, Tax Assessor for Hardyston Township has approved this exemption for 2021 effective April 3, 2021 when Mr. Maida applied for the deduction, and therefore his tax payments for May 2021 be cancelled in the amount of \$1332.24, for August 2021 be cancelled in the amount of \$1597.93 and for November 2021 in the amount of \$1619.87 be cancelled.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to cancel taxes totaling \$4550.04 for 2021.

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

C. Resolution #86-21 – Cancel outstanding check balances – Municipal Court

**RESOLUTION #86-21**

Whereas, Certain Accounts within the Township of Hardyston Municipal Court, with outstanding check balances from checks not returned or unclaimed; and

Whereas, it is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective account balance or credited to surplus;

Now, Therefore, Be It Resolved, by the Mayor and Council of Hardyston Township that the following outstanding check balances within the following checking account be canceled:

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<u>Date</u>	<u>Check #</u>	<u>Fund Name</u>	<u>Amount</u>	<u>Total</u>
Pre 2018	1348	Bail Account	\$ 197.00	
Pre 2018	1631	Bail Account	\$ 45.00	
Pre 2018	1797	Bail Account	\$ 2.00	
06/2019	149	Bail Account	\$ 11.00	
06/2019	150	Bail Account	\$ 75.00	
				<b>\$ <u>330.00</u></b>

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

- D. Resolution #87-21 - Resolution authorizing execution of agreement between the Wallkill Valley Municipal Alliance and the Sussex County Board of County Commissioners for the provision of substance abuse prevention programs

**RESOLUTION #87-21**

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

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

1. Wallkill Valley Municipal Drug Alliance – Sussex County Board of County Commissioners

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

- E. Resolution #88-21 – Shared Service Agreement – Curbside Recycling and Municipal Facility Solid Waste Collection Services – Hamburg Borough

**RESOLUTION #88-21**

**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. Curbside Recycling and Municipal Facility Solid Waste Collection Services – Hamburg Borough

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

- F. Resolution #89-21 – Central Auto Liquidators, LLC – Auto Auction License Renewal 2021

**RESOLUTION #89-21**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE  
TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF**

**NEW JERSEY APPROVING THE 2021 AUTO AUCTION LICENSE  
FOR CENTRL AUTO LIQUIDATORS SUBJECT TO CONDITIONS**

**WHEREAS**, Central Auto Liquidators has applied for 2021 renewal of the auto auction license previously issued pursuant to Township Code Section 107-2; and  
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**WHEREAS**, the license was initially denied due to inconsistencies with the use pursuant to the Zoning Code, and is being reconsidered; and

**WHEREAS**, the recommendation of the Township Professionals and Township Manager is to approve the 2021 Auto Auction License for Central Auto Liquidators provided the following conditions are satisfied:

- 1) Site plan approval must be provided by the Land Use Board pursuant to Township Code Section 185-133(C) and Section 185-58(W); and
- 2) Site plan approval received from the Land Use Board may be considered for subsequent auto auction license renewals.

; and

**WHEREAS**, the Township Council, having received and reviewed the information provided, has determined that the conditional approval of the 2021 Auto Auction License for Central Auto Liquidators is appropriate.

**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 Council hereby approves the application for renewal of the 2021 Auto Auction License for Central Auto Liquidators pursuant to the following conditions:

- 1) Site plan approval must be provided by the Land Use Board pursuant to Township Code Section 185-133(C) and Section 185-58(W); and
- 2) Site plan approval received from the Land Use Board may be considered for subsequent auto auction license renewals.

This Resolution shall take effect immediately upon adoption.

A motion was made by Kula to approve the resolution as presented, seconded by Miller. All in favor with Verrilli voting "No". All in favor. Motion carried.

G. Correspondence

1. Green Township
2. West Milford Township
3. West Milford Township
4. West Milford Township
5. Franklin Borough
6. Franklin Borough
7. Franklin Borough
8. Franklin Borough
9. Frankford Township
10. Frankford Township
11. Jefferson Township
12. State of NJ
13. Jersey Central Power & Light
14. Frank Elmo & Robin Elmo

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

**BILLS TO BE PAID:** A motion was made by Kula 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. A number of residents from the Indian Field development including Robert Indoe, Marie Neubig, Bill Lohrfink and Nina Allen were present and expressed their concerns with regard to the lack of property maintenance by the property owner of the adjacent property located at the entrance to the development. They also expressed their concern with regard to the notice they received stating that snow removal services will cease on all roads

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with the exception of Forest Hill Way effective September 2021. Mr. Lohrfink submitted petitions on behalf of the Homeowners Association requesting the township continue snow removal and enforce property maintenance at the entrance to Indian Field. Township Attorney stated that a meeting has been scheduled with the Indian Field Homeowners Association to discuss the matters.

Lafayette Township Deputy Mayor Kevin O’Leary asked if the Council would consider changing the hours of operation for the Stavola Beaver Run Quarry. He stated that he has been receiving noise complaints from his residents because the trucks were arriving too early.

Resident Bill Walsh asked about the status of the drainage issue repair on his property. Township Manager stated that she is waiting on a report from the Department of Public Works.

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 8:15 p.m., seconded by Miller. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC  
Municipal Clerk