

**TOWNSHIP OF WANTAGE**

**AN ORDINANCE RATIFYING NUNC PRO TUNC THE AUTHORITY OF  
WANTAGE TOWNSHIP TO ENTER A CO-BORROWER AGREEMENT  
WITH THE FRIENDS OF LAKE NEEPAULIN FOR THE PURPOSE OF THE  
REPAIR OF THE LAKE NEEPAULIN DAM**

**Ordinance #2013-06**

**WHEREAS**, litigation entitled, Kathleen Gorman v. Wantage Township and Friends of Lake Neepaulin, Docket No. SSX-L-141-11, was concluded by way of a Summary Judgment Order dated January 18, 2013; and

**WHEREAS**, the Honorable Thomas L. Weisenbeck, A.J.S.C. issued "Statement of Reasons" with his ruling on Summary Judgment dismissing Plaintiff's Complaint; and

**WHEREAS**, Judge Weisenbeck's January 18, 2013 Summary Judgment Order specifically finds that "there does not appear to be any explicit statutory requirement for the municipality to pass an ordinance, as opposed to a resolution, authorizing the incurrence of debt pursuant to a special assessment tax."; and

**WHEREAS**, Judge Weisenbeck's Order states further that Wantage Township should ratify its prior decision by way of an:

"...ordinance ratifying nunc pro tunc the authority of the Mayor to enter the co-Borrower Agreement that had been made by resolution on January 27, 2011. The grounds for this are equitable in nature and manifested by the particular circumstances of this case."

In his "Statement of Reasons" attached to the Order, Judge Weisenbeck also sets forth the following:

1. Township residents were on constructive notice of the municipality's intent to enter the Co-Borrower Agreement.
2. The terms of the Consent Judgment provided that Friends of Lake Neepaulin and Wantage

Township shall execute a co-borrower's agreement memorializing the provisions of this Consent Judgment.

3. The repair work to the Dam has already begun;
4. State monies have been disbursed; and
5. The validity of the Co-Borrower Agreement has already been relied upon by the State, the Friends of Lake Neepaulin and Wantage.

**NOW, THEREFORE, BE IT ORDAINED** that the Wantage Township Mayor and Committee shall ratify *nunc pro tunc* the authority to enter a Co-Borrower's Agreement with the Friends of Lake Neepaulin in accordance with Judge Weisenbeck's January 18, 2013 Summary Judgment Order, with Statement of Reasons attached thereto.

**Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance shall not be affected thereby and shall remain in full force and effect.

**Repealer.** All ordinances or parts of ordinances or resolutions inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

This ordinance shall take effect after publication and passage according to law.

ATTEST:

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Ronald Bassani, Mayor

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James R. Doherty, Clerk/Administrator

**NOTICE** is given that this ordinance was introduced and passed upon first reading at a meeting of the Mayor and Township Committee of the Township of Wantage, in the County of Sussex, New Jersey, held on the 14<sup>th</sup> day of March, 2013. It will be further considered for final passage with the proposed ordinance after public hearing at a meeting of the Mayor and Township Committee to be held in the Wantage Township Municipal Building, 888 Route 23, Wantage, New Jersey 07461, on March 28, 2013, at 7:00 o'clock P.M., and copies of the ordinance will be made available at the Clerk's office in the Municipal Building to members of the general public.

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James R. Doherty, Clerk/Administrator