

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
FEBRUARY 3, 2009**

SECTION 2. All ordinances of the Township of Hardyston which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.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 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 4. This Ordinance may be renumbered for purposes of codification.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Township Manager explained this was to increase the maximum fine that may be imposed by the Municipal Court. A motion was made by Ross to approve Ordinance 2009-02 on first reading, seconded by Kievit. All in favor. Motion carried.

2009-03

BOND ORDINANCE PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS IN AND FOR THE TOWNSHIP OF HARDYSTON AND APPROPRIATING THE AGGREGATE AMOUNT OF \$1,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,425,000 BONDS OR NOTES OF THE TOWNSHIP FOR THE FINANCING OF THE COST THEREOF AND PROVIDING FOR THE DOWN PAYMENT FOR SAID IMPROVEMENTS TO BE UNDERTAKEN IN AND BY THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

Section 1. The improvements and purposes described in Section 3 of this bond ordinance are hereby authorized as general capital improvements to be made, acquired or undertaken by the Township of Hardyston, County of Sussex, New Jersey (hereinafter "Township"). For said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$1,500,000, said sum being inclusive of all appropriations heretofore made therefore, amounting in the aggregate to \$1,500,000, including the aggregate sum of \$75,000 as the down payment for the improvements or purposes. Said \$75,000 down payment is appropriated herein from the Capital Improvement Fund or other legally available funds of the Township, said sum being now available for down payment or capital improvement purposes, as required by the Local Bond Law of New Jersey, N.J.S.A. 40A:2-1, et seq. (the "Local Bond Law") by virtue of provisions for down payment or for capital improvement purposes in one or more previously adopted budgets of the Township.

Section 2. For the financing of said improvements or purposes and to meet part of said \$1,500,000 appropriation not otherwise provided for hereunder, negotiable bonds of the Township are hereby authorized to be issued in the principal amount not to exceed \$1,425,000, pursuant to the Local Bond Law. In anticipation of the issuance of bonds, negotiable bond anticipation notes (the "Notes") of the Township in an amount not to exceed \$1,425,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law. All Notes issued hereunder shall mature at such times as may be determined by the 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 in accordance with the Local Bond Law. The Chief Financial Officer shall determine all matters in connection with the Notes issued pursuant to this ordinance; and the Chief Financial Officer's signatures 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(a). The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
FEBRUARY 3, 2009**

purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

Section 3. The improvements hereby authorized and the purposes, the estimated cost of such improvements and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for said improvements and the periods of usefulness of said improvements are as follows:

Improvement/Acquisition	I	Estimated Cost	Down Payment (Capital Improvement Fund)	D	Maximum Amount of Bonds/Notes	M	Useful Life (Years)	U
1.) Acquisition and installation of solar energy generating facility, to include all equipment, costs, and appurtenances necessary therefor or incidental thereto.	1	\$643,000	\$32,150	\$	\$610,850	\$	15	1
2.) Acquisition of a tanker Fire Truck, to include all equipment, costs, and appurtenances necessary therefor or incidental thereto.	2	\$325,000	\$16,250	\$	\$308,750	\$	10	1
3.) Improvements to DPW Facility on North Church Road, to include all equipment, costs, and appurtenances necessary therefor or incidental thereto.	3	\$351,000	\$17,550	\$	\$333,450	\$	10	1
4.) Demolition and reconstruction of DPW Facility on south end, to include all equipment, costs, and appurtenances necessary therefor or incidental thereto.	4	\$181,000	\$9,050	\$	\$171,950	\$	20	2
TOTALS:	T	\$1,500,000	\$75,000	\$	\$1,425,000	\$		

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses of the Township and are improvements that the Township may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness is within the limitations of the Local Bond Law. Taking into consideration the amount of the obligations authorized for each purpose, according to the reasonable life of each purpose, computed from the date of the bonds authorized by the bond ordinance, the average period of usefulness is 13.35 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond law is increased by the authorization of

the bonds and notes provided in this bond ordinance by \$1,425,000 and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$300,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

Section 5. The capital budget of the Township of Hardyston is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 7. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 8. The Township reasonably expects to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 of this ordinance and paid prior to the issuance of any bonds or notes authorized by this ordinance with the proceeds of such bonds or notes. This Section is intended to be and hereby is a declaration of the Township's official intent to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 1.150-2, and no action (or inaction) will be an artifice or device in accordance with Treasury regulation 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements.

Section 9. The governing body of the Township hereby covenants on behalf of the Township that to the extent any debt obligations are issued as tax-exempt debt obligations to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of such debt obligations authorized hereunder as is required under the Internal Revenue Code of 1986, as amended, including compliance with said Code with regard to the use, expenditure, investment, timely reporting and the rebate of investment earnings as may be required thereunder.

Section 10. The provisions of this ordinance are severable, to the extent that any clause, phrase, sentence, paragraph, or provision of this ordinance shall be declared void, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

Section 11. To the extent that any previous ordinance or resolution is inconsistent with or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 12. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

A motion was made by Ross to approve Ordinance 2009-03 on first reading, seconded by Kievit. All in favor. Motion carried. The second reading and public hearing are scheduled for February 17, 2009.

ORDINANCES:

2nd READING:

2009-01

AN ORDINANCE AUTHORIZING AN EMERGENCY APPROPRIATION FOR A REVALUATION

BE IT ORDAINED by the Mayor and Council of the Township of Hardyston, County of Sussex, State of New Jersey, that pursuant to N.J.S. 40A:4-53 (Ch. 48, P.L. 1956 as amended by Ch. 144, P.L. 1965 and Ch. 38, P.L. 1969) the sum of \$400,000 is hereby appropriated for the engagement of special consultants for Revaluation of Real Property and shall be deemed a special emergency appropriation as defined and provided for in N.J.S. 40A:4-55.

The authorization to finance the appropriation shall be provided for in succeeding annual budgets by the inclusion of at least 1/5 of the amount authorized pursuant to this act (N.J.S. 40A:4-55).

BE IT FURTHER ORDAINED that this ordinance shall take effect at the time and in the manner provided by law.

A motion was made and seconded to open the meeting to the public. No public comment. A motion was made and seconded to close the meeting to the public. A motion was made by Kievit to approve Ordinance 2009-01 on second reading, seconded by Ross. All in favor. Motion carried.

NEW BUSINESS:

A. Special Emergency Resolution – Revaluation

WHEREAS, an ordinance has been adopted creating a special emergency appropriation of \$400,000 for Revaluation of Real Property and no adequate provision was made in the 2009 budget for the aforesaid purpose, and N.J.S.A. 40A:4-53 provides for the creation of a special emergency appropriation for the purpose above mentioned, and

WHEREAS, the total amount of Emergency Appropriations created including the appropriation to be created by this resolution is.....\$400,000

NOW, THEREFORE, BE IT RESOLVED (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with N.J.S.A. 40A:4-48 and 40A:4-53:

1. A special emergency appropriation be and the same is hereby made for Revaluation of Real Property.....\$400,000

2. That the special emergency appropriation shall be provided for in the amount of \$80,000 per year in the budgets of the next five succeeding years commencing with the budgets of 2010 in accordance with 40A:4-55 (C).
3. That a special emergency note or notes be authorized not in excess of \$400,000, the amount appropriated by ordinance as stated above.
4. Such notes are hereby authorized to be issued pursuant to the Ordinance and this resolution and shall be negotiable notes payable to bearer, and shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law, and such interest shall be payable at the maturity of such notes. The notes shall be dated on or about the date of their issuance and may be renewed from time to time, but at least 1/5 of the total amount of notes hereby authorized, and the renewals thereof, shall mature and be paid in each year, so that all notes and renewals shall have matured and have been paid not later than the last day of the fifth year following the

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
FEBRUARY 3, 2009**

date of this resolution. The issuing officers are authorized to provide that the notes may be redeemable at the option of the Township.

5. The Manager and the Chief Financial Officer are hereby authorized to execute said notes, and the Township Clerk is hereby authorized to affix the seal of the Township to such notes and to attest such seal and said notes, and said officers are hereby authorized to issue said notes in such form as they may adopt in conformity with law and to recite therein that all requirements and conditions of law have been complied with in the issuance of said notes, and that said notes are within every debt and other limit prescribed by the Constitution or statutes of New Jersey.
6. The Chief Financial Officer is hereby authorized to sell said notes and any renewals thereof from time to time, at not less than par and accrued interest and to determine within the limitations prescribed by this resolution, the date, principal amount, maturity date, and denomination of said notes, and the rate of interest said notes shall bear and to deliver such notes upon receiving the purchase price to be paid therefor.

7. The Township Council hereby designates the Special Emergency Notes as "qualified tax-exempt obligations" for the purpose of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). It is hereby determined and stated that the Special Emergency Notes (1) are not "private activity bonds" as defined in the Code and (2) the Township and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$10 million of tax-exempt obligations (other than private activity bonds) during the calendar year 2009. The Township will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, the Township does not covenant to do so, and expressly states that a covenant is not made hereby.
8. That two (2) certified copies of this resolution be filed with the Director of the Division of Local Government Services; however, no approval is required from the Division.
9. This resolution shall take effect immediately upon its adoption.

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

B. Developer's Agreement Resolution – Richter, Tillman A., 72 Bunn Road

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

1. Developers Agreement:
 - a. 72 Bunn Road – Richter, Tillman A.

Township Manager stated that this developers agreement has been recommended by the Planning Board Attorney and the Township Engineer. A motion was made by Kievit to approve the resolution as presented, seconded by Ross. All in favor. Motion carried.

C. Appointment – Building Subcode Official

Township Manager stated that Joe Butto has completed all of his certifications for building subcode official and will now be able to assist the Construction Official with these duties. She also stated that there will be no increase in salary. A motion was made by Ross to appoint Joe Butto to the position of Building Subcode Official, seconded by Kievit. All in favor. Motion carried.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON FEBRUARY 3, 2009

D. Appointment – Electrical Subcode Official

A motion was made by Ross to re-appoint Robert Schultz to a four-year term for the period January 1, 2009 through December 31, 2012, seconded by Hamilton. All in favor. Motion carried. This appointment was overlooked at the re-organization meeting held on January 6, 2009.

E. Appointment – Municipal Court Judge

WHEREAS, the Township Council was to appoint a Municipal Court Judge for a three year term on January 1, 2009 in accordance with N.J.S.A. 2B:12-1 et seq.; and

WHEREAS, currently the Township is utilizing a temporary judge to fill the vacancy; and

WHEREAS, the Township Council has interviewed and has recommended an individual to which they wish to appoint to the position of Municipal Court Judge for the Township of Hardyston; and

WHEREAS, the Township Council, the appointing authority for this position within the Township of Hardyston, is desirous of appointing John E. Mulhern as Municipal Court Judge for the Township of Hardyston for a three year term, effective immediately and terminating on December 31, 2011.

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. John E. Mulhern is hereby appointed to the position of Municipal Court Judge in the Township of Hardyston, County of Sussex, State of New Jersey, for a term of three years commencing immediately, at such compensation as shall be established by Ordinance.
2. This Resolution shall take effect immediately.

A motion was made by Ross to approve the resolution a presented, seconded by Kievit. All in favor. Motion carried.

F. Appointment – Temporary Member of the Hardyston Township Council

WHEREAS, former Township of Hardyston Councilman, William Lasinski, resigned from the Hardyston Township Council effective immediately on January 6, 2009 creating a vacancy in the Township Council; and

WHEREAS, pursuant to the Municipal Vacancy Law, N.J.S.A 40A:16-1 et seq., the vacancy shall be filled for its unexpired term at the next general election to be held not less than 60 days after the occurrence of the vacancy with the governing body filling the vacancy temporarily by appointment; and

WHEREAS, the Township Council is desirous of appointing Stanley J. Kula as a temporary member of the Hardyston Township Council for a term expiring after the next general election.

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. Stanley J. Kula is hereby appointed to the position of temporary council member in the Township of Hardyston, County of Sussex, State of New Jersey, for a term commencing immediately and expiring after the next general election.
2. This Resolution shall take effect immediately.

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

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON FEBRUARY 3, 2009

G. Resolution authorizing HTMUA Interlocal Contract Renewals

BE IT RESOLVED by the Township Council of the Township of Hardyston that the execution of the following interlocal service agreements is hereby authorized:

1. HTMUA – Secretarial Services
2. HTMUA – Maintenance and Operations
3. HTMUA – Administrative Services

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

H. Contract with Appraisal Systems, Inc. - Revaluation

A motion was made by Ross to approve the contract with Appraisal Systems, Inc. for the revaluation with the changes recommended by the Township Attorney, seconded by Kievit. All in favor. Motion carried.

BILLS TO BE PAID: A motion was made by Ross to approve the bill list as presented, seconded by Kievit. 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: At approximately 9:25 p.m. a motion was made by Ross to adjourn, seconded by Kievit. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk