

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
AUGUST 5, 2008**

The meeting was called to order by Mayor Armstrong at 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 Kievit, Councilman Ross, Councilwoman Hamilton, Manager Marianne Smith, Township Attorney Fred Semrau and Clerk Jane Bakalarczyk. Councilman Lasinski was absent from this meeting.

**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 – Tri-State Actors Theater
2. Raffle – Immaculate Conception Regional H.S.A.
3. Raffle – Special Olympics New Jersey

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

**ORDINANCES:**

**1<sup>ST</sup> READING: 2008-07**

**AN ORDINANCE TO AMEND THE ESTABLISHED MINIMUM AND MAXIMUM SALARIES FOR OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF HARDYSTON TO PROVIDE THE METHOD FOR THE PAYMENT OF ANNUAL SALARY INCREMENTS IN THE DISCRETION OF THE TOWNSHIP COUNCIL**

BE IT ORDAINED by the Township Council of the Township of Hardyston that Section 1 and Section 2 be amended as follows:

Section 1. The minimum and maximum salary range for officers or employees of the Township of Hardyston who are employed on an annual salary basis shall be and is hereby fixed as follows:

<u>POSITION</u>	<u>ANNUAL SALARY</u>	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
Assistant Planner	\$45,000	\$65,000
Radio Dispatcher	\$33,000	\$55,000

  

	<u>HOURLY SALARY</u>	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
Planning Intern	\$14.00	\$18.00

A motion was made by Ross to approve Ordinance 2008-07 on first reading, seconded by Kievit. All in favor. Motion carried. Second reading is scheduled for September 16, 2008.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
AUGUST 5, 2008**

**2008-08**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX,  
AND STATE OF NEW JERSEY FOR DETERMINING POSITIONS ELIGIBLE FOR  
THE DEFINED CONTRIBUTION RETIREMENT PROGRAM (DCRP)**

**WHEREAS**, the State Legislature recently adopted Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.) to create the Defined Contribution Retirement Program to provide retirement benefits to various county and municipal officials; and

**WHEREAS**, N.J.S.A. 43:15C-2 requires the governing body of each county, municipality, and other local entity to adopt, as appropriate, either a resolution or ordinance to determine the positions that are substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, and for which officials appointed to such positions shall be eligible for and shall participate in the Defined Contribution Retirement Program, subject to the provisions of law; and

**WHEREAS** the Township Council of the Township of Hardyston has considered the guidelines issues by the Local Finance Board and have determined which positions are eligible for membership into the Defined Contribution Retirement Program (DCRP).

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

1. Pursuant to N.J.S. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program: Township Manager, all Township Department Heads that are appointed by the Township Manager who report directly to the Township Manager, Municipal Prosecutor and Municipal Court Judge and any Gubernatorial appointees who serve in county or municipal government for a fixed term.
2. Individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S. 43:15C-2: Certified Health Officer; Tax Collector; Chief Financial Officer; Construction Code Official; Qualified Purchasing Agent; Tax Assessor; Registered Municipal Clerk; Licensed Uniform Subcode Inspector and Principal Public Works Manager.
3. If an individual is appointed to one of the positions listed in Section 1 and the individual is not serving in a position as described in section 2 above, the Pension Certifying Officer of the municipality may determine that the individual is not required to join the Defined Contribution Retirement Program if that individual; (1) was an active participant in the Public Employee Retirement System on July 1, 2007 and continuously since that time; or (2) has been appointed pursuant to a valid promotional process; or (3) is appointed on a temporary, interim, or "acting" basis to a position requiring State Certification as set forth in Section 2 herein, and is in pursuit of the required certification; or (4) meets such other exceptions that may be approved by the Local Finance Board or the Division of Pensions and Benefits.
4. This ordinance shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.
5. Should any part or parts of this ordinance be held to be invalid by any competent court of law, such invalidity shall only affect the part or parts held to be invalid, and all other parts shall remain in effect.
6. A copy of this ordinance shall be filed with the Director of the Division of Pensions & Benefits of the New Jersey Department of the Treasury.
7. This ordinance shall take effect upon its passage and publication as required by law.

A motion was made by Kievit to approve Ordinance 2008-08 on first reading, seconded by Hamilton. All in favor. Motion carried. Second reading is scheduled for September 16, 2008.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
AUGUST 5, 2008**

**ORDINANCES:**

**2nd READING:**

**2008-06**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX,  
STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 88, FEES,  
SECTION 88-4, FEES PAYABLE TO POLICE DEPARTMENT, 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:

**SECTION 1.** Chapter 88, Fees, Section 88-4, Fees payable to Police Department, of the aforesaid Revised General Ordinances is hereby amended and supplemented to read as follows:

**§ 88-4. Fees payable to Police Department.**

E. Charges for police services (§ 41-14).

(1) Escrow accounts.

- (a) Any person or entity requesting the services of an off-duty law enforcement officer in the Hardyston Police Department shall estimate the number of hours such law enforcement services are required, which estimate shall be approved in writing by the Chief of Police, and shall establish an escrow account with the Treasurer of the Township of Hardyston by depositing an amount sufficient to cover the rates of compensation and administrative fees set forth in §88-4(E)(2) for the total estimated hours of service.
- (b) Prior to assigning any off-duty law enforcement officers, the Chief of Police or his designee shall verify that the balance in the escrow account of the person or entity requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Chief of Police shall not assign a request for services from any person or entity unless all fees and compensation required in the manner described above have been deposited with the Township Treasurer. No officer shall provide any such service for more hours than are specified in the request for services.
- (c) In the event the funds in such escrow account should become depleted, services of off-duty law enforcement officers shall cease and requests for further of future services shall not be performed or assigned until additional funds have been deposited in the escrow account in the manner prescribed above.
- (d) The person or entity requesting such services shall be responsible for ensuring that sufficient funds remain in the escrow account in order to avoid any interruption of services.
- (e) The person or entity requesting such services shall be responsible to notify the Township of Hardyston Police Department Dispatch Center in the event of a cancellation of such police officer services. Notification shall be made to the Dispatch Center no later than one and a half (1.5) hours prior to the scheduled start time. In the event there is either no cancellation notification provided to the Dispatch Center or the notification is untimely provided, the person or entity requesting such services shall remain responsible to the Township for the payment for the scheduled officer(s) of three (3) hours overtime pay. Such payment shall not include the administrative fee and vehicle fee set forth under subsection (2)(b) and (2)(c).

(2) Rates of compensation; administrative fee; payment for services.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
AUGUST 5, 2008**

- (a) Rates of compensation for contracting the services of a Township police officer or special officer assigned to a quasi-public duty shall be the overtime rate normally received by the Captain of the Hardyston Township Police Department as well as all statutory payroll expenses incurred by the Township of Hardyston. However, should the officer who is providing such services be paid at a rate lower than the overtime rate normally received by the Captain of the Hardyston Township Police Department, the customer requesting such services shall be refunded the escrow balance remaining at the end of the project.
- (b) In addition to the rates set forth under Subsection (a) above, an additional fee of 10% of the rate of compensation is hereby established to cover administrative costs, overhead and out-of-pocket expenses of the Township of Hardyston.
- (c) Payment for a patrol vehicle will be \$50 per eight-hour shift or any part thereof.

**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.

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 2008-06 on second reading, seconded by Hamilton. All in favor. Motion carried.

**NEW BUSINESS:**

A. Resolution – Change Fund increase for Tax Collector

WHEREAS, the Municipal Tax Collector of the Township of Hardyston, County of Sussex has determined that there is a need to increase their current change fund of \$100.00 to an amount of \$ 200.00 which is needed for the Township Tax Collector,

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that an additional amount of \$100.00 be added to the change fund making it a total of \$200.00 for the Township Tax Collector.

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

B. Proclamation – Erin Edwards Girl Scout Gold Award Ceremony

WHEREAS, *ERIN EDWARDS*, of the Township of Hardyston, New Jersey has completed all prescribed work and service to achieve the Girl Scout Gold Award within the organization of the Girl Scouts of America; and

WHEREAS, not every girl who joins a Girl Scout Troop earns the Girl Scout Gold Award, as only about 5.4 percent of all eligible registered Girl Scouts do so; and

WHEREAS, the Girl Scouts have a long tradition of using prestigious awards to recognize girls who make a difference in their communities and in their own lives, and nationally only 5,500 girls received this prestigious award last year; and

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
AUGUST 5, 2008**

**WHEREAS**, the Gold Award is the highest award in Girl Scouts and the Award requires the completion of a project that focuses on the Girl Scout's interests and personal journey through leadership skills, career explorations, self-improvement, and service. The project is the culmination of all the work a girl puts into it, which requires over sixty hours of service. The Girl Scout must develop a plan of action, take a leadership role, and implement a project which encompasses organizational, leadership, and networking skills. The project should fulfill a need in the Girl Scout's community, create change and be ongoing; and

**WHEREAS**, beginning with the Girl Scout Bronze Award awarded to Junior Girl Scouts, and continuing through to the achievement of the Gold Award, a Girl Scout must demonstrate that they have the leadership and networking skills necessary to make the choices that will lead to making a positive difference in their life and the lives of others; and

**WHEREAS**, the Girl Scout is reviewed to ensure that all requirements for receiving the award have been met, and Erin Edwards through hard work and dedication successfully completed her Gold Award Project by undertaking the task of beautifying the entrance of the Senator Robert E. Littell Community Center;

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

*ERIN EDWARDS*  
**FOR HER OUTSTANDING ACHIEVEMENT IN  
ATTAINING THE GIRL SCOUT GOLD AWARD  
BE IT FURTHER PROCLAIMED THAT  
AUGUST 10, 2008  
SHALL BE KNOWN AS  
ERIN EDWARDS DAY  
IN THE TOWNSHIP OF HARDYSTON**

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

C. Resolution – Employee Deferred Compensation Plan

**WHEREAS**, in order to attract and retain qualified employees there exists a need to adopt and implement a DEFERRED COMPENSATION PLAN for the employees of the Township of Hardyston (hereinafter referred to as "Employer"), which will provide employees the opportunity to enhance their financial security at retirement through savings of compensation on a deferred basis as provided by Section 457 of the Internal Revenue Code of 1986, as amended ("Code"); and

**WHEREAS**, in 2008 the Employer adopted a DEFERRED COMPENSATION PLAN provided by AXA-Equitable and assigned the plan identifier (66-PD- Equitable-053107) Hardyston by the Division of Local Government Services; and

**WHEREAS**, the offering of additional investments from another contractor will provide additional retirement investment options to participating employees; and

**WHEREAS**, there is no direct financial cost to the Employer to adopt and implement an additional employee deferred compensation plan and

**WHEREAS**, the Employer solicited written proposals from two or more contractors for a Deferred Compensation Plan that meet the requirements of the Municipal, County and Authority Deferred Compensation Programs Rule N.J.A.C. 5:37; including AXA Equitable and Nationwide.

**WHEREAS**, the following contractors submitted written proposals:  
AXA Equitable Life Insurance Company (hereinafter referred to as "AXA Equitable) and  
Nationwide;  
and

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
AUGUST 5, 2008**

**WHEREAS**, the Township of Hardyston reviewed the proposals and met with representatives of the responding contractors of deferred compensation services; and

**WHEREAS**, it was deemed that AXA Equitable has the ability to: (1) maintain complete records of accounts; (2) manage accounts with absolute fidelity; (3) provide advice concerning various categories of investments; and (4) provide continuing consultation to participants.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Township of Hardyston that the Township Manager is hereby authorized to execute the Service Agreement (bearing the identifier: 66-SA-Equitable-053107 assigned by the New Jersey Division of Local Government) with AXA Equitable for the provision of administrative and investment services.

**BE IT FURTHER RESOLVED** that the Township of Hardyston is hereby designated as Local Plan Administrator for the administration of the DEFERRED COMPENSATION PLAN.

**BE IT FURTHER RESOLVED** that there has been no collusion, or evidence or appearance of collusion, between any local official and a representative of AXA Equitable in the selection of AXA Equitable as contractor for the administration of the Service Agreement pursuant to N.J.A.C. Section 5:37-5.7.

**BE IT FURTHER RESOLVED** that the Township of Hardyston is adopting a deferred compensation plan substantially similar to one on which a favorable Private Letter Ruling has been previously obtained from the federal Internal Revenue Service except for provision added by reason of The Small Business Job Protection Act 1996 (United State Public Law no.104-188), the Tax Payer Relief Act 2001 (United States public law no.105-34) and the Economic Growth and Tax Relief Reconciliation Act 2001 (United states public law no.107-16) , and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Internal Revenue code section 457.The use of the Ruling is for guidance only and acknowledges that for Internal Revenue Service purposes, the Ruling of another employer is not to be considered precedent.

**BE IT FURTHER RESOLVED** that a certified copy of this resolution and all necessary required documents shall be submitted to the Director of the Division of Local Government Services within the State Department of Community Affairs for approval.

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

- D. Resolution approving the North Jersey Municipal Employee Benefits Fund updated Plan Document and Summary Plan Description for The Township of Hardyston

A motion was made by Kievit to carry this item to the September 16, 2008 meeting, seconded by Hamilton. All in favor. Motion carried.

- E. Resolution – Self-Examination of Budget

**WHEREAS**, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

**WHEREAS**, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

**WHEREAS**, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Township of Hardyston has been declared eligible to participate in the program by the Division of Local government Services, and the Chief Financial officer has determined that the local government meets the necessary conditions to participate in the program for the 2008 budget year.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
AUGUST 5, 2008**

NOW THEREFORE BE IT RESOLVED by the governing body of the Township of Hardyston that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
  - a. Payment of interest and debt redemption charges
  - b. Deferred charges and statutory expenditures
  - c. Cash deficit of preceding year
  - d. Reserve for uncollected taxes
  - e. Other reserves and non-disbursement items
  - f. Any inclusions of amounts required for school purposes.
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
  - a. All estimates of revenue are reasonable, accurate and correctly stated,
  - b. Items of appropriation are properly set forth
  - c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

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

F. 2008 Budget Amendment Hearing/Adoption

The Township Manager presented the 2008 Budget and Amendment and she highlighted all of the changes in the Amendment for the Council. 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. A motion was made by Kievit to approve the 2008 Budget and Amendment, seconded by Hamilton. All in favor. Motion carried.

**ORDINANCES:**

**1<sup>ST</sup> READING: 2008-09**

**AN ORDINANCE APPROPRIATING THE TOTAL SUM OF \$217,006.00 FROM  
GENERAL CAPITAL IMPROVEMENT FUND FOR FUNDING VARIOUS CAPITAL  
IMPROVEMENTS OR PURPOSES BY THE TOWNSHIP OF HARDYSTON, IN THE  
COUNTY OF SUSSEX, NEW JERSEY**

**BE IT ORDAINED AND ENACTED** by the Mayor and Council of the Township of Hardyston, County of Sussex, New Jersey, as follows:

**Section 1:** The sum of Two hundred seventeen thousand six dollars (\$217,006.00) to be utilized out of the General Capital Improvement Fund, is hereby appropriated for the following purpose:

For Various Capital Improvements or Purposes for the Township of Hardyston.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
AUGUST 5, 2008**

**Section 2:** In connection with the amount authorized in Section 1 hereof, the Township makes the following determination:

(a) The purpose described in Section 1 hereof is not a Current Expense and is an improvement, which the Township of Hardyston may lawfully make as general improvement.

(b) The period of usefulness of the purpose described in section 1 hereof is not in the limitations of the said Local Bond Law and according to the aggregate reasonable life thereof is five (5) years.

**Section 3:** All ordinances or parts of ordinances, which are inconsistent with the terms of this ordinance, be and the same is hereby-repealed ton to the extent of there inconsistency:

**Section 4:** This ordinance becomes effective immediately upon final passage, approval, and publication as provided by law.

A motion was made by Kievit to approve Ordinance 2008-09 on first reading, seconded by Hamilton. All in favor. Motion carried. Second reading is scheduled for September 16, 2008.

**BILLS TO BE PAID:** A motion was made by Hamilton 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. Township resident Martin O'Shea of 10 Lake Shore Road East, addressed the Council and distributed a letter containing items he would like the Council to address at a future workshop meeting. The letter that Mr. O'Shea distributed is attached as part of the minutes. There was a dialogue between the Council and Mr. O'Shea with respect to the items contained in his letter which included taping of Executive Sessions, reducing the cost for copies or providing them free of charge to the public. The Township Attorney agreed to review the suggested changes to the OPRA Request Form. The Council agreed to discuss these issues at a future workshop session. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

**ADJOURNMENT:** At approximately 7:45 p.m., a motion was made by Ross to adjourn, seconded by Kievit. All in favor. Motion carried.

---

Jane Bakalarczyk, RMC/CMC  
Municipal Clerk