

## **MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON SEPTEMBER 16, 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, Councilwoman Hamilton, Councilman Lasinski, Councilman Ross, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Fred 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 – July & August 2008
2. Tax Collector Report – July & August 2008
3. Finance Officer Report – June & July 2008
4. Sussex County Public Health Nurse Activity – July 2008
5. Police Department Report – June, July & August 2008
6. HTMUA – Minutes of 7/7/08
7. Planning Board - Minutes of 6/26/08
8. Planning Board – Minutes of 7/24/08
9. Zoning Board – Minutes of 6/5/08
10. EDC – Minutes of 4/10/08
11. Zoning Officer Report – June & July 2008
12. Municipal Court Report – July & August 2008
13. Construction Permit Activity Report – Hardyston – July 2008
14. Construction Permit Activity Report – Hamburg – July 2008
15. Construction Certificate Activity Report – June & July 2008
16. EDC – Minutes of 8/11/08

### **Minutes:**

1. Workshop Minutes of 6/10/08
2. Regular Minutes of 6/10/08
3. Joint Meeting Hardyston Council/BOE – Minutes of 6/10/08
4. Regular Minutes of 7/15/08
5. Regular Minutes of 8/5/08
6. Workshop Minutes of 8/5/08
7. Special Workshop Minutes of 8/11/08
8. Regular Minutes of 9/2/08
9. Workshop Minutes of 9/2/08

### **Agreements/Applications/Licenses:**

1. Amusement License – Tony's Pizza (Anthony Pignataro)
2. Amusement License – Beaver Hill Campground
3. Law Soft, Inc. – Police Department Computer Software License Agreement

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

### **OLD BUSINESS:**

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**ORDINANCES:**

**1st READING: 2008-10**

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 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>MINIMUM</u>	<u>MAXIMUM</u>
Housing Rehabilitation Program Inspector (Per Housing Unit)	\$200.00	\$325.00

Township Manager summarized that since the Township is proceeding with the Housing Rehabilitation Program, the 2008 Salary Ordinance needs to be amended to include this position. A motion was made by Kievit to approve Ordinance 2008-10 on first reading, seconded by Lasinski. All in favor. Motion carried. Second reading is scheduled for the October 7, 2008 meeting.

**ORDINANCES:**

**2nd 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

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Township Manager summarized that the above ordinance is also an amendment to the 2008 Salary Ordinance that would return the Planning Intern position back to the hourly rate and change the Assistant Planner position and Radio Dispatcher positions to salary ranges rather than hourly ranges, but at the same total aggregate. 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 Ross to approve Ordinance 2008-07 on second reading, seconded by Kievit. All in favor. Motion carried.

**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.

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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.

Township Manager summarized that this is an ordinance required by the State of New Jersey based on the pension reforms that were made by the State. Municipalities are required to create an ordinance that identifies what positions would be eligible for the Defined Contribution Retirement Program as opposed to the traditional pension program. 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 2008-08 on second reading, seconded by Ross. All in favor. Motion carried.

**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.

**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.

Township Manager explained that under the new budget regulations, the Township is required to adopt a funded ordinance for the \$217,006.00 that has been appropriated in the adopted budget towards capital expenditures. 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 2008-09 on second reading, seconded by Ross. All in favor. Motion carried.

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**PUBLIC PORTION:** A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. Amy Cieslik, residing at 47 West Shore Trail, Summit Lake, Hardyston Township addressed the Council regarding a zoning issue. She stated that she had put up a 15 foot round pool on her property and was advised by the Zoning Officer that it would have to be removed because her property was not 1,500 square feet as required by the township zoning ordinance. She stated that her property is approximately 1,393 square feet according to township records, but she believes that her property is larger and will research that information further. Summit Lake residents currently do not use the lake for swimming because of work being done on the dam to comply with State regulations. Ms. Cieslik stated that she has removed the pool. The Council had a discussion with regard to whether the ordinance may be outdated and told Ms. Cieslik that they will place the ordinance on an upcoming workshop agenda for review, and that they would advise her of their decision when one has been reached. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

**NEW BUSINESS:**

A. Tax Collector Resolutions

1. Cancellation of Taxes – NJDEP Green Acres exempt property

**RESOLUTION #08-08**

**WHEREAS, Block 60 Lot 34 also known as 3101 Route 23, Hardyston, and**

**WHEREAS, the State of NJDEP Green Acres purchased this property to be exempt on January 1, 2008, and**

**WHEREAS, an Assessor's appeal was prepared but inadvertently overlooked at the appeal deadline and consequently never filed.**

**NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to forgive the 2008 taxes on this parcel in the amount of \$ 1,059.06.**

A motion was made by Ross to approve the resolution as presented, seconded by Kievit. All in favor with Hamilton voting "No". Motion carried.

2. Cancellation of Taxes – Nextel of New York

**WHEREAS, Hardyston Township needs to forgive taxes on Block 41 Lot 11 Qualification CELL2 also known as Nextel of New York, Inc for the tax year 2008 as per lease agreement,**

**NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to cancel the amount of \$ 4,575.00 FOR 2008 taxes.**

A motion was made by Ross and seconded by Kievit to carry this item to a future meeting. All in favor. Motion carried.

3. 2007 NJ Homestead Rebate Refund – Dorothy Jackson

**RESOLUTION # 10-08**

**WHEREAS, Dorothy Jackson of 9 Cottonwood Court also known as Block 90 Lot 27 in Hardyston, and**

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**WHEREAS, Ms. Jackson sold her property on July 26, 2008 and the Township of Hardyston has since received her 2007 NJ Homestead Rebate,**

**NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund the amount of the NJ Homestead Rebate in the amount of \$ 1,250.00 to Ms. Jackson.**

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

**B. Resolution cancelling escrow balance – Jeff Billups**

Whereas, There is a Escrow Account within the Other Trust Fund account of the Township of Hardyston and, the account balance were researched and found to be an amounts that were should be returned ; and

Whereas numerous efforts have been used to contact the person who originally posted said escrow with no results; and

Whereas, It is necessary to formally cancel said escrow 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 escrow account balances in the Other Trust Fund be canceled, and transfer to Current Fund:

<u>Name</u>	<u>Amount Canceled</u>
PB-4-04-2 Jeff Billups	\$ 814.05

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

**C. Amended Resolution – Employee Deferred Compensation Plan (AXA Equitable)**

**RESOLUTION  
AMENDED SEPTEMBER 16, 2008**

**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

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**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

**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 Marianne Smith, Township Manager 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 amended resolution reflecting that the Township Manager, Marianne Smith, is designated as Local Plan Administrator for the administration of the Deferred Compensation Plan, seconded by Ross. All in favor. Motion carried.

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D. 2008 Salary Resolution Amendment

BE IT RESOLVED by the Hardyston Township Council that the annual salaries and wages effective August 16, 2008 shall be paid as follows:

<u>Position</u>	<u>Annual Salary</u>
Assistant Planner	\$45,000
Dispatcher	
Year One	\$33,925
Year Two	\$36,546
Year Three	\$38,917
Year Four	\$41,496
Year Five	\$45,011

<u>Position</u>	<u>Hourly Salary</u>
Planning Intern	\$16.00
Laborer Without CDL	
Hired before 1/1/08	\$15.84

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

E. Resolution amending the Township's official Request for Government Records Form

**WHEREAS**, the Township of Hardyston did adopt an official records request form in compliance with the provisions of the Open Public Records Act (OPRA); and

**WHEREAS**, the Township has recently reviewed the adopted OPRA request form and, after consultation with the municipal attorney, has decided to amend the form and adopt the model form that the Government Records Council has recommended be adopted by local government agencies.

**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's official request for government records form (OPRA form) is hereby amended to reflect the recommended model form as promulgated by the Government Records Council, with said amended form being attached hereto as Exhibit A and made a part hereof; and

**BE IT FURTHER RESOLVED**, that this amendment to the Records Request Form shall be effective immediately.

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

F. Resolution opposing S-1976/A-2982, an increase in traffic violations surcharges to defray costs of local and state police services

**WHEREAS**, Senate Bill S-1976 (Van Drew) and Assembly Bill A-2982 (Milam) have been introduced proposing to, *inter alia*, add a forty dollar (\$40) surcharge on unspecified motor vehicle violations, and

**WHEREAS**, the surcharge receipts are intended to be split equally between the "Police Services Property Tax Relief Fund" and the "Rural Police Services Property Tax Relief Fund", and

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**WHEREAS**, the “Police Services Tax Relief Fund” is to be administered by the Attorney General for the redirecting of funds back to municipalities based on their law enforcement staffing and dedicated to property tax relief, and

**WHEREAS**, the “Rural Police Services Property Tax Relief Fund” is to be administered by the Attorney General for the provision of State Police services in rural municipalities that cannot or do not support their own law enforcement agency, and

**WHEREAS**, the average size of the some 477 municipal police departments in New Jersey is about 25 sworn officers or a total of about 12,000 municipal police officers, and

**WHEREAS**, the estimated three thousand New Jersey State Police troopers cover some 89 municipalities that do not choose to or cannot support their own municipal police agencies, and

**WHEREAS**, New Jersey’s experience has shown that the vast majority of police officers and troopers appreciate the hardship an additional forty dollar surcharge per motor vehicle summons or other too severe a penalty will have on marginal violators, and

**WHEREAS**, the surcharge proposed by S-1976 and A-2982 is likely to reduce traffic law enforcement and commensurately decrease highway safety and,

**WHEREAS**, the vast number of serious Title 39 motor vehicle summonses are written by police officers in the small to mid-size municipal departments and,

**WHEREAS**, S-1976 and A-2982 will foster a situation whereby small and mid-sized municipalities will ultimately and disproportionately raise funds for both large cities as well as rural municipalities that choose not to have their own police agencies or cannot afford their own police agencies, and

**WHEREAS**, S-1976 and A-2982 give an unwarranted authority to the Attorney General to determine the law enforcement staffing needs of municipalities.

**NOW, THEREFORE BE IT RESOLVED**, that the governing body of the Township of Hardyston, County of Sussex does hereby oppose both S-1976 and A-2982 as having been hastily conceived and poorly contemplated, especially as to the consequences of the Title 39/motor vehicle violations surcharge; and,

**BE IT FURTHER RESOLVED**, that the governing body of the Township of Hardyston does not object to the provisions of S-1976 and A-2982 with regard to the surcharges for “Body Armor Replacement”, “The New Jersey Spinal Cord Research Fund”, “Autism Medical Research and Treatment Fund” and “New Jersey Forensic DNA Laboratory Fund”; and

**BE IT FURTHER RESOLVED**, that copies of this resolution be sent to the Governor, the members of the State Legislature, all Sussex County municipalities and the New Jersey League of Municipalities.

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

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

**BE IT RESOLVED** by the Township Council of the Township of Hardyston that the following is hereby approved:

1. North Jersey Municipal Employee Benefits Fund – Township of Hardyston Plan Document and Summary Plan Description Update

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

H. 2007 Audit Resolution

**GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT  
FORM OF RESOLUTION**

WHEREAS, N.J.S.A. 40A: 5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2007 has been filed by a Registered Municipal Accountant with the *Municipal Clerk* pursuant to N.J.S.A. 40A: 5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, That the *Township Council* of the Township of Hardyston, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

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

I. Energy Audit and Solar Feasibility Study Presentation

David S. Klockner and James J. Nagel of ENERActive Solutions gave a presentation to the Council regarding their Energy Audit and Solar Feasibility Study of the Hardyston Municipal Building. He stated that for a building this size, the overall usage is very good. Mr. Klockner stated that the equipment in the building is not the most energy efficient equipment available. He stated that it is not inefficient, but it is only standard equipment, and recommended that when the equipment needs to be replaced, it be replaced with high efficiency equipment for more cost savings. He offered several suggestions for energy savings for the Council to consider, such as

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installing a timer on the hot water heater, occupancy sensors for the lighting, energy awareness training programs for employees, weather stripping on the doors, sealing of the exterior windows, etc.

Mr. Klockner then proceeded to speak on the subject of the solar project. He suggested that the back parking lot would be the most feasible for the placement of the solar panels. He summarized the Office of Clean Energy program for the Council and went over the projected cost savings to the Township. The Council agreed to continue discussion on the next steps.

J. Correspondence

1. Hampton Township
2. Borough of Stanhope
3. Hampton Township
4. West Milford Township
5. Township of Byram
6. Borough of Franklin
7. Borough of Carlstadt
8. Borough of Andover
9. Lafayette Township
10. Lafayette Township
11. Lafayette Township
12. County of Sussex
13. County of Sussex
14. County of Sussex
15. NJ League of Municipalities
16. NJ League of Municipalities
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28. NJ League of Municipalities
29. NJ League of Municipalities
30. NJ League of Municipalities
31. NJ League of Municipalities
32. NJ League of Municipalities
33. NJ League of Municipalities
34. NJ League of Municipalities
35. State of NJ
36. NJ League of Municipalities
37. NJ League of Municipalities
38. NJ League of Municipalities
39. NJ League of Municipalities
40. NJ League of Municipalities
41. NJ League of Municipalities
42. Shotmeyer Bros. Inc.
43. Beaver Run Shopping Ctr.
44. NJ Council On Special Transportation
45. Elizabethtown Gas
46. Jersey Central Power & Light
47. Dykstra Associates, Inc.

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A motion was made by Ross to approve the correspondence as presented, 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 by Kievit and seconded by Ross to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made by Kievit and seconded by Ross to close the meeting to the public. All in favor. Motion carried.

**EXECUTIVE SESSION:**

**BE IT RESOLVED** by the Township Council of the Township of Hardyston on the 16th day of September 2008, that:

1. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
2.
  - ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
  - ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
  - ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
  - ( ) b. (4) A collective bargaining agreement including negotiations.
  - ( ) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
  - ( ) b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
  - ( ) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
  - ( **X** ) b. (8) Personnel matters. (Township Manager)
  - ( ) b. (9) Deliberations after a public hearing that may result in penalties.
3. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Motion to adopt: Kievit  
 Seconded by: Lasinski  
 Discussion: None

<b>MOTION</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Ross	__x__	_____	_____	_____
Kievit	__x__	_____	_____	_____
Lasinski	__x__	_____	_____	_____
Hamilton	__x__	_____	_____	_____
Armstrong	__x__	_____	_____	_____

Motion carried.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
SEPTEMBER 16, 2008**

A motion was made by Kievit to come out of Executive Session and go back into regular session, seconded by Hamilton. All in favor. Motion carried.

K. Resolution – Township Manager Employment Agreement

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

**WHEREAS**, Marianne Smith has been employed by the Township since May, 1994 in various capacities and for the last seven years as Township Manager for the Township; and

**WHEREAS**, it is critical to retain and support the exceptional leadership that Ms. Smith has provided in the position of Township Manager for the municipality; and

**WHEREAS**, during the course of her tenure as Township Manager, Ms. Smith's employment arrangement has yet to be memorialized in the form of an Employment Agreement; and

**WHEREAS**, after conferring with the Mayor and Township Council and discussing a proposed form of contract the enclosed Agreement has been proposed to memorialize the Manager's term of employment.

**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 Mayor and Council hereby authorize the Mayor to execute an Employment Agreement with Marianne Smith as Manager for the Township of Hardyston with annual renewals for a five (5) year term.

**BE IT FURTHER RESOLVED** that a copy of the contract shall remain on file in the permanent records of the Township Clerk.

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

**ADJOURNMENT:** A motion was made by Ross at approximately 9:00 p.m. to adjourn, seconded by Lasinski. All in favor. Motion carried.

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Jane Bakalarczyk, RMC/CMC  
Municipal Clerk

