

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 10, 2009**

The meeting was called to order by Mayor Hamilton at approximately 8:20 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 Kula, Councilman Ross, Councilman Armstrong, 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.

Agreements/Applications/Licenses:

1. Raffle – Order of Eastern Star
2. Fire Department New Member Application – Robert M. Washer

Minutes:

1. Regular Minutes of 7/21/09
2. Regular Minutes of 8/4/09
3. Regular Minutes of 9/1/09
4. Workshop Minutes of 9/22/09
5. Workshop Minutes of 10/6/09
6. Executive Session Minutes of 10/6/09
7. Regular Minutes of 10/20/09

A motion was made by Kievit to approve the consent agenda as presented, seconded by Ross. All in favor with Kula abstaining on the minutes of 8/4/09 and Armstrong abstaining on the minutes of 10/20/09. Motion carried.

NEW BUSINESS:

A. Tax Collector Resolution

1. 2008 Homeowners Rebate Refunds

RESOLUTION #08-09

WHEREAS, the State of New Jersey mailed a check to the Township for 2008 Homeowners Rebate, whom had delinquent taxes, and

WHEREAS, the following parcels have paid their 2009 taxes in full and are entitled to a refund of their rebates.

Block	Lot	Name	Address	Amount
67.04	1.14	Barbara Bruno	27 Meadow Pond Rd	\$ 834.15
19	1.02	John & Kathleen McGrady	4530 Rudetown Rd	\$ 549.67
67	52.28	Helen Searles	23 Quail Ct	\$ 765.14

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund the 2008 Homeowners Rebate to the above homeowners.

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

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- B. Resolution authorizing the execution of the Right of Way Agreement For Existing Storm Sewer Pipes between the Township of Hardyston and CJS Investments, Inc. for Block 63, Lots 26 & 27 (Emerald Estates)

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

1. Right of Way Discharge Agreement For Existing Storm Sewer Pipes – CJS Investments, Inc. (Emerald Estates – Block 63, Lots 26 & 27)

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

- C. Resolution releasing a restoration bond in the amount of \$297,882.00 from CJS Investments, Inc. for Emerald Estates Subdivision, Block 63, Lots 26 and 27 and accepting a performance bond

WHEREAS, the Hardyston Township Planning Board granted approval to CJS Investments, Inc. for Emerald Estates; and

WHEREAS, the Hardyston Township Council subsequently approved a Developer's Agreement for the Emerald Estates Project; and

WHEREAS, as a condition of said Developer's Agreement for the Emerald Estates Project, CJS Investments, Inc. was required to post a restoration guarantee with the Township of Hardyston for the said site in the amount of \$297,882.00 and;

WHEREAS, CJS Investments, Inc. has submitted to the Municipal Clerk a restoration bond in the amount of \$268,093.80, and a check in the amount of \$29,788.20 that was accepted by the Hardyston Township Council by resolution dated September 2, 2008 and;

WHEREAS, CJS Investments, Inc. is now required to submit a performance bond in the amount of \$404,432.40 in order to file the final plat for this subdivision and;

WHEREAS, although CJS Investments, Inc. is only required to submit a performance bond in the amount of \$363,989.16 and a check in the amount of \$40,443.24, CJS Investments has submitted to the Municipal Clerk a performance bond in the amount of \$563,800.50 which has been reviewed and approved as to form by the Planning Board Attorney and the Township Engineer and;

WHEREAS, CJS Investments, Inc. has also submitted to the Municipal Clerk a check in the amount of \$40,443.24 and;

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Hardyston that it hereby releases the restoration bond in the amount of \$297,882.00 and accepts the performance bond in the amount of \$563,800.50 and a check in the amount of \$40,443.24 from CJS Investments, Inc. as securities required by the Hardyston Township Council.

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

- D. Resolution authorizing execution of an agreement to become a member of the Middlesex Regional Educational Services Commission #65-MCESCCPS

It was the consensus of the Council to table the above item.

- E. Resolution authorizing the award of the contract for the Pole Barn Building to Zitone Construction & Supply Co., Inc.

WHEREAS, bids were opened as advertised on October 30, 2009, for the pole barn building; and

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WHEREAS, five (5) sealed bids were received with the lowest three being submitted from following vendors:

- 1) Zitone Construction & Supply Co., Inc.- \$120,000.00;
- 2) Kistler Pole Building Company, Inc.- \$121,951.00 and
- 3) Zinno Construction, LLC- \$156,894.00 and

WHEREAS, the Township Council is satisfied with the proposal submitted by Zitone Construction & Supply Co., Inc., the lowest responsible bidder, as being the proposal which satisfies the best interest of the Township and being in conformance with the requirements promulgated pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, the Chief Financial Officer of the Township of Hardyston has certified that sufficient funds are available for this purpose.

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. The contract for the pole barn building is hereby awarded to Zitone Construction & Supply Co., Inc., 261 Clove Road, P.O. Box 1829, Montague, NJ, 07827, and the Mayor and Township Clerk are hereby authorized and directed to execute a contract with Zitone Construction & Supply Co., Inc. in accordance with its bid proposal, for a total contract price of \$120,000.00.
2. This Resolution shall take effect immediately.

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

- F. Resolution authorizing the award of the contract for the provision of fire equipment to Firefighter One, LLC

WHEREAS, bids were opened as advertised on October 30, 2009, for the provision of fire equipment; and

WHEREAS, one (1) sealed bid was received from following vendor:

- 1) Firefighter One, LLC- \$13,163.19; and

WHEREAS, the Township Council is satisfied with the proposal submitted by Firefighter One, LLC, the lowest responsible bidder, as being the proposal which satisfies the best interest of the Township and being in conformance with the requirements promulgated pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, the Chief Financial Officer of the Township of Hardyston has certified that sufficient funds are available for this purpose.

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. The contract for the provision of fire equipment is hereby awarded to Firefighter One, LLC, 26 Gail Court, Suite 1, Sparta, NJ, 07871, and the Mayor and Township Clerk are hereby authorized and directed to execute a contract with Firefighter One, LLC in accordance with its bid proposal, for a total contract price of \$13,163.19.
2. This Resolution shall take effect immediately.

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

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- G. Resolution authorizing the award of the contract for the 3,000 Gallon Tanker to Pierce Manufacturing, Inc.

WHEREAS, bids were opened as advertised on October 30, 2009, for the acquisition of a new 3,000 gallon tanker truck; and

WHEREAS, two (2) sealed bids were received with the lowest bid being from Pierce Manufacturing, Inc., which was fully responsive and was in conformance with the requirements promulgated pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. in the amount of \$314,349.00, but with a discount of \$1,240.00 for payment of the cab chassis upon completion or delivery to Pierce Manufacturing, Inc.; and

WHEREAS, the Fire Department has reviewed the bid proposal submission and has recommended that the proposal submitted by Pierce Manufacturing, Inc. be accepted by the Township; and

WHEREAS, the Chief Financial Officer of the Township of Hardyston has certified that sufficient funds are available for this purpose.

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. The contract for the purchase of a new 3,000 gallon tanker truck is hereby awarded to Pierce Manufacturing, Inc. and the Mayor and Township Clerk are hereby authorized and directed to execute a contract with Pierce Manufacturing, Inc., 2600 American Drive, Appleton, WI 54914, in accordance with its bid proposal, for a total contract price of \$314,349.00 less the prepayment credit of \$1,240.00 for the cab chassis.
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.

BILLS TO BE PAID: A motion was made by Ross to approve the bill list as presented with the exception of the \$3,500.00 payment to Holzhauer & Hostenstein, LLC, 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.

EXECUTIVE SESSION:

BE IT RESOLVED by the Township Council of the Township of Hardyston on the 10th day of November 2009, 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.
 - (X) 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.

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- () 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.
 - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege. (Hardyston vs Yurchak; Four Winds Industrial Park, LLC Tax Appeal, Block 62, Lot 18.01; Reelcology; Mercantile Mall; Division of Pensions & Benefits)
 - () b. (8) Personnel matters.
 - () 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: Ross

<u>MOTION</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ross	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Kievit	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Kula	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Hamilton	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Armstrong	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

Motion carried.

A motion was made by Ross to come out of Executive Session, seconded by Kievit. All in favor. Motion carried.

ADJOURNMENT: A motion was made by Ross to adjourn at approximately 9:15 p.m., seconded by Kievit. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk