

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MAY 18, 2010

The meeting was called to order by Mayor Kievit at approximately 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 Ross, Councilwoman Hamilton, Councilman Kula, Councilman Miller, Manager Marianne Smith, and Clerk Jane Bakalarczyk

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 – April 2010
2. Tax Collector Report – April 2010
3. Construction Certificate Activity Report – April 2010
4. Construction Permit Activity Report – Hardyston – April 2010
5. Construction Permit Activity Report – Hamburg – April 2010
6. Construction Permit Activity Report – Franklin – April 2010
7. HTMUA – Minutes of 4/5/10
8. Municipal Court Report – April 2010
9. Zoning Officer Report – March 2010
10. Assistant Planner Report – April 2010
11. Police Department Report – April 2010

Minutes:

1. Regular Minutes of 5/4/10
2. Executive Minutes of 5/4/10

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

ORDINANCES:

1st READING: 2010-09

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 88, FEES, SECTION 88-7, TAX COLLECTOR, 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 88-7, Tax Collector, of the aforesaid Revised General Ordinances is hereby amended and supplemented to read as follows:

§ 88-7. Tax Collector.

- A.** Official tax searches: \$10.
- B.** Official search continuation: \$2.
- C.** Duplicate tax bill: \$2.
- D.** *Request for redemption calculation; 3rd and subsequent request in a calendar year: \$50.00 per request.*

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E. Lien redemption calculation: \$50.00

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 All ordinances of the Township of Hardyston which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.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 by Hamilton to approve Ordinance 2010-09 on first reading, seconded by Miller. All in favor. Motion carried.

2010-10

AN ORDINANCE APPROPRIATING THE TOTAL SUM OF \$36,500.00 FROM GENERAL CAPITAL IMPROVEMENT FUND FOR FUNDING RECYCLING COLLECTION VEHICLE 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 Thirty Six thousand five hundred dollars (\$36,500.00) to be utilized out of the General Capital Improvement Fund, is hereby appropriated for the following purpose:

For Purchase of Recycling Collection Vehicle 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 on 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 Ross to approve Ordinance 2010-10 on first reading, seconded by Kula. All in favor. Motion carried.

ORDINANCES:

2nd READING:

2010-06

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY AMENDING PORTIONS OF CHAPTER 60, "ANIMALS," OF THE REVISED GENERAL ORDINANCES

BE IT ORDAINED, by the Municipal Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey, as follows:

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SECTION 1. Chapter 60, Animals, Section 60-1, Definitions, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of the following term(s):

§ 60-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

POTENTIALLY DANGEROUS DOG — Any dog or dogs hybrid declared potentially dangerous by the Court pursuant to § 60-23.1 of this chapter.

VICIOUS DOG — Any dog or dog hybrid declared vicious by the Court pursuant to § 60-23.1 of this chapter.

SECTION 2. Chapter 60, Animals, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of Section 60-23.1, Vicious or potentially dangerous dogs, to read as follows:

§ 60-23.1 Vicious or potentially dangerous dogs.

A. Purpose:

The purpose of this Section is to adopt, by reference, all provisions of Public Law 1989, Chapter 307, N.J.S.A. 4:19-17 through 4:19-43, as amended and supplemented, which is the uniform set of state requirements on the owners of vicious or potentially dangerous dogs.

B. Cost Recovery:

Pursuant to N.J.S.A. 4:19-26, if a dog is to be declared vicious or potentially dangerous by a municipal court, and all appeals pertaining thereto have been exhausted, the owner of the dog shall be liable to the Township of Hardyston for any costs and expenses incurred by the Township in the impoundment or destruction of the dog. Such costs could include veterinary, shelter, medical attention required, maintenance expenses, special costs to the Township for Animal Control Officer charges, transportation, postage and noticing costs, related legal expenses, and an administrative fee of \$60. The owner shall incur the expense of impounding the dog in a facility other than the municipal pound, regardless of whether the dog is ultimately found to be vicious or potentially dangerous.

C. Liability Insurance:

When a municipal court has declared a dog to be a potentially dangerous dog, it may require the owner to maintain liability insurance to cover any damage or injury caused by the potentially dangerous dog. The liability insurance shall contain a provision requiring the municipality in which the owner resides to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

D. Registration of potentially dangerous dogs:

(1) The Township Clerk shall issue a potentially dangerous dog registration number and red identification tag along with a municipal potentially dangerous dog license upon a demonstration of sufficient evidence by the owner to the Animal Control Officer that he has complied with the Court's orders. The last three digits of each potentially dangerous dog registration number issued by a municipality will be the three-number code assigned to that municipality in the regulations promulgated pursuant to Section 17 of the Act. The Animal Control Officer shall:

(a) Verify, in writing, compliance to the Municipal Clerk or other official designated to license dogs in the municipality.

(b) Publicize a telephone number for reporting violations of the Act. This telephone number shall be forwarded to the Department, and any changes in this number shall be reported immediately to the Department;

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(2) The annual fee for licensing of a potentially dangerous dog and each renewal thereafter shall be as set forth in § 88-1(B)(3)(e).

SECTION 3. 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 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

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. 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 Hamilton to approve Ordinance 2010-06 on second reading, seconded by Miller. All in favor. Motion carried.

2010-07

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY AMENDING PORTIONS OF CHAPTER 88, "FEES" OF THE REVISED GENERAL ORDINANCES

BE IT ORDAINED, by the Municipal Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey, as follows:

SECTION 1. Chapter 88, Fees, Section 88-1, Fees payable to Municipal Clerk, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of the following items:

§ 88-1. Fees payable to Municipal Clerk.

B. Licenses.

(3) Dog license and/or renewal (§§ **60-4B** , **60-6B** and **60-23.1(D)(2)**).

(a) Spayed/neutered: \$8.

(b) Nonspayed/nonneutered: \$12.

(c) Late penalty (per month): \$5.

(d) Replacement tag: \$1.

(e) *The annual fee for licensing a potentially dangerous or vicious dog and each renewal thereof shall be \$500 per year.*

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, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. 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. 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 Hamilton to approve Ordinance 2010-07 on second reading, seconded by Kula. All in favor. Motion carried.

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NEW BUSINESS:

- A. Resolution #36-10 – Authorization/Contract with GEXA Energy for business electricity

RESOLUTION #36-10

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF TWO AGREEMENTS WITH GEXA ENERGY NEW JERSEY, LLC FOR THE PURCHASE OF ELECTRICITY FOR CERTAIN TOWNSHIP FACILITIES

WHEREAS, the Township of Hardyston is in need of purchasing electricity for certain Township facilities; and

WHEREAS, the Township of Hardyston desires to enter into two identical agreements with GEXA Energy New Jersey, LLC, a copy of each being attached hereto, for the purchase of electricity for the Township facilities as set forth in said agreements.

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 Mayor and Township Clerk are hereby authorized and directed to execute two agreements, a copy of both being attached hereto, with GEXA Energy New Jersey, LLC for the purchase of electricity for the named Township facilities.
2. This Resolution shall take effect immediately.

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

- B. Resolution #37-10 – Park Drive Maintenance Bond Release

RESOLUTION #37-10

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE RELEASE OF A CASH MAINTENANCE BOND FOR THE IMPROVEMENTS FOR THE ROADWAY KNOWN AS PARK DRIVE

WHEREAS, the governing body authorized the final acceptance and dedication of a roadway known as Park Drive and its improvements; and

WHEREAS, pursuant to the Municipal Land Use Law, specifically, N.J.S.A. 40:55D-53(a)(2), a municipality is authorized to require a developer to provide a maintenance guarantee to be posted with the governing body for a period not to exceed two years after final acceptance of the improvement; and

WHEREAS, pursuant to said statute, the developer, Riverdale Quarry Co., Inc., has posted a cash bond in the amount of \$72,266.25 as the maintenance guaranty for said improvements performed on Park Drive, for a period of two years; and

WHEREAS, a request has been received from Roberta Hess Cerefice, Vice President of Riverdale Quarry requesting release of the maintenance bond which was posted when this road was dedicated to the municipality; and

WHEREAS, the road was inspected by the Township Engineer to determine its current condition and the Township Engineer has several concerns as stated in his letter to the Hardyston Township Mayor and Council dated April 26, 2010.

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 maintenance bond be released only after completion and satisfactory inspection of the repairs noted in the Township Engineer's letter dated April 26, 2010.

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

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- C. Resolution #40-10 – Resolution recognizing Hardystonite as the official township mineral

RESOLUTION #40-10

A 1 RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY RECOGNIZING HARDYSTONITE AS THE OFFICIAL TOWNSHIP MINERAL

WHEREAS, the Township of Hardyston which incorporated in 1762 , is a community with rich and unique minerals within its lands; and

WHEREAS, Hardystonite is well known to collectors of fluorescent minerals as it will fluoresce a dark purple under short wave ultraviolet light which is in striking contrast to its normal color; and

WHEREAS, Hardystonite's physical characteristics contain the following:

- Color is white to less commonly pale pink or brown
- Luster is vitreous to dull
- Specimens are translucent to opaque and rarely transparent
- Its crystal system is tetragonal
- Its crystal habits include massive and granular specimens

WHEREAS, Hardystonite is a common mineral in this region of Sussex County and is one of the most abundant zinc silicate minerals; and

WHEREAS, although massive material is predominant, crystals of Hardystonite up to at least 9 centimeters have been found; and

WHEREAS, Hardystonite was named after Hardyston Township where the Franklin Mine was located at the time of its discovery.

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 mineral "Hardystonite" is hereby identified as the official mineral of the Township of Hardyston.

BE IT FURTHER RESOLVED, that the Township of Hardyston hereby recognizes and appreciates the unique characteristics of the mineral Hardystonite which in turn is reflective on the community that which it was named for.

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

- D. Resolution #41-10 – Authorization/Contract with PEPCO Energy Services for the purchase of renewable energy certificates

RESOLUTION #41-10

A 1 RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF TWO AGREEMENTS WITH PEPCO ENERGY SERVICES, INC. FOR THE PURCHASE OF THE TOWNSHIP'S RENEWABLE ENERGY CERTIFICATES (REC'S)

WHEREAS, the Township of Hardyston has a desire to sell its Renewable Energy Certificates (REC's); and

WHEREAS, the Township of Hardyston has obtained a proposal for the purchase of its REC's from PEPCO Energy Services, Inc. for two (2) one year periods; June 1, 2009 through May 31, 2010 and from June 1, 2010 through May 31, 2011 and finds same proposal to be most advantageous to the Township; and

WHEREAS, the Township of Hardyston is desirous of entering into two (2) one year agreements with PEPCO Energy Services, Inc. for the purchase of the Township's REC's.

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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 Mayor and Township Clerk are hereby authorized and directed to execute two agreements, a copy of both being attached hereto, with PEPCO Energy Services, Inc. for the purchase of the Township's Renewable Energy Certificates; the first agreement to cover the period from June 1, 2009 through May 31, 2010 and the second agreement to cover the period from June 1, 2010 through May 31, 2011.
2. This Resolution shall take effect immediately.

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

E. Correspondence

1. Crystal Springs Builders
2. Franklin Borough Planning Board
3. Franklin Borough
4. Ogdensburg Borough
5. Ogdensburg Borough
6. NJ State League of Municipalities
7. NJ State League of Municipalities
8. NJ State League of Municipalities
9. State of NJ
10. State of NJ
11. State of NJ
12. State of NJ
13. State of NJ
14. State of NJ
15. State of NJ
16. State of NJ
17. State of NJ
18. State of NJ
19. H. Ney Associates, LLC
20. Engineering & Land Planning Associates, Inc.
21. Warren Potter

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

MANAGERS REPORT: Township Manager gave a written and verbal report on the following:

- Township Manager stated that the draft budget is continually being worked on to achieve the lowest impact to tax increases and loss of service to residents. She stated that this is being accomplished through the expansion and development of shared services, implementation of energy efficiency initiatives, implementation of pension and benefit reform initiatives and other cost cutting and savings measures. She stated that the battle continues relative to seeking the restoration of watershed moratorium offset aid.
- Township Manager stated that the services to Sussex Borough for public works commenced on May 1, 2010 and that services to Hamburg Borough will commence on July 1, 2010. She stated that the township is still finalizing logistical and operational details of shared services with Newton to provide them with construction department services. She stated that our municipal attorney will prepare a draft contract for the Council's review.
- Township Manager stated that the gas and electric pulse meters have been installed and the Noveda tracking system for the solar generating system is now fully operational.

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- Township Manager stated that the South Side Salt Shed structure is complete and the historical marker has been installed at the site. She stated that the Public Works staff will be completing the interior of the sub-station area and landscaping this summer.
- Township Manager stated that the OEM Coordinator, Bill Hickerson, is working with the First Aid Squad to complete the grant application to help fund the communications upgrades.
- Township Manager stated that the Fire Tanker Truck continues to be under construction and is expected to be delivered in July.

BILLS TO BE PAID: A motion was made by Ross to approve the bill list as presented, seconded by Hamilton. 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: A motion was made by Ross to adjourn at approximately 7:40 p.m., seconded by Hamilton. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk