

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

The meeting was called to order by Mayor Kievit at approximately 7:40 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, Clerk Jane Bakalarczyk and Township Attorney Dominic DiYanni of Dorsey & 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. Hardyston Township Fire Department New Member Application – Scott Thomas

Minutes:

1. Regular Minutes 10/19/10

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

ORDINANCES:

1st READING: 2010-23

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CHAPTER 155, STREETS AND SIDEWALKS, SECTION 155-4, SUBMISSION OF APPLICATION AND PLANS, 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 155, Streets and Sidewalks, Sections 155-4, Submission of Application and Plans, of the aforesaid Revised General Ordinances is hereby amended to read as follows:

§ 155-4 Submission of application and plans.

- A. Any person desiring to tear up, open or make an excavation in any road shall submit an application for a permit together with detailed plans indicating and describing the work to be performed, the estimated length of time required to perform the same and the estimated cost.
- B. The application required and referenced above in subsection (A) shall be accompanied by a fee as set forth in Chapter 88 of this Code.

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 All ordinances of the Township of Hardyston which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.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.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

A motion was made by Hamilton to approve Ordinance 2010-23 on first reading, seconded by Miller. All in favor. Motion carried.

2010-24

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF
NEW JERSEY AMENDING CHAPTER 33, LAND USE PROCEDURES OF THE REVISED
GENERAL ORDINANCES TO INCORPORATE CHANGES TO THE PROCEDURES FOR
FILING APPLICATIONS AND CHANGES TO THE ADMINISTRATIVE AND SCHEDULE A
CHECKLISTS**

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

SECTION 1. Chapter 33, Land Use Procedures, Section 33-9, Certification of completeness; procedure for filing applications, of the aforesaid Revised General Ordinances is hereby amended and supplemented to read as follows:

§ 33-9 Certification of completeness; procedure for filing applications.

A. Applications for development within the jurisdiction of the Planning Board shall be reviewed for completeness in accordance with the provisions of § 33-33 of this chapter.

B. Procedure for filing application.

- (1) Applications for development within the jurisdiction of the Planning Board, pursuant to the provisions of N.J.S.A. 40:55D-1 et seq., shall be filed with the Secretary of the Planning Board. The applicant shall file at least 30 days before the date of the monthly meeting of the Board:
 - (a) Eighteen copies of any conceptual plan to be reviewed by the Planning Board, for which no charge shall be made;
 - (b) The number of copies required in the checklist in Schedule A for minor subdivision approval;
 - (c) The number of copies of the application required by the checklist in Schedule A for major subdivision approval;
 - (d) The number of copies of an application required by the checklist in Schedule A for either major and minor site plan review, conditional use approval, plan development and/or variance approval.
- (2) At the time of filing this application, but in no event less than 30 days prior to the date set for a hearing (unless approved by the Board), the applicant shall also file all plot plans, maps or other papers required by virtue of any provisions of this chapter or any rule of the Planning Board.
- (3) The applicant shall also obtain all necessary forms from the Secretary of the Planning Board. The Secretary of the Planning Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Planning Board.

SECTION 2. Chapter 33, Land Use Procedures, Section 33-49, Administrative and Schedule A checklists, Attachments 1 thru 11 of the aforesaid Revised General Ordinances are hereby repealed and replaced with the attached checklists;

Formatted: Font: (Default) Arial, 11 pt

Formatted: Font: (Default) Arial, 11 pt

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, 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 5. This Ordinance may be renumbered for purposes of codification.

SECTION 6. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law

A motion was made by Miller to approve Ordinance 2010-24 on first reading, seconded by Kula. All in favor. Motion carried.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

2010-25

**AN ORDINANCE OF THE
TOWNSHIP OF HARDYSTON TO
AMEND SECTION 185-4 OF CHAPTER 185
AND ADD ARTICLE XXVII TO ADDRESS
WIND AND SOLAR ENERGY SYSTEM AND ESTABLISHING STANDARDS**

NOW THEREFORE be it ordained by the Township Council of the Township of Hardyston that Chapter 185 is hereby amended as follows:

Section 1. Chapter 185, Zoning, Section 185-4 entitled "Definitions" is hereby amended to add the following definitions:

METEOROLOGICAL TOWER or MET TOWER means a structure designed to support the gathering of wind energy resource data and includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators) wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

SMALL WIND ENERGY SYSTEM – means a wind energy conversion system consisting of a wind turbine, a tower and associated conversion electronics, which has a rated capacity consistent with the applicable provisions of the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act" P.L. 1975, c. 217 (C.52:27D-119 et seq.) and technical bulletins issued pursuant to section 2 of P.L. 2009, c. 244 (c.40:5) D-66.13 and which is used primarily for onsite consumption and has a nameplate capacity of 100 kilowatts or less.

SOLAR ENERGY SYSTEM – means a solar energy and all associated equipment which converts solar energy into a usable electrical energy, heats water or produces hot air or other similar function through the use of solar panels.

SOLAR PANEL – means a structure containing one or more receptive cells, the purpose of which is to convert solar energy into a usable electrical energy by way of a solar energy system.

WIND ENERGY SYSTEM – means a wind energy conversion system consisting of a wind turbine, and all associated equipment including any base, blade, foundation, nacelle, rotor, tower, transformer, vane, wire inverter, batteries or other components necessary to fully utilize the wind generator.

WIND TURBINE – means equipment that converts energy from the wind into electricity. This term includes the rotor, blades and associated mechanical and electrical conversion components necessary to generate, store and transfer energy.

Section 2. Chapter 185, entitled Zoning is hereby amended to add Article XXVII, entitled Wind and Solar Energy Systems as follows:

§185-125 Wind and Solar Energy Systems

- A. The primary purpose of a wind or solar energy system will be to provide power for the principal use of the property whereon said system is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a wind or solar energy system designed to meet the energy needs of the principal use on the property. For the purposes of this ordinance, the sale of excess power shall be limited so that in no event an energy system is generating more energy for sale than what is otherwise necessary to power the principal use on the property.
- B. Wind and solar energy systems shall only be permitted as an accessory use on the same lot as the principal use. Wind energy systems shall require a site plan approval from the Planning Board or Zoning Board of Adjustment. All applications shall demonstrate that the wind velocity and conditions at the proposed location will be suitable for the generation of electricity. In addition all applications shall include an environmental impact statement. All energy systems require approval from the zoning official and building department prior to installation. All applications for an

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

energy system shall include appropriate information demonstrating compliance with this ordinance. In the event that the zoning officer or construction official does not agree that the provisions of this ordinance will be satisfied, an applicant may apply to the appropriate land-use board for an interpretation or variance as necessary.

C. Small Wind Energy Systems

- (1) Wind turbines are permitted in all residential zone districts subject to the following requirements.
 - (a) Minimum lot size: 10 acres
 - (b) Minimum setbacks: All wind turbines shall be setback from all property lines a minimum distance equal to 100 percent of the height of the structure including blades. Guide wires used to support the tower may encroach into the side and rear setbacks but in no case should the guy wires extend into the required yard area for a principal structure.
 - (c) Wind Turbines, support equipment and/or guide wires will not be permitted in the front yard.
 - (d) Mechanical equipment and buildings provided for storage of materials and equipment shall conform to standards for an accessory structure within the applicable zone.
 - (e) Maximum Height: Freestanding wind turbines shall not exceed a height of 80 feet. The maximum height shall include the height of the blades at its highest point.
 - (f) No more than one wind turbine shall be permitted on any lot.
 - (g) Wind turbines shall not be permitted as rooftop installations
 - (h) Wind turbines on residential properties shall have a nameplate capacity of 100 kilowatts or less.
- (2) Wind turbines shall be permitted in a non-residential zoning district subject to the bulk requirements of that district and the following:
 - (a) Minimum lot size: 10 acres
 - (b) The maximum height for a wind turbine shall be 150 feet including the height of the blades at its highest point.
 - (c) Minimum setbacks: All wind turbines shall be setback from all property lines a distance equal to 100% of the height of the turbine including the blades. Guide wires used to support the tower may encroach into the side and rear setbacks.
 - (d) No wind turbines, support equipment and/or guide wires shall be permitted in the front yard.
 - (e) Mechanical equipment and buildings provided for storage of materials and equipment shall conform to the standards for an accessory structure within the applicable zone.
 - (f) No more than one wind turbine shall be permitted on any lot.
 - (g) Wind turbines shall not be permitted as a rooftop installation.
- (3) All Wind Energy systems shall comply with the following noise requirements
 - (a) Sound levels of the wind energy system shall not exceed 55dBA at a common property line.
 - (b) These levels may be exceeded during short-term event such as utility outages and/or severe windstorms.
- (4) Wind turbines shall be designed with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure.
- (5) Wind energy systems shall not be artificially lighted except to the extent required by the FAA or other applicable authority.
- (6) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (7) The wind energy system shall be designed to prevent interference with any television or radio reception or transmission and shall be in compliance with any federal, state or county regulations.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

- (8) The tower shall be designed and installed so as not to provide step bolts, a ladder or other publicly accessible means of climbing the tower for a minimum of 10 feet above the ground level.
- (9) All moving parts of the wind energy system shall be a minimum of 15 feet above the ground level.
- (10) The blades of the wind energy system shall be constructed of a corrosive resistant material.
- (11) All parts of the wind energy system including but not limited to guy wires shall be on the same lot as the system.

D. Solar Energy Systems

(1) Rooftop Solar Panel Installations

- (a) Solar panels shall be permitted as a rooftop installation in any zoning district. The solar panels shall not exceed a height of twelve inches from the roof top.
- (b) Panels installed in a rooftop configuration must be installed not more than one foot beyond the actual boundaries or edges of the roof.
- (c) The preferred location for solar panels installed in a rooftop configuration is on the rear roof area except on any roof of a lakefront lot in the R-3 Zone. Solar panels installed in a rooftop configuration on the roof of a structure located on a lakefront lot in the R-3 Zone are preferred to be installed on the front roof area. If the applicant makes a showing to the satisfaction of the construction official that the roof top configuration cannot be installed on the rear roof area or the front roof in the R-3 zone they may be installed on other appropriate roof areas

(2) Ground Mount solar panel installations

- (a) Ground arrays shall not be permitted in the front yard.
- (b) Ground arrays shall be set back a minimum of 20 feet from side or rear property lines in all residential zones or in conformance with the required setbacks for accessory structures in non-residential zones.
- (c) Ground arrays shall be located so that any glare is directed away from an adjoining property.
- (d) Ground arrays shall not exceed a height of 15 feet.
- (e) Ground arrays shall not be permitted in R-3 District.
- (f) A solar energy system shall not add, contribute to, or be calculated to cause an increase in impervious coverage for the purposes of conforming to zone standards.

E. Wind and solar energy stems shall not be used for displaying or advertising except for the labeling information noted in subsection J below.

F. The design of wind or solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.

G. The wind or solar energy system shall be located so that tree removal is not required to the extent reasonably possible.

H. All electric lines utility wires shall be installed underground.

I. The installation of a wind or solar energy system shall conform to requirements of Jersey Central Power and Light or United Service Electric for interconnection as the case may dictate.

J. Labeling requirements

- (1) A minimum of one sign shall be posted near ground level on the interconnection cabinet warning of high voltage. In addition the following information shall be posted on a label or labels installed at the site:
 - (a) The maximum power output of the system.
 - (b) Nominal voltage and maximum current.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

- (c) Manufacturer's or installer's name, address and telephone number, serial number and model number of the equipment.
 - (d) Emergency and normal shutdown procedures.
- K. Systems that connect to the electric utility shall comply with New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems at NJAC 14:4-9.
- L. Abandonment
 - (1) A small wind energy system or solar energy system that is out of service for a continuous 12 month period will be deemed to have been abandoned.
 - (2) The zoning officer may issue a "Notice of Abandonment" to the owner. The notice shall be sent via regular mail and certified mail return receipt requested to the owner of record.
 - (3) Any abandoned system shall be removed at the owner's sole expense within six months of the date on the "Notice of Abandonment" from the municipality. If the system is not removed within the six month period, the township may remove the system.
 - (4) When the owner of a wind or solar energy system has been notified to remove same and has not removed the system within six months after receiving the notice, then the Township may pursue legal action to have the system removed at the owner's expense. If removed by the owner, a demolition permit shall be obtained from the construction office prior to removal of the system. Upon removal, the site shall be cleaned, restored and landscaped to blend with the existing surrounding vegetation at the time of removal.
- M. Met Towers shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small energy system.
- N. In addition to a site plan approval for a small wind energy system, a zoning permit and building permit shall be required for the installation of a small wind energy system or a solar energy system. Documents required for a zoning permit shall include the following:
 - (1) Survey of the property.
 - (2) Location, dimensions (including height) of existing major structures on the property.
 - (3) Location dimension and type of proposed energy system including all structures accessory to the system.
 - (4) Manufacturer solar energy system specification including manufacturer and model.
 - (5) Proof of notification of the utility company for interconnection purposes.
 - (6) Other documents and plans containing enough information concerning the installation of the system for the zoning official to make a formal decision concerning conformance with the ordinance standards. The amount and accuracy of information provided shall be in the judgment of the zoning official.
- O. Any approval of a small wind or solar energy system does not create any actual or inferred small wind or solar energy system easement against adjacent property and/or structures. The owner and/or property owner of the small wind or solar energy system shall not infer or claim any rights to protective writs to any operating ineffectiveness against future development adjacent to or higher than the property location of the small wind or solar energy system. Any approval granted by the municipality under this article shall not create any future liability or infer any vested rights to the owner and/or property owner of the energy system on the part of the township or by any other officer or employee thereof for any future claims against said issuance of approval of the energy system that result from reliance on this article or any administrative decision lawfully made thereunder.
- P. Severability. - If any section, paragraph, subdivision, clause or provision of this ordinance shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this ordinance shall be deemed valid and effective.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

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, 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 5. This Ordinance may be renumbered for purposes of codification.

Section 6. 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 2010-25 on first reading, seconded by Kula. All in favor. Motion carried.

2010-26

AN ORDINANCE APPROPRIATING THE TOTAL SUM OF \$26,000.00 FROM GENERAL CAPITAL IMPROVEMENT FUND FOR FUNDING VARIOUS CAPITAL IMPROVEMENTS TO MUNICIPAL BUILDINGS AND GROUNDS 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 Twenty-six thousand dollars (\$26,000.00) to be utilized out of the General Capital Improvement Fund, is hereby appropriated for the following purpose:

For Various Capital Improvements Municipal Buildings and Grounds 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 Miller to approve Ordinance 2010-26 on first reading, seconded by Hamilton. All in favor. Motion carried.

ORDINANCES:

2nd READING:

2010-17

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF CHAPTER 142, SECONDHAND PRECIOUS METALS, GEMS AND JEWELRY, DEALERS IN

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

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

SECTION 1. The Hardyston Township Revised General Ordinances are hereby amended and supplemented with the addition of Chapter 142, "Secondhand Precious Metals, Dealers In", to read as follows:

**CHAPTER 142 SECONDHAND PRECIOUS METALS, GEMS AND JEWELRY,
DEALERS IN**

§142-1 Definitions.

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

DEALER- Any person, partnership, corporation or other entity, whether permanent or itinerant, who on one or more occasions, through any means, buys or sells secondhand gold, silver, precious metals, gems or jewelry, and includes anyone advertising the purchase or sale of any of the aforementioned items.

ITINERANT BUSINESS- Any business conducted intermittently within the Township of Hardyston or at varying locations.

MINOR- Any person under the age of 18 years.

PERMANENT-BASED BUSINESS- Any business conducted on a year-round basis and housed in a single structure, such as a store or residence.

§142-2 Registration and license required; fee; term.

- A. Each dealer conducting business within the jurisdiction of the Township of Hardyston shall first register with the Chief of Police, who shall fingerprint the applicant and institute such an investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public welfare. In the event that the dealer is a business entity other than a sole proprietorship, the officers in a corporation or the partners in a partnership (or limited partnership) shall be deemed to be the applicant(s) who shall be fingerprinted and investigated in accordance with this section. Upon completion of the investigation, the Chief of Police shall either issue or deny the license based upon the results of his investigation. Upon the issuance of the license, the applicant shall be given a copy of this Chapter 142. Upon the issuance of the license, the applicant shall pay to the Township Clerk the annual fee of \$200.00 for such license.
- B. A license issued under the provisions of this chapter shall not be transferable and shall terminate on December 31 of the year in which said license is issued.

§142-3 Records of purchases and sales required.

In addition to the requirements of N.J.S.A. 2C:21-36 et seq., each dealer shall maintain a complete record of each purchase and sale, including the amount paid, a description of the item and any identifying numbers or engravings. The dealer shall also obtain the name, address, and date of birth, driver's license number and state of issuance for the person from whom the items were purchased, received or sold. This information is to be documented on the secondhand jewelry transaction receipt form supplied by the Hardyston Township Department. These records shall be subject to the inspection of any authorized police officer of the Township of Hardyston. The records required to be maintained shall be kept confidential by the dealer and shall be released only to appropriate law enforcement personnel. The records shall be maintained by the licensee for a period not less than five (5) years.

§142-4 Description of transactions to be delivered to Police Chief.

Each dealer doing business in the Township of Hardyston shall deliver on a weekly basis to the Chief of Police the description of all items purchased, received or sold, from the preceding week, on forms prescribed by the Chief of Police.

§142-5 Holding time for purchased items.

No dealer shall sell, melt, change the form of or dispose of any articles purchased or received no less than three (3) days from the date the notification is made to the Chief of Police,

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

and all such items shall remain on the premises where the purchase was made and made available for at least three (3) days to any authorized police officer requesting such items.

§142-6 Identification of persons transacting business with dealers.

Each dealer must require identification of the person with whom it is transacting business and no transaction may be made with any minor, as hereinabove defined, nor with any individual who is in an intoxicated state and/or is under the influence of intoxicating liquor, narcotics or hallucinogenic or habit-producing drugs.

§142-7 Revocation of license.

Licenses issued under the provisions of this chapter may be revoked by the Chief of Police, after a hearing, upon notice to the applicant, for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for a license.
- B. Fraud, misrepresentation or false statement made in the course of carrying on the business of purchasing secondhand precious metals, gems and jewelry.
- C. Any violation of this chapter.
- D. Conviction of any crime or disorderly persons' offense involving moral turpitude.
- E. Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

§142-8 Inapplicability.

This Chapter shall not be applicable to the following:

- A. Any person, partnership, corporation or entity which receives secondhand gold, silver, precious metals, gems or jewelry as a gift.
- B. Any private sale that is conducted by two parties that are not regularly employed as "dealers" as defined herein which shall include but not be limited to: items sold at a garage or tag sale or an individual making a one time sale of their own personal property to another private individual.
- C. Any person, partnership, corporation or entity engaged in retail, provided the sale of jewelry is not his primary business and further provided that the person, partnership, corporation or entity does not engage in the purchase of used or secondhand jewelry on more than three days in a calendar year.

§142-9 Violations and penalties.

Any person as defined above who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000 or by imprisonment for a term not exceeding 90 days, or both, within the discretion of the Municipal Judge. A separate offense shall be deemed committed in each day during or on which a violation occurs or continues.

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.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. Resident Frank Lacatena again questioned the definition of "dealer". Township Attorney Dominic DiYanni stated that he took another look at the State Statute and after further review of the State Statute, it was his opinion that the definition of dealer in the current ordinance up for second reading is correct. He further stated that he has taken the time to add an additional exception to the Ordinance under Section 142-8. He stated that the new Section subsection C, does exempt, "...any person, partnership, corporation or entity engaged in retail provided the sale of jewelry is not his primary business and further provided that the person, partnership, corporation or entity does not engage in the purchase of used or second hand jewelry on more than three days in a calendar year". He stated that this exception to this ordinance is consistent with the exception in the State Statute. He further stated that it is his legal opinion that this additional exception stated in Section 142-8 of the ordinance is not a substantial modification to the ordinance and it would not require a reintroduction of the ordinance. 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 2010-17 on second reading, seconded by Kula. All in favor. Motion carried.

2010-22

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF
NEW JERSEY AMENDING CERTAIN PORTIONS OF CHAPTER 94, FIRE PREVENTION, 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 94, Fire Prevention, Sections 94-2, Local Enforcement, 94-3, Agency Designation, and 94-4, Duties, of the aforesaid Revised General Ordinances is hereby amended to read as follows:

§ 94-2 Local enforcement.

Pursuant to Section 11 of the Uniform Fire Safety Act (P.L. 1983, c. 383), the New Jersey Uniform Fire Code shall be locally enforced in the Township of Hardyston and any and all municipalities to which the Township has entered into a shared services agreement pursuant to N.J.S.A. 40A:65-1, et seq. to be the local enforcing agency.

§ 94-3 Agency designation.

The Fire Prevention Bureau shall be the local enforcing agency within the Township of Hardyston and any and all municipalities to which the Township has entered into a shared services agreement pursuant to N.J.S.A. 40A:65-1, et seq. to be the local enforcing agency.

§ 94-4 Duties.

The local enforcement agency shall enforce the Uniform Fire Safety Act and the codes and regulations adopted under it in all buildings, structures and premises within the established boundaries of the Township, other than owner-occupied one-family and two-family dwellings, and shall faithfully comply with the requirements of the Uniform Fire Safety Act and the Uniform Fire Code. These duties shall also apply to and any and all municipalities to which the Township has entered into a shared services agreement pursuant to N.J.S.A. 40A:65-1, et seq. to be the local enforcing agency.

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.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

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 Ross to approve Ordinance 2010-22 on second reading, seconded by Miller. All in favor. Motion carried.

NEW BUSINESS:

- A. Resolution #90-10 – Chapter 159 - The Department of Law and Public Safety, Division of Highway Traffic Safety, Over The Limit Under Arrest 2010 Statewide Crackdown

WHEREAS, N.J.S. 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof not was determined at the time of the adoption of the budget, and

WHEREAS, Said Director may also approve the insertion of any item of appropriation for equal amount,

SECTION I.

NOW THEREFORE, BE IT RESOLVED THAT THE MAYOR AND COUNCIL OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, AND STATE OF NEW JERSEY,

hereby request the Director of the Division of Local Government Services to approve the

Insertion of an item of revenue in the Local Municipal Budget of the Township of Hardyston for the year 2010, in the sum of \$4,327.20, which is, now available as a revenue from The Department of Law and Public Safety, Division of Highway Safety, Over the Limit Under Arrest 2010 Impaired Driving Crackdown pursuant to the provision of Statute, and

SECTION II.

BE IT FURTHER RESOLVED, that a like sum of \$4,327.20 and the name is hereby appropriated under the caption the Department of Law and Public Safety, Division of Highway Safety, Over the Limit Under Arrest 2010 Statewide Crackdown Other Expenses \$4,327.20.

SECTION III.

BE IT FURTHER RESOLVED, that the above is a result of the Department of Law and Public Safety, Division of Highway Safety, Over the Limit Under Arrest 2010 Statewide Crackdown Grant, and /or/ has been anticipated as a revenue from the Department of Law and Public Safety, Division of Highway Safety, Over the Limit Under Arrest 2010 Statewide Crackdown, and upon receipt shall be deposited into the Township of Hardyston Current Fund, and,

BE IT FURTHER RESOLVED, that two executed copies of this resolution be filed with the Director of the Division of Local Government Services.

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

- B. Resolution #91-10 – Police Department Change Fund Increase

WHEREAS, the Police Department of the Township of Hardyston, County of Sussex has determined that there is a need to increase their current change fund of \$15.00 to an amount of \$40.00 which is needed for the Township Police Department,

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that an additional amount of \$25.00 be added to the change fund making it a total of \$40.00 for the Township Police Department.

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

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

- C. Resolution #93-10 – Resolution urging State policy makers to reaffirm their commitment to property tax relief, environmental protection and fiscal fairness by reversing the decision to cut Open Space PILOT funding

WHEREAS, the preservation of Open Space benefits all New Jersey citizens; and

WHEREAS, it does, however, impose costs on the citizens of the host municipality, denying them the economic, budgetary and property tax rate benefits of a developed ratable; and

WHEREAS, in recognition of these facts, the State of New Jersey has pledged to provide host municipalities with Payments In Lieu Of Taxes (PILOTs); and

WHEREAS, these PILOTs then serve two crucial public policy purposes - first providing property tax relief and second, promoting environmental protection; and

WHEREAS, in recognition of those dual benefits and of the lost opportunity costs imposed on the host municipalities, a long line of Governors, Legislatures and Commissioners of Environmental Protection have seen the fairness of consistently making the promised Payments In Lieu of Taxes; and

WHEREAS, the policy has been ratified by the citizens of New Jersey, who have, consistently approved ballot questions that would provide funding to meet Open Space PILOT needs; and

WHEREAS, the municipalities that host preserved Open Spaces tend to be less populous and encompass more land, than the average New Jersey municipality and, accordingly, they have operated within the significant budgetary constraints which result from fewer rateables, and in addition they typically have smaller, non-unionized and non-Civil Service workforces which makes them less likely to enjoy any potential benefits from any management reforms and mandates relief initiatives being considered by State policy makers, yet they too, will need to serve their citizens within the constraints of the new 2% levy cap; and

WHEREAS, in order to address other priorities, State policy makers have decided to impose immediate cuts in PILOT funding;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Hardyston, that this Council does hereby call on all State policy makers to reaffirm their commitment to property tax relief, environmental protection and fiscal fairness by reversing the decision to cut Open Space PILOT funding.

BE IT FURTHER RESOLVED that copies of this Resolution shall be forwarded to Governor Christie; Lieutenant Governor Guadagno; Environmental Protection Commissioner Martin; Community Affairs Commissioner Grifa; Assemblywoman Alison McHose, Assembly Representative – 24th District; Assemblyman Gary Chiusano, Assembly Representative – 24th Legislative District; Senator Steve Oroho, State Senator – 24th District and to the New Jersey League of Municipalities.

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

- D. Resolution #94-10 – Resolution authorizing the Hardyston Township Fire Prevention Bureau to act as the local enforcing agency for the Borough of Sussex pursuant to a shared services agreement

WHEREAS, pursuant to Section 11 of the Uniform Fire Safety Act (P.L. 1983, c. 383), and Chapter 94 of the Township of Hardyston Code, the New Jersey Uniform Fire Safety Act and Uniform Fire Code is locally enforced by the Hardyston Township Fire Prevention Bureau within the jurisdiction of the Township of Hardyston; and

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

WHEREAS, the Township has recently entered into a shared services agreement with the Borough of Sussex for the provision of fire prevention services; and

WHEREAS, as a result of said shared services agreement, the Township of Hardyston will be enforcing the Uniform Fire Safety Act and Uniform Fire Code within the jurisdictional limits of the Borough of Sussex; and

WHEREAS, the Township of Hardyston is desirous of providing these shared services to the Borough of Sussex and authorizes its Fire Prevention Bureau to enforce the applicable State Codes and Regulations within the Borough of Sussex.

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, pursuant to Section 94-2 of the Township Code, it authorizes the Hardyston Township Fire Prevention Bureau to locally enforce the Uniform Fire Safety Act and Uniform Fire Code within the jurisdiction of the Borough of Sussex subject to the terms and conditions of the shared services agreement which is on file in the Township Clerk's office; and

BE IT FURTHER RESOLVED that a copy of this Resolution shall be forwarded to the Borough of Sussex and the State of New Jersey for their information and record.

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. Resolution #95-10 – Resolution authorizing the award of a contract to Hammy's Clean-Ups for demolition services to be performed at the 30 Lake Shore Road North property

WHEREAS, pursuant to N.J.S.A. 40:48-2.3, N.J.S.A. 40:48-2.5 and Chapter 104 of the Hardyston Township Municipal Code, the Township of Hardyston and, specifically, the Hardyston Township Board of Health is authorized to exercise its police powers to repair, close or demolish, or cause or require the repairing, closing or demolition of such building or buildings, or part thereof, which have been found to contain condition(s) rendering such building or buildings, or part thereof, unsafe or insanitary, or dangerous or detrimental to the health and safety or otherwise inimical to the welfare of the residents of the Township; and

WHEREAS, §104-7 of the Hardyston Township Municipal Code provides that whenever it appears to the Board of Health on its own motion that any dwelling is unfit for human habitation it shall, if its preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling a complaint stating the charges and containing a notice that a hearing shall be held before the Board of Health; and

WHEREAS, as a result of its own preliminary investigation, the Board of Health did issue and serve upon the owner of and the parties in interest of the dwelling located at 30 Lake Shore Road North, Stockholm, NJ, Block 84, Lot 33, a complaint and a notice of hearing seeking the demolition of the dwelling based upon its current condition and the findings of the Township under its preliminary investigation; and

WHEREAS, pursuant to such notice, a hearing was held before the Hardyston Township Board of Health on September 21, 2010 at approximately 7:00 p.m. whereby the Board of Health took testimony and received evidence regarding the investigation performed by Hardyston Township through its Construction Official, Keith Utter, as well as evidence and testimony regarding the current condition of the property; and

WHEREAS, at the conclusion of the hearing it was established, by clear consensus, that the Board of Health had determined that the dwelling under consideration is unfit for human habitation, as defined by the New Jersey Housing Code, N.J.A.C. 5:28-1 et seq., and specifically, N.J.A.C. 5:28-1.10 and 5:28-1.12 and §104-8(A) of the Hardyston Township Municipal Code; and

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

WHEREAS, pursuant to a Resolution formally adopted by the Board of Health, it ordered that the property owner, within fifteen (15) days of receipt of the Order, demolish the dwelling in accordance with the order of the Board pursuant to said Resolution; and

WHEREAS, the fifteen (15) day period has elapsed and the property owner has failed to demolish the dwelling in accordance with the Board of Health's order; and

WHEREAS, pursuant to §104-8(A)(2)(b) of the Township Code, the Board of Health shall cause such demolition to be made with the cost thereof becoming a municipal lien against the subject real property; and

WHEREAS, the Township has performed its due diligence and has obtained estimates for the demolition to be performed on the subject premises; and

WHEREAS, the Township wishes to retain the services of Hammy's Clean-ups, in accordance with its proposal, to provide such demolition services associated with the subject dwelling, in an amount not to exceed \$8,500.00; and

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

WHEREAS, pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-3, when the cost or price of any contract awarded by the contracting agent in the aggregate does not exceed in a contract year the total sum of \$17,500, the contract may be awarded by the contracting unit without public advertising for bids.

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 Township of Hardyston hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Hammy's Clean-ups, 35 Kice Road, Branchville, NJ 07826, for demolition services associated with the dwelling located at 30 Lake Shore Road North, Stockholm, NJ, Block 84, Lot 33 in an amount not to exceed \$8,500.00 and in accordance with the vendor's proposal.
2. The total fee authorized for this contract shall not exceed \$8,500.00 without the prior written approval of the Township Council.
3. This contract is awarded without competitive bidding as the total price of the contract shall not exceed the \$17,500 bid threshold in accordance with the provisions of the Local Public Contracts Law, specifically N.J.S.A. 40A:11-3.
4. This Resolution shall take effect immediately.

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

- F. Resolution #96-10 - Resolution assigning donated funds to the Hardyston Police Department for the purchase of radar equipment

WHEREAS, the Hardyston Township Police Department is in need of radar equipment; and

WHEREAS, a thoughtful, good-hearted and generous resident of the Township desires to make a donation to the Township for the purchase of said radar equipment.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey as follows:

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 9, 2010**

The Township of Hardyston hereby accepts a donation from Ken Kievit for the purpose of funding the purchase of radar equipment for the Hardyston Township Police Department.

This Resolution shall take effect immediately.

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

BILLS TO BE PAID: A motion was made by Hamilton to approve the bill list as presented, seconded by Miller. 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. Resident Frank Lacatena brought up the fact that some Hardyston residents think they live in Hamburg because they have a Hamburg mailing address. He asked the Council if they could come up with some ways to make the residents more aware of the fact that Hamburg is just their mailing address, not their place of residence. The Council agreed that they would look into ways of doing so. 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 8:10 p.m., seconded by Kula. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk