

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
NOVEMBER 23, 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, 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 – October 2010
2. Construction Certificate Activity Report – October 2010
3. Construction Permit Activity Report – Hardyston – October 2010
4. Construction Permit Activity Report – Hamburg – October 2010
5. Construction Permit Activity Report – Franklin – October 2010
6. Construction Permit Activity Report – Newton – October 2010
7. Construction Permit Activity Report – Sussex – October 2010
8. HTMUA – Minutes of 10/4/10
9. Municipal Court Report – October 2010
10. Zoning Officer Report – October 2010
11. Tax Collector Report – October 2010
12. Finance Officer Report – July 2010
13. Finance Officer Report – August 2010
14. Finance Officer Report – September 2010
15. Police Department Report – October 2010

**Agreements/Applications/Licenses:**

1. Raffle – Walkkill Valley Booster Club
2. Raffle – PTA Hamburg
3. Raffle – High Point Regional H.S. Booster Club

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

**ORDINANCES:**

**1st READING: 2010-27**

AN ORDINANCE TO AUTHORIZE ACQUISITION OF REAL PROPERTY [BLOCK 67.24 LOT 15, 8 MULBERRY LANE] FOR THE PURPOSE OF ACQUIRING UNITS AS PART OF THE TOWNSHIP'S MARKET TO AFFORDABLE HOUSING PROGRAM

**WHEREAS**, the owners of real property (“owners”) designated as Lot in Block (“the property”) on the Hardyston Township Tax Map, and known as 8 Mulberry Lane, are willing to convey the same to the Township of Hardyston (“Township”); and

**WHEREAS**, the Township desires to acquire single-family properties to be resold as affordable housing units pursuant to the Township’s Housing Element and Fair Share Plan and the New Jersey Council on Affordable Housing’s Substantive Rules (N.J.A.C 5:97); and

**WHEREAS**, the Township Council has determined that it should acquire the aforementioned property under the Township’s Market to Affordable Housing program for the purpose of addressing the Township’s affordable housing obligation.

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**NOW, THEREFORE, BE IT ORDAINED** by the Hardyston Township Council that the Township shall acquire shall Block 67.24, Lot 15 by purchase from its owners in consideration of \$185,000.00, and the clerk, the administrator, the mayor, Housing Liaison and the Township Special Counsel, Vogel, Chait, Collins and Schneider are authorized and directed to take all steps necessary and execute all documents required for the purchase.

**Severability**

If any part of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of the Ordinance.

**Effective Date**

This Ordinance shall take effect in the time and manner prescribed by law.

A motion was made by Ross to approve Ordinance 2010-27 on first reading, seconded by Miller. All in favor. Motion carried.

**2010-28**

AN ORDINANCE TO AUTHORIZE ACQUISITION OF REAL PROPERTY [BLOCK 67.25 LOT 3, 7 CRESTMONT COURT] FOR THE PURPOSE OF ACQUIRING UNITS AS PART OF THE TOWNSHIP'S MARKET TO AFFORDABLE HOUSING PROGRAM

**WHEREAS**, the owners of real property ("owners") designated as Lot in Block ("the property") on the Hardyston Township Tax Map, and known as 8 Mulberry Lane, are willing to convey the same to the Township of Hardyston ("Township"); and

**WHEREAS**, the Township desires to acquire single-family properties to be resold as affordable housing units pursuant to the Township's Housing Element and Fair Share Plan and the New Jersey Council on Affordable Housing's Substantive Rules (N.J.A.C 5:97); and

**WHEREAS**, the Township Council has determined that it should acquire the aforementioned property under the Township's Market to Affordable Housing program for the purpose of addressing the Township's affordable housing obligation.

**NOW, THEREFORE, BE IT ORDAINED** by the Hardyston Township Council that the Township shall acquire shall Block 67.25, Lot 3 by purchase from its owners in consideration of \$185,000.00, and the clerk, the administrator, the mayor, Housing Liaison and the Township Special Counsel, Vogel, Chait, Collins and Schneider and directed to take all steps necessary and execute all documents required for the purchase.

**Severability**

If any part of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of the Ordinance.

**Effective Date**

This Ordinance shall take effect in the time and manner prescribed by law.

A motion was made by Ross to approve Ordinance 2010-28 on first reading, seconded by Miller. All in favor. Motion carried.

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**2010-12**

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CERTAIN PROVISIONS OF CHAPTER 88, FEES, OF THE REVISED GENERAL ORDINANCES TO INCLUDE ANNUAL REGISTRATION FEES FOR NON-LIFE-HAZARD USES AND FIRE SUPPRESSION SYSTEMS

**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 88-2 Construction Code Fees, Subsection (D), of the aforesaid Revised General Ordinances is hereby amended to read as follows:

**§88-2. Construction code fees.**

D. Fire protection subcode fees are as follows:

(1) Wet or dry sprinkler suppression systems as per the following numbers of heads:

| <b>Number of Heads</b> | <b>Fee</b> |
|------------------------|------------|
| 1 to 50                | \$50       |
| 51 to 100              | \$100      |
| 101 to 400             | \$150      |
| 401 to 1,000           | \$400      |
| Over 1,000             | \$650      |

(2) Fee for each standpipe: \$150.

(3) Fee for each gas or oil-fired appliance not connected to the plumbing system: \$50.

(4) Commercial kitchen exhaust system, each: \$50.

(5) Independent preengineered suppression systems, each: \$100.

(6) Fuel storage tanks (underground or aboveground, installation only), each:

| <b>Capacity (gallons)</b> | <b>Fee</b> |
|---------------------------|------------|
| 1 to 1,000                | \$25       |
| 1,001 to 4,000            | \$50       |
| Over 4,000                | \$100      |

(7) Smoke or heat detectors:

| <b>Number of Detectors</b> | <b>Fee</b> |
|----------------------------|------------|
| 1 to 20                    | \$35       |
| 21 to 100                  | \$50       |
| 101 to 200                 | \$100      |
| 201 to 400                 | \$150      |
| 401 to 1,000               | \$250      |
| Over 1,000                 | \$350      |

(8) Manual or automatic alarm systems: \$50.

(9) Central control system: \$50.

The fire protection subcode fee shall be a minimum of \$50 for single-family dwellings; and \$75 for all other structures.

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(10) Non-life-hazard Uses (§94-10B).  
Annual Registration Fee: \$25.  
Non-Registration Penalty: \$100  
Late Fee: \$50.

(11) Fire suppression tanks (§94-10-C).  
Annual Registration Fee: \$25.  
Late Fee: \$50.

**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 Ross to approve Ordinance 2010-12 on first reading, seconded by Kula. All in favor. Motion carried.

**2010-13**

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CERTAIN PORTIONS OF CHAPTER 147, SITE PLAN AND GENERAL DEVELOPMENT PLAN REVIEW, OF THE REVISED GENERAL ORDINANCES TO INCLUDE FIRE SUPPRESSION SYSTEM INSTALLATION AND MAINTENANCE REQUIREMENTS

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

**SECTION 1.** Chapter 147, Site Plan and General Development Plan Review, Section 147-8, Design standards and required site improvements, Subsection (O), of the aforesaid Revised General Ordinances is hereby amended to read as follows:

**§ 147-8. Design standards and required site improvements.**

O. Fire protection facilities. The purpose of this subsection is to insure that adequate fire protection facilities are provided within residential developments. In the CR and R-4 Zones, a public potable and fire suppression water system shall be provided in accordance with the Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21-1 et seq., for residential developments utilizing sewage collection and treatment. In all other zones, a fire suppression water system shall be provided for all residential preliminary major subdivisions and all major preliminary site plans for nonresidential developments in accordance with the following standards:

(1) Where public or private central water supply is available and has been approved by the Township of Hardyston, fire hydrants shall be installed to provide a source of water for fire fighting. Where public or private central water supply is not available for a residential subdivision, underground water storage tanks shall be located and installed within the development. The location of the tank shall be approved by the reviewing board with input from the Hardyston Fire Department. Any fire-suppression tank provided shall be located such that the distance from the proposed suction point for the tank to the required building setback line of each proposed lot shall not exceed 2,000 feet. This length shall be measured along the center line of the right-of-way.

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This distance shall also include the length of the driveway, measured along the driveway for flag lots and lots with common driveways. When more than one tank is required to meet this requirement, the spacing between tanks shall not exceed 3,000 feet. Each tank shall be located within the public right-of-way or an easement acceptable to the Township of Hardyston.

- a) Tanks constructed to service residential subdivisions that will not have a homeowners association shall be dedicated to the Township. Regular, quarterly inspections shall be performed by the Township Fire Official pursuant to Chapter 94 of the Township Code to ensure operability.
  - 1. The maintenance for tanks constructed to service residential subdivisions in which the roads have not been dedicated to the Township will be the responsibility of the developer or the community association (whichever has majority interest in the property) until it is formally dedicated to the Township. Regular, quarterly inspections shall be performed by the Township Fire Official pursuant to Chapter 94 of the Township Code to ensure operability.
- b) For nonresidential sites, underground water tanks shall be installed in a location acceptable to the reviewing board with input from the Hardyston Fire Department.
  - 1. Regular maintenance and certifications shall remain the responsibility of the property owner. Regular, quarterly inspections shall be performed by the Township Fire Official pursuant to Chapter 94 of the Township Code to ensure operability.
- c) All tanks must have paved access within seven linear feet of its suction point. Alternate materials may be utilized to provide access to the tank after approval by the Township Engineer and Hardyston Fire Department. A protective barrier must be placed in front of the tank in order to prevent damage to the tank, subject to approval by the Township Engineer. A permanent sign, in accordance with the requirements of Chapter 94 §94-15 of the Township Code, shall be installed at every tank location to show the existence and capacity of such tank. In addition, when tanks are located in the vicinity of a roadway or parking area, "Fire Lanes" shall be established and maintained pursuant to the requirements of Chapter 94 of the Township Code.
- d) The minimum capacity of every underground storage tank within a residential subdivision shall be 20,000 gallons. Tank capacities for nonresidential developments shall be based on the highest degree of hazard of the principal structures to be protected but in no case shall the tank capacity be less than 20,000 gallons. The fire protection systems shall be approved by the reviewing board with input from the Hardyston Fire Department. Unless an equivalent alternate fire protection system is authorized by the reviewing board, underground water storage tanks will be provided and shall be constructed and installed as follows. All underground water storage tanks shall be (minimum) single-walled fiberglass construction. The tank shall be installed in accordance with the manufacturer's recommendations and NFPA standards. Tanks shall at a minimum include the following features:
  - 1. One flange with six-inch draw tube.
  - 2. Four four-inch flanges.
  - 3. Six-inch dry hydrant NST female connection; each connection must have internal conical strainer, snap ring,

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and yellow dust cap. PVC pipe must pass through all adapters into tank.

4. A functional and operational water level gauge of suitable design shall be provided. The gauge shall be of a size that insures it is legible from the street
  5. Four-inch fill connection with two two-and-one-half-inch NST female connections with dust caps.
- e) This water supply is intended solely for minimal first-attack storage.
- f) In all subdivisions where a fire protection system is required, no building permit shall be issued for a principal structure upon any lot within the subdivision or development until fire protection to the extent necessary for such structure is installed and its operability has been tested and approved by the Hardyston Township Volunteer Fire Department, and it meets the requirements of the ordinance. In addition, all residential subdivision applicants shall submit to the Township, prior to the issuance of any building permit, an Engineer's certification from the applicant's engineer that the fire suppression system is operational and meets the requirements of this ordinance.

- (2) The hydrants, tank size, design and location in conjunction with a site plan application for a nonresidential structure shall be approved by the reviewing board with input from the Hardyston Fire Department

**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 Ross to approve Ordinance 2010-13 on first reading, seconded by Kula. All in favor. Motion carried.

**2010-14**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF  
NEW JERSEY AMENDING A CERTAIN PORTION OF CHAPTER 94, FIRE PREVENTION, OF  
THE REVISED GENERAL ORDINANCES TO INCLUDE FIRE SUPPRESSION SYSTEM  
REGISTRATION AND ENFORCEMENT REQUIREMENTS**

**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, Section 94-10, Inspections, permits and fees, of the aforesaid Revised General Ordinances is hereby amended to read as follows:

**§ 94-10. Inspections, permits and fees.**

- A. All inspection and permit provisions in the Uniform Fire Code (N.J.A.C. 5:70) are adopted by reference and incorporated, without change, as if set forth at length herein.
- B. Each nonresidential use that is not classified as a life-hazard use under N.J.A.C. 5:70-2.4 shall be registered with the Hardyston Township Fire Prevention Bureau. The owner of the premises and/or operator of the non-life-hazard use shall submit a completed registration form and pay the fee set forth in the Hardyston Township Code Chapter 88, General Fee Ordinance prior to commencing operation of the non-life-hazard use. A penalty shall accrue, in addition to the registration fee, if a

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non-life-hazard use is not so registered prior to commencing operation. The non-life-hazard use shall thereafter be registered annually during the month of January. A late registration penalty shall accrue on February 1.

- C. All privately owned fire suppression tanks installed and operated pursuant to the provisions of the Hardyston Township Land Use Code Chapter 147 §147-8 shall be registered with the Hardyston Township Fire Prevention Bureau. The owner of the fire suppression system shall submit a completed registration form and pay the fee set forth in the Hardyston Township Code Chapter 88, General Fee Ordinance. The fire suppression system shall thereafter be registered annually during the month of January. A late registration penalty shall accrue on February 1.
- D. All fire suppression tanks shall be inspected on a quarterly basis. Inspections will be conducted to verify operability and water levels. Should the tanks be found inoperable due to mechanical malfunctions or depleted water levels the owner shall be issued a violation letter, and all repairs shall be addressed within the time frame specified. In the event the owner does not achieve compliance within the timeframe specified in the violation letter a \$50/day fine shall accrue.
- E. All privately owned fire suppression tanks registered with the Hardyston Township Fire Prevention Bureau shall be filled and maintained at the required water level. In the event that the tank is utilized and the water level is depleted; the owner/operator shall refill the tank within 72 hours of depletion. The Township Fire Prevention Bureau will immediately notify the owner/operator of the use of the tank and requirement to refill said tank within the 72 hour timeframe. If the owner/operator does not achieve compliance a warning will be issued. Subsequent non-compliance shall accrue a \$50/day fine.

**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 Ross to approve Ordinance 2010-14 on first reading, seconded by Hamilton. All in favor. Motion carried.

**ORDINANCES:**

**2nd 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.

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**SECTION 2.** All ordinances of the Township of Hardyston which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 3.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**SECTION 4.** This Ordinance may be renumbered for purposes of codification.

**SECTION 5.** This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

A motion was made and seconded to open the meeting to the public. 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 2010-23 on second 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.

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**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;

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**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 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 2010-24 on second reading, seconded by Hamilton. All in favor. Motion carried.

**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.

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**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 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.

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- (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.
  - (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.

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- 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.
    - (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.

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- (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.

**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 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 2010-25 on second reading, seconded by Miller. 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.

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(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 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 2010-26 on second reading, seconded by Kula. All in favor. Motion carried.

At this time, the Hardyston Township First Aid Squad presented Mayor Kievit with a plaque in appreciation of his support of the First Aid Squad over the years.

**NEW BUSINESS:**

- A. Resolution #92-10 – Resolution authorizing the assignment of Tax Sale Certificates #10-06, 10-24, 10-25

**WHEREAS**, the Township of Hardyston has accumulated Tax Sale Certificates that have been struck off to the municipality at Tax Sale due to the lack of bidders; and

**WHEREAS**, Frank Cicerale has agreed to purchase at an assignment sale pursuant to NJSA 54:5-113, Tax Sale Certificates #10-06, 10-24, 10-25 for the total amount of \$ 6,253.60

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Township Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey that Tax Sale Certificates #10-06, 10-24, 10-25 be assigned to Frank Cicerale; and

**BE IT FURTHER RESOLVED** that the Township Tax Collector is hereby authorized to execute the Assignment of the Tax Sale Certificates, a copy of which is attached hereto, and deliver it together with the original tax sale certificates to Frank Cicerale.

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

- B. Resolution #97-10 – 2010 Budget Transfers

Now, Therefore be it resolved by the Mayor and Council of the Township of Hardyston, State of New Jersey, That the following 2010 Budget Appropriation transfers be authorized:

| Transfer To:            |                  | Transfer From:            |                  |
|-------------------------|------------------|---------------------------|------------------|
| Engineering OE          | 5,000.00         | Legal OE                  | 5,000.00         |
| Social Security         | 3,000.00         | Diesel                    | 3,000.00         |
| Communication S&W       | 20,000.00        | Police S&W                | 20,000.00        |
| Purchase Police Cars OE | 25,000.00        | Gasoline                  | 25,000.00        |
| Electricity.            | 5,000.00         | Telephone                 | 5,000.00         |
| Streets & Roads OE      | 9,000.00         | Natural Gas               | 9,000.00         |
| Recreation OE           | 2,500.00         | Celebration Pub events OE | 2,500.00         |
| Administration S&W      | 3,100.00         | Planning OE               | 3,100.00         |
| Election OE             | 2,500.00         | Administration OE         | 2,500.00         |
| <b>Total</b>            | <b>75,000.00</b> | <b>Total</b>              | <b>75,000.00</b> |

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 #98-10 – Resolution authorizing the Township Administrator, Mayor, Clerk, Housing Liaison, and the Township Special Counsel Vogel, Chait, Collins & Schneider to negotiate and take all steps necessary to complete purchases of two properties, Block 67.24, Lot 15 and Block 67.25, Lot 3

**WHEREAS**, the Township of Hardyston has an Affordable Housing Trust Fund;  
and

**WHEREAS**, the Township is interested in acquiring two (2) properties with funds from the Affordable Housing Trust Fund for the Market to Affordable Housing Program of the Township; and

**WHEREAS**, by way of this resolution, the Mayor and Council of the Township of Hardyston intend to authorize the Township Administrator, Mayor, Clerk, Housing Liaison, and Special Counsel Vogel, Chait, Collins & Schneider to undertake all steps necessary to complete the purchase of two properties – Block 67.24, Lot 15 and Block 67.25, Lot 3 with funds from the Hardyston Township Affordable Housing Trust Fund.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Township of Hardyston, County of Sussex, State of New Jersey that the Township of Hardyston hereby authorizes and directs the Township Administrator, Mayor, Clerk, Housing Liaison and the Township Special Counsel, Vogel, Chait, Collins and Schneider to undertake all steps necessary for the negotiation and acquisition of Block 67.24, Lot 15 and Block 67.25, Lot 3 with funds sufficient for the same from the Hardyston Township Affordable Housing Trust Fund.

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

- D. Resolution #100-10 – Resolution opposing Senate Bills-818 and Assembly Bill A-2095 revising requirements for Emergency Medical Services delivery

**WHEREAS**, Senate S-818 and Assembly Bill A-2095 revise the requirements for emergency medical services delivery; and

**WHEREAS**, in New Jersey, when someone calls for an ambulance, in most areas, a volunteer first aid squad will respond; and

**WHEREAS**, the Emergency Medical Service Volunteers (EMS Volunteers) provide invaluable life saving services while responding to a wide variety of medical emergencies:  
and

**WHEREAS**, EMS volunteers are selfless individuals who provide aid to anyone who requires medical assistance under very difficult circumstances; and

**WHEREAS**, the New Jersey State First Aid Council represents more than 20,000 EMS volunteers affiliated with first aid squads throughout the State; and

**WHEREAS**, the New Jersey State First Aid Council opposes Senate Bill S-818 and Assembly Bill A-2095 because the Bills will impose unnecessary regulatory and financial burdens upon volunteer first aid squads already understaffed and under-funded; and

**WHEREAS**, the Emergency Medical Technician Training Fund is a dedicated, non-lapsing, revolving fund, established to reimburse any entity which is certified by the Commissioner of Health and Senior Services to provide training and testing for volunteer ambulance, first aid and rescue squad personnel who are seeking EMT certification and/or recertification: and

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WHEREAS, Senate Bill S-818 and Assembly Bill A-2095 replace the "Emergency Medical Technician Training Fund" with the "Emergency Medical Services Training Fund" and permits the use of the fund by individuals and entities other than for volunteer ambulance, first aid and rescue squad personnel; and

WHEREAS, Senate Bill S-818 and Assembly Bill A-2095 would remove the supervision and control of volunteer first aid squads from their respective municipalities to the New Jersey Department of Health and Senior Services; and

WHEREAS, New Jersey and more than 25 other states as well as the federal government require one (1) Emergency Medical Technician (EMT) along with one (1) other non-EMT to staff each ambulance. Senate Bill S-818 and Assembly Bill A-2095 will mandate each volunteer first aid squad to provide two (2) EMTs on each call; and

WHEREAS, the revisions contained in Senate Bill S-818 and Assembly Bill A2095 will result in a decline in the number of available volunteer ambulances in the EMS services and increase the financial burden on municipalities and volunteer first aid squads; and

WHEREAS, Senate Bill S-818 and Assembly Bill A-2095 place new and expanded rules, responsibilities and requirements on municipalities that will cause additional expense for municipalities without a funding source, thereby creating an unfunded mandate in violation of the New Jersey Constitution Article VIII, Section 2, Paragraph 5 and N.J.S.A. 52:13H-2; and

WHEREAS, The New Jersey State First Council has identified additional concerns that would adversely affect volunteer ambulance services and made them known to the bill's sponsors; and

WHEREAS, the study upon which these bills are based is reported to contain inaccurate and inconsistent information about the New Jersey EMS System.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Hardyston, in the County of Sussex, State of New Jersey, to oppose New Jersey Senate Bill 818 and New Jersey Assembly Bill A-2095; and be it further RESOLVED that the Township Clerk shall forward a certified copy of this Resolution to the following:

- (1.) The Honorable Chris Christie, Governor of the State of New Jersey
- (2.) The Honorable Stephen M. Sweeney, President, NJ State Senate
- (3.) The Honorable Sheila Y. Oliver, Speaker of the NJ General Assembly
- (4.) Assemblyman Herb Conaway
- (5.) Senator Joseph Vitale
- (6.) The 24th District Legislators
- (7.) Township Squad(s)
- (8.) Assembly Health and Senior Services Committee
- (9.) Senate Health, Human Services and Senior Services Committee

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

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E. Correspondence

1. Township of Wantage
2. Borough of Hamburg
3. Township of West Milford
4. Sandyston Township
5. Sussex County Municipal Utilities Authority
6. NJ State League of Municipalities
7. NJ State League of Municipalities
8. NJ State League of Municipalities
9. NJ State League of Municipalities
10. NJ State League of Municipalities
11. NJ State League of Municipalities
12. NJ State League of Municipalities
13. NJ State League of Municipalities
14. NJ State League of Municipalities
15. NJ State League of Municipalities
16. NJ State League of Municipalities
17. NJ State League of Municipalities
18. State of NJ
19. State of NJ
20. State of NJ
21. State of NJ
22. State of NJ
23. State of NJ
24. Bernd E. Hefe, Esq.
25. Kenneth A. Wentink
26. Laddey, Clark & Ryan, LLP

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

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

- Capital Projects

**BILLS TO BE PAID:** A motion was made by Ross 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. 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 7:35 p.m., seconded by Hamilton. All in favor. Motion carried.

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Jane Bakalarczyk, RMC/CMC  
Municipal Clerk