

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

The meeting was called to order by Mayor Kula 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 Miller, Councilwoman Hamilton, Councilman Kievit, Councilman Ross, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Fred Semrau.

SALUTE THE FLAG

CONSENT AGENDA: ALL MATTERS LISTED BELOW ARE CONSIDERED TO BE ROUTINE IN NATURE AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF ANY DISCUSSION IS DESIRED, THAT PARTICULAR ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED SEPARATELY.

Monthly Reports:

1. Municipal Clerk Report – August 2011
2. Tax Collector Report – August 2011
3. Construction Certificate Activity Report – August 2011
4. Construction Permit Activity Report – Hardyston – August 2011
5. Construction Permit Activity Report – Hamburg – August 2011
6. Construction Permit Activity Report – Franklin – August 2011
7. Construction Permit Activity Report – Newton – August 2011
8. Construction Permit Activity Report – Sussex – August 2011
9. Construction Department - 2011 Bi-annual Report
10. HTMUA – Minutes of 6/6/11
11. Zoning Officer Report – April 2011
12. Zoning Officer Report – May 2011
13. Zoning Officer Report – June 2011
14. Police Department Report – July 2011
15. Police Department Report – August 2011
16. Municipal Court Report – August 2011

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

ORDINANCES:

1st READING: 2011-14

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CERTAIN PORTIONS OF CHAPTER 88, FEES, OF THE REVISED GENERAL ORDINANCES TO INCLUDE FEES FOR RESUBMISSIONS, REAPPROVALS AND AMENDMENTS TO SITE PLANS AND GENERAL DEVELOPMENT PLANS, AND AMENDING THE REQUIREMENTS FOR MINIMUM ESCROW DEPOSITS

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 88-3, Land Use Fees, Subsection A. (3) of the aforesaid Revised General Ordinances is hereby amended to read as follows:

(3) Site plans - application fees.

(a) Preliminary site plan application: \$200 base fee plus \$10 per 100 square feet of proposed building space plus \$0.50 per 1,000 square feet of disturbed land area (including areas to be re-vegetated.).

(b) Final site plan application: 50% of preliminary site plan application fee.

(c) Resubmission, re-approval or substantial amendment to prior approval: \$2.50 per 100 square feet of the proposed total building space if any changes are proposed to buildings plus \$0.25 per 1,000 square feet of the land area to be disturbed based on the amendment (including areas to be re-vegetated.) Minimum application fee shall be \$500.00

(d) Minor Site Plans: \$100.00

SECTION 2. Chapter 88, Fees, Section 88-3, Land Use Fees, Subsection H. (1) (d) of the aforesaid Revised General Ordinances is hereby amended to read as follows:

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

(d) Escrow amounts for land disturbance. The escrow funds for review of applications involving land disturbance, but not site improvements or review of conceptual plans, shall be calculated as follows:

Area of Land Disturbance	Escrow Fund
Over 5,000 square feet	0.1 x area of disturbance
Concept Plan Review	\$500

(e) Minimum escrow deposits for land-use applications shall be as follows: follows:

		Minimum Escrow Deposit
Subdivision:		
Initial subdivision	Minor	\$1,000
	Preliminary	\$1,500
	Final	\$1,000
Amendment	Minor	\$500
	Preliminary	\$750
	Final	\$500
Site plan:		
Initial subdivision	Minor	\$1,000
	Preliminary	\$1,500
	Final	\$1,000
Amendment	Minor	\$500
	Preliminary	\$750
	Final	\$500
Conditional Use:		
Only		\$750
As part of another application		\$200
Variance:		
Only a, b, c, 35/36		\$700
As part of another application		\$200
Only "d" variance		
10 acres or less		\$1,000
More than 10 acres		\$1,500
As part of another application		
10 acres or less		\$250
More than 10 acres		\$400

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

SECTION 3. Chapter 88, Fees, Section 88-3, Land Use Fees, Subsection (N) of the aforesaid Revised General Ordinances is hereby amended to read as follows:

N. Application fee for General Development Plan and/or Master Plan/preliminary approval for planned developments.

(1) Fee shall be the total of the following:

- (a) Five dollars per acre of total project area.
- (b) Ten dollars per proposed residential unit.
- (c) Ten dollars per room for hotel or conference center development.
- (d) Five dollars per 100 square feet of nonresidential buildings, excluding hotels and conference centers.

(2) Fee for Amendments to the General Development Plan and/or Master Plan/preliminary approval for a planned development shall be the total of the following:

- (a) Two dollars and Fifty cents per acre of the additional area which would be disturbed based on the amendment.**
- (b) Five dollars for each residential unit in any residential or multi-use building being added, modified or eliminated from the approved plan**
- (c) Five dollars per room for hotels and conference center added, modified or eliminated from the approved plan.**
- (d) Two dollars and Fifty cents per 100 square feet of non-residential building or non-residential portion of a multi-use building being added modified or eliminated excluding hotels and conference centers.**

SECTION 4. 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 5. 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 6. This Ordinance may be renumbered for purposes of codification.

SECTION 7. 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 2011-14 on first reading, seconded by Kievit. All in favor. Motion carried.

ORDINANCES:

2nd READING:

2011-12

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF
NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 172, VEHICLES AND
TRAFFIC, ARTICLE II, PARKING, SECTION 172-13, STOPPING OR STANDING
PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS,
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 172, Vehicles and Traffic, Article II, Parking, Section 172-13, Stopping or Standing Prohibited During Certain Hours on Certain Streets, of the aforesaid Revised General Ordinances is hereby amended and supplemented to now read as follows:

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

§ 172-13. Stopping or Standing Prohibited During Certain Hours on Certain Streets.

No person shall park, stop or stand a vehicle between the hours specified on any day (except Sundays and public holidays) upon any of the streets or parts of streets described.

<u>Name of Street</u>	<u>Sides</u>	<u>Hours</u>	<u>Location</u>
North Church Road (County Route 631)	Both	All hours	From the border with Franklin Borough to the intersection With NJSH Route 94.
Grumm Road Route 673)	Both	All hours	From the intersection with (County Beaver Run Road (County Route 661) to the border with Wantage Township.

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 Kievit to approve Ordinance 2011-12 on second reading, seconded by Hamilton. All in favor. Motion carried

2011-13

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON PROVIDING FOR THE
PARK DRIVE FIRE PROTECTION SYSTEM INSTALLATION, APPROPRIATING
\$230,000 THEREFORE AND AUTHORIZING A SPECIAL ASSESSMENT FOR THE
COST THEREOF**

WHEREAS, certain properties within the vicinity of Park Drive have a need for an upgrade and repair of its fire protection system for the benefit of their respective properties; and

WHEREAS, water system improvements will support such an upgrade to the current fire protection system; and

WHEREAS, the Township of Hardyston seeks to facilitate the improvements by way of solely administering a special assessment for the total cost of the local improvements against those properties which will be specifically benefitted by said improvements; and

WHEREAS, the water system, once the improvements to same are completed, will be turned over to the Hardyston Township Municipal Utilities Authority.

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

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

SECTION 1. The improvement described in Section 2 of this ordinance is hereby authorized to be undertaken by the Township of Hardyston, New Jersey as a local improvement pursuant to N.J.S.A. 40:56-1. For the improvement or purpose described in Section 2 there is hereby appropriated the sum of \$230,000.00 from the Capital Improvement Fund or by bond.

SECTION 2. The Township of Hardyston shall install the necessary fire protection equipment and appurtenances for the health and safety of the benefitted properties located on or near Park Drive within the Township of Hardyston. Of the appropriated sum, approximately \$60,000.00 of the above referenced total cost shall be assessed and paid for by one (1) benefitted property owner, by way of separate agreement with the Township, with the remaining funding to be specifically assessed to the following properties as designated on the official Tax Maps of the Township of Hardyston.

<u>ADDRESS</u>	<u>BLOCK</u>	<u>LOT</u>
1 PARK DR	62	18.01
3 PARK DR	62	18.02
5 PARK DR	62	18.03
7 PARK DR	62	18.04
9 PARK DR	62	18.05
11 PARK DR	62	18.06
13 PARK DR	62	18.07
15 PARK DR	62	18.08
17 PARK DR	62	18.09
19 PARK DR	62	18.10
18 PARK DR	62	18.11
16 PARK DR	62	18.12
14 PARK DR	62	18.13
4 PARK DR	62	18.15
182 NORTH CHURCH RD	62	18.16
178 NORTH CHURCH RD	62	18.17
8 PARK DR	62	22.01
10 PARK DR	62	22.02
12 PARK DR	62	22.03

SECTION 3. Notice is hereby given to the owners of all lot and parcels of real estate benefitted by the improvement described in Section 2 hereof and affected by the improvement described therein that the Township of Hardyston intends to make and to levy special assessments against all such lots and parcels of real estate in an aggregate estimated amount of \$230,000.00. In no event, however, shall the amount assessed against each benefitted owner not exceed the benefit conferred.

SECTION 4. The owner of any land upon which an assessment for the local improvement shall have been made may pay such assessment in the number of equal yearly installments determined herein with legal interest on the unpaid balance of the assessment. The first of such installments shall be due and payable two months after the confirmation of the assessment, and each subsequent annual installment and interest shall be payable in each successive year at such time as the governing body shall determine by resolution provided that any owner of land so assessed shall have the privilege of paying the whole of any assessment or any balance of installments with accrued interest thereon at one time. In case any such installment shall remain unpaid for thirty (30) days after the time it shall become due and payable, the whole assessment or the balance thereof shall become due and payable, and be immediately due and payable, shall draw interest at the rate imposed upon the arrearage of taxes in the Township and shall be collected in the same manner as provided by law for the other past due assessments. Such assessment shall remain a lien upon the land described herein until the assessment with all installments and accrued interest thereon, shall be paid and satisfied. Notwithstanding, anything herein to the contrary, the Township shall have the right to waive default as may be permitted by law.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON SEPTEMBER 20, 2011

SECTION 5. The number of annual installments within which the special assessment are to be levied on the lots and parcels of real estate benefited by the improvements is ten (10) years.

SECTION 6. This ordinance shall take effect upon final passage and publication, according to law.

Township Attorney stated that a letter with a copy of the ordinance was mailed to each property owner listed on the ordinance via regular mail and certified mail. 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 Kievit to make a minor amendment to Ordinance 2011-13, deleting the property listed as Block 62, Lot 17, 200 North Church Road which was included in error, seconded by Hamilton. All in favor. Motion carried. A motion was made by Kievit to approve Ordinance 2011-13 on second reading, seconded by Hamilton. All in favor. Motion carried.

NEW BUSINESS:

- A. Resolution #67-11 – Bond Resolution providing for the sale and issuance of General Obligation General Improvement Bonds of the Township in the principal amount not to exceed \$1,425,000 and determining the form and other details of such bonds authorized in and by the Township of Hardyston, in the County of Sussex, New Jersey

BOND RESOLUTION #67-11

BOND RESOLUTION PROVIDING FOR THE SALE AND ISSUANCE OF GENERAL OBLIGATION GENERAL IMPROVEMENT BONDS OF THE TOWNSHIP IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$1,425,000 AND DETERMINING THE FORM AND OTHER DETAILS OF SUCH BONDS AUTHORIZED IN AND BY THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY.

WHEREAS, the Township Council (the “Council”) of the Township of Hardyston, County of Sussex, New Jersey (the “Township”) has deemed it in the best interests of the Township to authorize and issue bonds to finance various capital improvement projects.

NOW THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AS FOLLOWS:

Section 1. Authorization for the Bonds. Pursuant to the provisions of the Local Bond Law, N.J.S.A. 40A:2-1, *et seq.* (the “Local Bond Law”), specifically including N.J.S.A 40A:2-26(f)and N.J.S.A. 40A:2-27 and in lieu of the issuance of more than one (1) issue of bonds, the issuance of not to exceed \$1,425,000 of General Obligation General Improvement Bonds (the “Bonds”), authorized by the Bond Ordinances (the “Ordinance”) set forth in Section 2 shall be combined into one (1) issue of bonds as hereinafter set forth.

Section 2. Projects to be funded. The Bonds are authorized to be issued pursuant to the Ordinance and for the following purposes:

Ordinance No. And dated of Adoption	Authorized Amount	Bonds to be Issued	Purpose
Bond Ordinance No. 2009-03 adopted February 17, 2009, as amended and supplemented by Bond Ordinance No. 2010-16, adopted October 19, 2010.	\$1,425,000	\$1,425,000	Various General Improvements

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON SEPTEMBER 20, 2011

Section 3. Details of the Bonds The terms of the Bonds shall be and are more particularly described as follows:

- Dated: December 1, 2011
- Interest Payments Dates: December 1 and June 1
- Record Date: November 15 and May 15
- Registrar & Paying Agent: Chief Financial Officer, or as designated by subsequent resolution.
Officers to Execute Bonds: Mayor and Chief Financial Officer, or their authorized deputies.
- Attesting Officer: Township Clerk, Deputy Clerk or Acting Clerk.

The Bonds will be titled “General Obligation General Improvement Bonds, Series 2011” and will be dated December 1, 2011, with interest payable semiannually on December 1 and June 1 in each year (the “Interest Payment Dates”) until maturity, commencing December 1, 2012. The Bonds shall mature on December 1 in each year in the principal amounts (subject to modification by the Chief Financial Officer consistent with the Notice of Sale and the accepted bid) as follows:

GENERAL OBLIGATION GENERAL IMPROVEMENT BONDS, SERIES 2011

<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>
2012	\$100,000
2013	\$100,000
2014	\$100,000
2015	\$100,000
2016	\$100,000
2017	\$100,000
2018	\$100,000
2019	\$100,000
2020	\$100,000
2021	\$100,000
2022	\$100,000
2023	\$125,000
2024	\$200,000

The Bonds will be issued in fully registered book-entry form, without coupons, in denominations of \$5,000 or any integral multiple thereof or such other denomination as is determined by the Township’s Chief Financial Officer (the “Financial Officer”). The Bonds shall be payable in lawful money of the United States of America, shall be executed by the manual or facsimile signatures of the Mayor and the Financial Officer or other financial officer, or acting Financial Officer under the official seal, affixed, imprinted or reproduced thereon and attested to by the manual or facsimile signature of the Township Clerk, Deputy Clerk or Acting Clerk, and the Bonds shall be authenticated by the manual signature of an Authorized Officer of the Registrar of the Bonds, as required and directed by the Financial Officer in accordance with law.

REDEMPTION

The Bonds **will not** be subject to optional redemption prior to maturity.

The Bonds may be subject to Mandatory Sinking Fund Redemption of any principal amounts aggregated by a bidder in accordance with N.J.S.A. 40A:2-32(g). A bidder may aggregate consecutive principal maturities of the Bonds, for which such bidder bids the same interest rate, into term Bonds. Each such term Bond shall mature on the final maturity date of its consecutive maturities in an aggregate principal amount equal to the sum of the principal amounts of its consecutive maturities. Such term Bonds will be subject to mandatory sinking fund redemption at one hundred percent (100%) of the principal amount thereof, together with accrued interest to the date fixed for such redemption, in the amounts and on the dates that would have been consecutive serial maturities had no term Bond designation been made. Notice of redemption shall be given as provided herein.

If the Township determines to redeem a portion of the Bonds prior to maturity, such Bonds shall be selected in any order of maturity and by lot within a maturity by the Chief Financial Officer or his designee. So long as the Bonds are in Book-Entry form in the DTC

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

System, the portion of such Bonds to be redeemed shall be selected in a manner consistent with DTC practice.

Unless waived by any owner of Bonds to be redeemed, official notice of any such redemption shall be given by the Registrar on behalf of the Township by mailing a copy of an official redemption notice by registered or certified mail at least thirty (30) days and not more than sixty (60) days prior to the date fixed for redemption to the registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Registrar.

All official notices of redemption shall be dated and shall state: (i)the redemption date; (ii)the Redemption Price; (iii)the CUSIP numbers of all Bonds being redeemed; (iv)the maturity date of each Bond being redeemed; (v)the original issue date of the Bonds;(vi) the rate of interest borne by each Bond being redeemed; (vii)if less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed; (viii)any other descriptive information needed to identify accurately the Bonds being redeemed; (ix)that on the redemption date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date; and (x)the place where such Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal corporate trust office of the Paying Agent.

Prior to any redemption date, the Township shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds which are to be redeemed on that date. Upon the payment of the Redemption Price of the Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the Redemption Price therein specified, and from and after such date(unless the Township shall default in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Paying Agent at the Redemption Price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal or there shall be made an appropriate notation on the Bond certificate indicating the date and amounts of such reduction in principal, except in case of final maturity.

In addition to the foregoing notice, further notice shall be given by the Registrar on behalf of the Township as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

1. Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption.
2. Each further notice of redemption shall be sent at least 30 days prior to the redemption date by registered or certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds (such depositories now being The Depository Trust Company of New York, New York; Midwest Securities Trust Company of Chicago, Illinois; Pacific Securities Depository Trust Company of San Francisco, California; and Philadelphia Depository Trust Company of Philadelphia, Pennsylvania) and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

So long as the Bonds are in Book-Entry form in the DTC System, the notice of redemption shall be given in a manner consistent with DTC practice.

If Notice of Redemption has been given as provided herein, the Bonds or the portion thereof

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON SEPTEMBER 20, 2011

called for redemption shall be due and payable on the date fixed for redemption at the redemption price, together with accrued interest to the date fixed for redemption. Payment shall be made upon surrender of the Bonds redeemed.

INTEREST & PRINCIPAL

The Bonds will bear interest at the rate or rates determined upon their sale in accordance with the official Notice of Sale at a single rate per annum expressed in a multiple of one-eighth (1/8th) or one-twentieth (1/20th) of one percent (1%). Interest on the Bonds is payable by check, draft or wire transfer mailed, transmitted or delivered on the Interest Payment Dates to the registered owners thereof as of the first day of the month in which an Interest Payment Date occurs (the "Record Dates") at his or her address as shown on the registration books (the "Bond Register") of the Township kept for that purpose at the principal corporate trust office of the Registrar for the Bonds. The Bonds as to principal, when due, will be payable at the principal corporate trust office of the Paying Agent upon presentation and surrender of the Bonds.

So long as the Bonds are in Book-Entry form in the DTC System, interest will be paid on the Interest Payment Dates by payment of money to The Depository Trust Company or its authorized nominee. The Depository Trust Company will credit payments of principal of and interest on the Bonds to the participants of The Depository Trust Company as listed on the records of The Depository Trust Company.

Transfer

The Bonds are transferable only upon the Bond Register, by the registered owner in person or by his attorney duly authorized in writing, upon surrender of a Bond with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney and upon the payment of any tax, fee, governmental or administrative charge or expense. Upon surrender for transfer of a Bond, the Registrar shall issue in the name of the transferee, a bond or bonds equal in aggregate principal amount to the Bond so surrendered for transfer. The Township, Registrar and Paying Agent may deem and treat the person in whose name a Bond is registered as the absolute owner thereof for the purpose of such person receiving payment of the principal and interest due thereon, and for all other purposes whatsoever.

Section 4. Additional Matters. The following additional matters are hereby determined, declared, recited and stated:

- (a) The Bonds described in Sections 1 and 2 hereof have not been heretofore sold or issued and the Ordinances described in Section 1 have not been rescinded and now remain in full force and effect as authorization for the aggregate principal amount of the Bonds.
- (b) The purposes for which the Bonds described in Sections 1 and 2 hereof have been authorized to be issued are purposes for which bonds may lawfully be issued pursuant to the Local Bond Law.
- (c) All Bonds issued hereunder, except to the extent otherwise specifically set forth herein, shall bear interest at such rate and shall mature in such principal amounts and at such times as may be determined by the Financial Officer or as such rates shall be determined by receipt and acceptance of bids from potential purchasers by the Financial Officer as hereinafter provided.
- (d) The Bonds shall be sold and issued in accordance with the provisions of the Local Bond Law, N.J.S.A. 40A:2-1, et seq., applicable to the sale and issuance of multiple issues of bonds and accordingly may be sold with other issues of bonds.
- (e) The Bonds of this issue shall mature at a period within the average period of usefulness for all bonds authorized by the Ordinance set forth herein, taking into consideration the respective amount of bonds authorized by the Ordinance and the period or average period of usefulness therein determined. Said average period of usefulness for the Bonds is hereby determined to be 13.33 years.
- (f) If any Bond is mutilated, destroyed, lost or stolen and replaced in accordance with the

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON SEPTEMBER 20, 2011

Local Bond Law, including specifically N.J.S.A. 40A:2-36, the owner thereof shall be responsible for all costs incurred in connection with the replacement thereof, including legal, printing and other related costs.

Section 5. The Depository Trust Company. The Bonds shall be made eligible for The Depository Trust Company (“DTC”) Book-Entry-Only System. The appropriate Township officials are hereby authorized and directed to execute the appropriate Letter of Representation to DTC, and to take such action and execute such other documents consistent herewith as is necessary to qualify the Bonds as eligible for the DTC Book-Entry-Only System. The terms of the Letter of Representations are hereby agreed to and approved.

The Financial Officer is authorized to withdraw the Bonds from the DTC Book-Entry-Only System and qualify the Bonds for another book-entry-only system. In the event the Bonds are withdrawn from the DTC Book-Entry-Only System and are not transferred to another book-entry-only system, the Bonds shall become certificated bonds. The “Beneficial Owners” (i.e., the actual individual purchasers of the Bonds with ownership interests as evidenced on the records of their broker-dealer or other DTC Participant) of the Bonds shall be entitled to become registered owners upon submission to the Registrar proof of ownership interest, payment of all applicable fees and expenses, and the approval thereof by the Registrar, who shall be responsible and is directed to issue bond certificates representing such ownership interests and reflecting terms identical to the Bonds as of the original issue date.

Section 6. Additional Covenants. The Township hereby covenants, to the extent permitted by the Constitution and laws of the State of New Jersey and to the extent that such action is within the control of the Township, that it will comply with the provisions of the Internal Revenue Code of 1986, as amended (the “Code”) relating to the preservation of the exclusion from gross income of interest on the Bonds for Federal income tax purposes and Code provisions relating to the deductibility of related interest expenses of affected financial institutions, including any continuing requirements of the Code and including, but not limited to, the following specific matters:

(a) Private Activity Bonds. No bonds issued hereunder shall be “private activity bonds” within the meaning of Section 141 of the Code in that, among other requirements, no more than 10% of the proceeds of the Bonds are to be used for any private business use, or repayment of more than 10% of the proceeds is secured by property used for a private business use nor shall any loan from the proceeds be made to any persons other than governmental units.

(b) All Lawful Action. To take all lawful action within the Township’s control and which is necessary under the Code to ensure that interest on the Bonds will remain excluded from the gross income of the recipients thereof for Federal income tax purposes and to refrain from taking any action that would cause interest on the Bonds to become included in such gross income.

(c) Bank Eligibility. For the purposes of meeting the requirements of Section 265(b)(3) of the Code, the Township reasonably expects to limit the issuance of its obligations to an aggregate face amount not to exceed \$10,000,000 for the calendar year 2011 (excluding refundings), including in said amount the obligations of any “subordinate entities” of the Township, as the term is used in the Code.

Section 7. Security for the Bonds. Any Bond issued pursuant to this Resolution shall be a general obligation of the Township, and the Township’s full faith and credit are hereby pledged to the punctual payment of the principal of and the interest on the Bonds and, unless otherwise paid or payment provided for, an amount sufficient for such payment shall be inserted in the budget and a tax sufficient to provide for the payment thereof shall be levied and collected.

Section 8. Form of the Bonds. The Bonds shall be in substantially the form as provided in Attachment “A”, subject to such modifications as are approved in the reasonable discretion of the Financial Officer in consultation with Bond Counsel, and consistent with applicable law.

Section 9. Sale of the Bonds. The Bonds shall be sold upon sealed proposals on November 10, 2011 or such other date and time as the Financial Officer in his reasonable discretion shall

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON SEPTEMBER 20, 2011

select. All proposals are to be received by the Financial Officer until 11:00 a.m., prevailing time on said date, or by and ELECTRONIC PROPOSALS received via Grant Street Group's MuniAuction Website ("MuniAuction"), in a closed auction, from 10:45 a.m. to 11:00 a.m., local time, and the opening of the sealed proposals by the Financial Officer shall occur at said time in his office at the Municipal Building, Hardyston, New Jersey. An award will be made by the Financial Officer on said date, with no withdrawals of bids allowed until 11:30 p.m., prevailing time on said date and only if such award has not been made prior to the withdrawal.

Section 10. Notice of Sale. The Notices of Sale of the Bonds, attached hereto as Attachment B is hereby approved as to both form and content, subject to such modification as are approved in the reasonable discretion of the Financial Officer and consistent with applicable law, and the Township Clerk is hereby authorized and directed to publish the Notice of Sale in the official local newspaper of the Township and a summary of same in the Daily or Weekly Bond Buyer, a financial newspaper published and circulating in the Township of New York, State of New York, the first publication to be not less than seven (7) days prior to the date of sale, all in consultation with Bond Counsel and in accordance with the Local Bond Law. The terms of the final form of the Notice of Sale are incorporated herein and made a part hereof.

Section 11. Preliminary Official Statement. The Official Statement to be prepared in preliminary form in connection with the sale of the Bonds is hereby approved and is further authorized to be prepared in final form, with such modifications as are approved in the reasonable discretion of the Financial Officer, in accordance with law, with copies to be made available to the purchasers of the Bonds at such time as the Financial Officer shall determine, in accordance with law.

Section 12. Delegation of Authority. Except as otherwise provided herein, the Financial Officer is hereby authorized and directed to sell and award the Bonds in accordance with the advertised terms of public sale and to make such modifications to said terms, except for increasing the total principal amount of Bonds authorized, as is consistent with the Local Bond Law, and pursuant to the advice of Bond Counsel, and to determine all matters in connection with the Bonds not determined by this or a prior or subsequent resolution, including the determination and selection of printers of the Bonds and the Official Statement, all in consultation with Bond Counsel, and the manual or facsimile signature of the Financial Officer upon the Bonds shall be conclusive as to such determinations. The Financial Officer is further authorized to sign the Official Statement on behalf of the Township in as many counterparts as are needed for the Closing and delivery of the Bonds. The Financial Officer and the Township Clerk are hereby authorized and directed to execute and deliver such documents as are necessary for the issuance and delivery of Bonds and to take such actions or refrain from such actions as are necessary for the issuance of the Bonds, in consultation with Bond Counsel.

Section 13. Authorization of Officials. The appropriate officials of the Township are hereby authorized and directed to execute the Bonds and such certificates and closing documents as are needed for the Closing and delivery of the Bonds, and to deliver same to the purchasers and other parties to the issuance of the Bonds upon receipt of payment therefor in accordance with this Resolution.

Section 14. Closing and Delivery of the Bonds. The Township shall cause the Bonds to be prepared and made ready for delivery on the Closing Date, which shall within 30 days after the date of sale of the bonds or at such other time as agreed to by the Financial Officer. The delivery of and payment for the Bonds shall take place at the offices of Law Office Of John G. Hudak, Esq., LLC., Bond Counsel, or at such other place as is agreed to by the Financial Officer. At the Closing, the Township will deliver the Bonds to the purchaser in definitive or temporary form duly executed and authenticated, together with the other required documents and, subject to the terms and conditions hereof, the purchaser will accept such delivery and pay the aggregate purchase price of the Bonds in immediately available funds.

Section 15. Report on the Bonds. The Financial Officer is hereby directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any action relating to the sale or delivery of the Bonds pursuant to this resolution has occurred. After the sale of Bonds, such report shall include the principal amount, description, interest rate and maturities of the Bonds sold, the price obtained and the name of the purchaser.

Section 16. Legal Opinion on the Bonds. At the discretion of the Financial Officer, upon

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

advice of Bond Counsel, the Bonds may have printed thereon a copy of the written opinion (complete except for omission of the date) with respect to the Bonds which is to be rendered by the firm of Law Office Of John G. Hudak, Esq., LLC, Linden, New Jersey, Bond Counsel to the Township. The Township Clerk is hereby authorized and directed to certify to the correctness of the copy of such opinion by executing, by manual or facsimile signature, a certificate on each of the Bonds, in form satisfactory to said firm, and to file a signed duplicate of such written opinion in said Clerk's Office.

Section 17. Appointment of Auditor. Ferraioli, Wilcotz, Cirillo & Cuva is hereby appointed and reappointed as Auditor to the Township for the purpose of the issuance of the Bonds and is hereby authorized to do all things necessary to accomplish the issuance of the Bonds.

Section 18. Appointment of Bond Counsel. John G. Hudak, of the law firm of Law Office Of John G. Hudak, Esq., LLC, Linden, New Jersey, is hereby appointed and reappointed as Bond Counsel to the Township for the issuance of the Bonds and is hereby authorized to do all things necessary to accomplish the issuance of the Bonds.

Section 19. Appointment of Registrar & Paying Agent. The Registrar and Paying Agent for the Bonds, if other than the Chief Financial Officer, shall be appointed under separate resolution.

Section 20. Continuing Disclosure. The Township covenants and agrees that it will comply with and carry out the provisions of the Continuing Disclosure Certificate to be provided at the closing of the sale of the Bonds. The appropriate Township official is hereby authorized to execute the Continuing Disclosure Certificate.

Notwithstanding any other provisions of this Resolution, failure of the Township to comply with the Continuing Disclosure Certificate shall not be considered an event of default, however, any Bondholder may, at the Bondholder's own cost and expense, take such action as may be necessary and appropriate, including seeking mandate or specific performance by Court Order, to cause the Township to comply with its obligations under this Section.

"Continuing Disclosure Certificate" shall mean that certain Continuing Disclosure Certificate executed by an authorized official of the Township, and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

Nothing herein shall be deemed to create an obligation or duty upon any member of the governing body or any official of the Township, individually, and failure of the Township to comply with the covenant herein shall not result in any liability to any such person under this Resolution. In addition, the Township's failure to comply with this covenant shall not give rise to any claim for damages under this Resolution, and any Bondholders sole and exclusive remedy shall be to seek specific performance of this provision.

Section 21. Repealer. To the extent that any previous resolution is inconsistent with or contradictory hereto, said resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 22. Effective Date. This resolution shall take effect immediately.

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

B. Resolution #68-11 – 2010 Audit Resolution

FORM OF RESOLUTION #68-11

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

WHEREAS, the Annual Report of Audit for the year 2010 has been filed by a Registered Municipal Accountant with the *Municipal Clerk* pursuant to N.J.S.A. 40A: 5-6, and a copy has been received by each member of the governing body; and

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

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

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

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

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

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

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

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

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

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

- C. Resolution #69-11 – Person-to-Person Liquor License Transfer – Jackelise, Inc. (Swing-In) to RBAA, LLC (Pocket License)

RESOLUTION #69-11

PERSON-TO-PERSON LIQUOR LICENSE TRANSFER

WHEREAS, an application has been filed for a person to person, transfer of Plenary Retail Distribution License 1911-44-003-008, heretofore issued to Jackelise for premises located at 3206 Route 94 in the Township of Hardyston.

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid;

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33;

WHEREAS, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the license business;

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Township of Hardyston does hereby approve, effective September 20, 2011 the transfer of the aforesaid Plenary Retail Distribution License to RBAA, LLC and does hereby direct the Township Clerk to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to RBAA, LLC effective September 20, 2011".

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

- D. Resolution #70-11 – Tower site license agreement – American Tower Asset Sub, LLC

RESOLUTION #70-11

**RESOLUTION AUTHORIZING THE EXECUTION OF THE FOLLOWING
CONTRACTS/AGREEMENTS**

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

- 1. American Tower Asset Sub, LLC – Tower Site License Agreement

A motion was made by Ross to approve the above resolution subject to Township Attorney review, seconded by Hamilton. All in favor. Motion carried.

- E. Resolution #71-11 – HTMUA – Indian Field Water Tower Lease Agreement

RESOLUTION #71-11

**RESOLUTION AUTHORIZING THE EXECUTION OF THE FOLLOWING
CONTRACTS/AGREEMENTS**

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

- 1. HTMUA – Indian Field Water Tower Lease Agreement

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

- F. Correspondence

- 1. Township of Vernon
- 2. Hampton Township
- 3. Hampton Township
- 4. Borough of Hamburg
- 5. Branchville Borough
- 6. County of Sussex
- 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. NJ State League of Municipalities
- 19. State of NJ

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

20. State of NJ
21. State of NJ
22. State of NJ
23. State of NJ
24. State of NJ
25. State of NJ
26. GreenVest
27. Ames Rubber Corporation
28. JCP&L
29. DASI

A motion was made by Ross to approve the correspondence as presented with the exception of #12, #19 and #29, seconded by Kievit. All in favor. Motion carried.

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

- Highlands Plan Conformance – Township Manager stated that the Township formally received its certification of Highlands Plan Conformance on September 15, 2011. She stated that Carrine Kaufer, Assistant Planner, will continue to work on what needs to be done to meet the conditions of the plan approval. She stated that the cost of work associated with completing the additional modules will be reimbursed through grants from the NJDEP.
- Viaduct Bridge Construction – Township Manager stated that Township officials and Councilman Ross and Deputy Mayor Miller attended a meeting with representatives from the County last week relative to the viaduct bridge in Franklin Borough. She stated that County officials will be preparing to make a formal presentation relative to scaling back the project to include the reconstruction of the bridge, minus the construction of a temporary structure that would have been utilized during construction. She stated that due to the vast and unexpected repairs that will need to be made to dozens of bridges throughout the County as a result of Hurricane Irene, the County has had to modify its plan in order to meet their financial constraints. She stated that it is anticipated that construction would begin on the bridge sometime next summer and take approximately 9 months to complete. She also stated that the bridge will be closed during construction.
- FEMA Reimbursement – Township Manager stated that Bill Hickerson, OEM Coordinator, has attended various mandatory meetings relative to public entity reimbursement for expenses relating to the hurricane. She stated that he and various department heads have compiled information relative to the Township's extraordinary costs incurred as a result of the hurricane and that he will be working with FEMA to submit our application for reimbursement.
- Mid-Year Report – Township Manager stated that a full report will be presented to the Council at the September 27, 2011 meeting.
- Verizon Tax Appeal – Township Manager stated that Verizon has been appealing their taxes in a number of municipalities claiming that they do not provide service to at least 51% of the municipalities population, which apparently is a requirement for taxes to be imposed on the entity. She stated that they recently expanded their list to include 31 other municipalities and Hardyston is on the list. She stated that this will be reviewed by the Township Attorney and the Tax Assessor.
- Bonding – Township Manager stated that part of the process to permanently bond the balance of the Township's short term debt will include seeking a current bond rating from an appropriate rating agency and she will be working closely with the Township Auditor and Bond Counsel to prepare a report to be provided to the rating agency.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

- In Rem Foreclosures – Township Manager stated that she is working closely with the Township Attorney to complete the necessary work to enable the Township to have an auction of all properties recently acquired through in rem foreclosure. She stated that the goal is to have the auction completed prior to the close of 2011.
- Tax Sale – Township Manager stated that the Municipal Tax Sale is scheduled to be held on Wednesday, September 28, 2011 at 10:00 a.m. at the Franklin Borough Municipal Building.

BILLS TO BE PAID: A motion was made by Ross to approve the bill list as presented, seconded by Kievit. All in favor. Motion carried.

PUBLIC PORTION: A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. Frank Gelewski of North Church Gravel asked the Council how it would be determined as to what each property owner would pay toward the upgrade of the water system on Park Drive. Township Attorney stated that it would be determined by the assessment of the improvements made by the Tax Assessor. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

EXECUTIVE SESSION:

BE IT RESOLVED by the Township Council of the Township of Hardyston on the 20th day of September, 2011, that:

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

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 20, 2011**

Motion to adopt: Kievit
Seconded by: Hamilton

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

Motion carried.

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

ADJOURNMENT: A motion was made by Ross to adjourn at approximately 8:15p.m.,
seconded by Hamilton. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk