

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
DECEMBER 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 and Clerk Jane Bakalarczyk.

**SALUTE THE FLAG**

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

**Monthly Reports:**

1. Municipal Clerk Report – November 2011
2. Tax Collector Report – November 2011
3. Construction Certificate Activity Report – November 2011
4. Construction Permit Activity Report – Hardyston – November 2011
5. Construction Permit Activity Report – Hamburg – November 2011
6. Construction Permit Activity Report – Franklin – November 2011
7. Construction Permit Activity Report – Newton – November 2011
8. Construction Permit Activity Report – Sussex – November 2011
9. HTMUA – Minutes of 11/7/11
10. Police Department Report – November 2011
11. Municipal Court Report – November 2011

**Minutes:**

1. Workshop Minutes of 12/6/11
2. Regular Minutes of 12/6/11
3. Executive Minutes of 12/6/11

**Agreements/Applications/Licenses:**

1. Raffle – High Point Regional High School Booster Club

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

**ORDINANCES:**

**1<sup>st</sup> READING:** **None**

**ORDINANCES:**

**2<sup>nd</sup> READING:** **None**

**NEW BUSINESS:**

A. Tax Collector Resolutions

1. Resolution #87-11 – Cancel municipal portion of tax for remainder of 2011 for Block 67.25, Lot 3 and Block 67.24, Lot 15, 7 Crestmont Court and 8 Mulberry Lane

**RESOLUTION # 87-11**

WHEREAS, Block 67.25 Lot 3 and Block 67.24 Lot 15, 7 Crestmont Court and 8 Mulberry Lane were purchased by the Township of Hardyston on March 4, 2011 with Affordable Housing Trust fund money, and

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

WHEREAS, Sussex Bank paid the first quarterly taxes, now the municipal portion of tax for 9 months needs to be cancelled from record,

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to cancel the municipal portion of tax for the remainder of 2011 in the amounts of 995.40 and 896.28 for a total of \$ 1,891.68.

2. Resolution #88-11 – Overpayment Refund – Block 72, Lot 22.01, 53 Franek Road

**RESOLUTION # 88-11**

WHEREAS, Block 72 Lot 22.01 owned by Joseph & Evelyn Franek also known as 53 Franek Road, and

WHEREAS, the Tax Assessor has determined that this parcel should have been classified as Farmland Assessed for 2011,

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund Joseph and Evelyn Franek \$ 704.05 for taxes overpaid on the farmland assessed parcel.

3. Resolution #89-11 – Refund for Veteran Deduction – Block 67.07, Lot 1.39, 2 Sweet Water Lane

**RESOLUTION # 89-11**

WHEREAS, Block 67.07 Lot 1.39 owned by John Ratzler also known as 2 Sweet Water Lane, and

WHEREAS, on April 26, 2011 Mr. Ratzler was approved for a permanently disabled Veteran and has full exempt status, thru the Department of Veteran Affairs, and

WHEREAS, Mr. Scott Holzhauer Tax Assessor for Hardyston Township has approved this exemption for 2012 with refunding for tax payments made in 2011.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund John Ratzler the amount of \$ 3,294.15 for 8 months of 2011 paid.

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

- B. Resolution #90-11 – Resolution adopting changes to an existing Deferred Compensation Plan (VALIC) pursuant to the final Internal Revenue Code Section 415 Regulations, Pension Protection Act of 2006, The Heroes Earnings Assistance and Relief Tax Act of 2008 and the Worker, Retiree and Employer Recovery Act of 2008

**RESOLUTION #90-11**

**RESOLUTION OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY, FOR ADOPTING CHANGES TO AN EXISTING DEFERRED COMPENSATION PLAN PURSUANT TO THE FINAL INTERNAL REVENUE CODE SECTION 415 REGULATIONS, PENSION PROTECTION ACT OF 2006, THE HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008, AND THE WORKER, RETIREE AND EMPLOYER RECOVERY ACT OF 2008**

WHEREAS, the Township of Hardyston by resolution adopted a Deferred Compensation Plan (hereinafter referred to as the “Plan”) effective October 7, 1994, for the

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

purpose of making available to eligible employees the accrual of tax benefits under a Section 457 Deferred Compensation Plan; and

**WHEREAS**, the Township of Hardyston by resolution retained the Variable Annuity Life Insurance Company (“VALIC”) as the contractor under the Deferred Compensation Plan and executed a Service Agreement with said contractor; and

**WHEREAS**, the final Internal Revenue Code (“Code”) Section 415 regulations, Pension Protection Act of 2006 (“PPA”), the Heroes Earnings Assistance & Relief Tax Act of 2008 (the HEART Act) and the Worker, Retiree and Employer Recovery Act of 2008 (“WRERA”) amended Section 457 of the Code; and

**WHEREAS**, State and local governmental Section 457(b) plan sponsors must amend their plans to comply with the PPA legislative changes by the last day of the 2011 plan year; and

**WHEREAS**, the Township of Hardyston desires its plan to conform with the changes in the Code; and

**WHEREAS**, the Township of Hardyston desires to adopt an amended and restated Plan that conforms with the changes in the Code; and

**WHEREAS**, such amended and restated Plan shall supersede the previously adopted Plan.

**NOW, THEREFORE BE IT RESOLVED** that the Township of Hardyston does hereby adopt the amended and restated Plan prepared by VALIC and assigned Plan Document Identifier 81-PD-VALIC-103111 by the Director of the Division of Local Government Services; and

**BE IT FURTHER RESOLVED** that the Municipal Clerk of the Township of Hardyston shall forward a certified copy of this resolution to the Director of the Division of Local Government Services, Department of Community Affairs, P.O. Box 800, Trenton, NJ 08625-0800.

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

C. Resolution #91-11 – 2011 Budget Transfers

**Township of Hardyston  
Resolution #91-11**

Now, Therefore be it resolved by the Mayor and Council of the Township of Hardyston, State of New Jersey, That the following 2011 Budget Appropriation transfers be authorized:

Transfer To:		Transfer From:	
Administration OE	4,500.00	Admin Office Supply OE	4,500.00
Administration OE	6,250.00	Zoning S&W	6,250.00
Administration OE	1,250.00	Legal	1,250.00
Election OE	100.00	Construction S&W	100.00
Tax Assessment S&W	2,300.00	Land Use S&W	2,300.00
Workers Comp Ins.	9,750.00	Legal	9,750.00
Police S&W	23,000.00	Police OE	23,000.00
Police S&W	11,400.00	Zoning S&W	11,400.00
Police S&W	9,500.00	Purchase of Police Car	9,500.00
Communication S&W	2,246.00	Police Uniforms OE	2,246.00
Communication S&W	5,575.00	Communication OE	5,575.00
Communication S&W	7,800.00	Construction S&W	7,800.00
Communication S&W	8,750.00	Legal	8,750.00

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

Communication S&W	5,229.00	Land Use S&W	5,229.00
Communication S&W	3,500.00	Land Use OE	3,500.00
Uniform Fire Safety	1,200.00	Land Use S&W	1,200.00
Building & Grounds OE	10,000.00	Solid Waste Collection OE	10,000.00
Streets & Roads OE	20,000.00	Streets & Roads S&W	20,000.00
Equipment Repairs OE	7,394.00	Streets & Roads S&W	7,394.00
Equipment Repairs OE	1,500.00	Solid Waste Collection OE	1,500.00
Equipment Repairs OE	2,400.00	Land Use S&W	2,400.00
Equipment Repairs OE	1,706.00	Land Use OE	1,706.00
Electric	4,559.40	Aid to First Aid Squad	4,559.40
Diesel Fuel	14,000.00	Natural Gas	14,000.00
Diesel Fuel	7,000.00	Fuel Oil	7,000.00
Diesel Fuel	2,000.00	Gasoline	2,000.00
Total	172,909.40	Total	172,909.40

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

- D. Resolution #92-11 – Resolution to authorize settlement of tax appeal for Block 60, Lot 8

**RESOLUTION #92-11**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON,  
COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO AUTHORIZE SETTLEMENT OF  
TAX APPEAL FOR BLOCK 60, LOT 8**

---

**WHEREAS**, a tax appeal was filed by Skylands Ownership Group for the tax year 2010 for property known as Block 60, Lot 8 and commonly known as 2765 Route 23, Hardyston, New Jersey; and

**WHEREAS**, settlement of the appeal is in the best interest of the Township.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Hardyston, in the County of Sussex and State of New Jersey, that the settlement of the above referenced tax appeal filed at the Tax Court of New Jersey is hereby authorized as follows:

Skylands Ownership Group  
2765 Route 23  
Block 60, Lot 8

Tax Year	Original Assessment	Proposed Assessment
2010	\$8,071,500.	\$7,571,500.

**BE IT FURTHER RESOLVED**, that the municipal officials are hereby authorized to take whatever actions may be necessary to implement the terms of this Resolution.

This Resolution shall take effect immediately.

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

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

- E. Resolution #93-11 – Resolution to authorize settlement of tax appeal for Block 63, Lot 1.02

**RESOLUTION #93-11**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON,  
COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO AUTHORIZE SETTLEMENT OF  
TAX APPEAL FOR BLOCK 63, LOT 1.02**

---

**WHEREAS**, a tax appeal was filed by Storage Solutions, Inc. for the tax years 2009 and 2010 for property known as Block 63, Lot 1.02 and commonly known as 3490 Route 94, Hardyston, New Jersey; and

**WHEREAS**, settlement of the appeal is in the best interest of the Township.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Hardyston, in the County of Sussex and State of New Jersey, that the settlement of the above referenced tax appeal filed at the Tax Court of New Jersey is hereby authorized as follows:

Storage Solutions, Inc.  
3490 Route 94  
Block 63, Lot 1.02

Tax Year	Original Assessment	Proposed Assessment
2009	\$1,391,400.	\$1,290,000.
2010	\$2,408,900.	\$2,300,000.

**BE IT FURTHER RESOLVED**, that the municipal officials are hereby authorized to take whatever actions may be necessary to implement the terms of this Resolution.

This Resolution shall take effect immediately.

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

- F. Correspondence

1. Wantage Township
2. Wantage Township
3. Wantage Township
4. Sparta 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. NJ State League of Municipalities
19. NJ State League of Municipalities
20. NJ State League of Municipalities
21. NJ State League of Municipalities
22. NJ State League of Municipalities
23. NJ State League of Municipalities

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

24. NJ State League of Municipalities
25. NJ State League of Municipalities
26. State of NJ
27. State of NJ
28. State of NJ
29. State of NJ
30. State of NJ
31. State of NJ
32. Jersey Central Power & Light
33. NJ State League of Municipalities

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

Councilman Ross stated that the Senate recently passed S818, the companion bill to A2095 for the changes in the way the operations of the first aid squads are run. He stated that the bill takes complete control away from the town. A motion was made by Kievit to send a letter to the Governor to have him veto A2095, companion bill S828, stating that it is an unfunded mandate that we do not need, seconded by Hamilton. All in favor. Motion carried.

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

- New Shared Service Bill – Manager stated that she has received calls from neighboring communities sharing their concerns regarding this bill. She stated that this bill will be discussed at an upcoming Municipal Managers meeting. She also stated that she has met with Senator Oroho regarding the Township’s concerns.
- Revenues – Manager stated that revenues are strong and we are pretty close to hitting our mark for tax collection.

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

**PUBLIC PORTION:** A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

**EXECUTIVE SESSION:**

**BE IT RESOLVED** by the Township Council of the Township of Hardyston on the 20th day of December, 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.

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

( 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).

Motion to adopt: Kievit

Seconded by: Ross

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

Motion carried.

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

A motion was made by Ross to approve the police contract as per the negotiated agreement, seconded by Kievit. All in favor. Motion carried.

**ADJOURNMENT:** A motion was made by Ross to adjourn at approximately 7:30 p.m., seconded by Hamilton. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC  
Municipal Clerk