

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
APRIL 23, 2014**

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 Verrilli, Councilman Cicerale, Manager Marianne Smith, Clerk Jane Bakalarczyk and Township Attorney Fred Semrau of Dorsey & Semrau.

SALUTE THE FLAG

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

Monthly Reports:

1. Municipal Clerk Report – March 2014
2. Tax Collector Report – March 2014
3. Construction Certificate Activity Report – March 2014
4. Construction Permit Activity Report – Hardyston – March 2014
5. Construction Permit Activity Report – Hamburg – March 2014
6. Construction Permit Activity Report – Franklin – March 2014
7. Construction Permit Activity Report – Newton – March 2014
8. Construction Permit Activity Report – Sussex – March 2014
9. Municipal Court Report – March 2014
10. Police Department Report – March 2014
11. Littell Community Center Report – March 2014
12. Smoke Detector & CO Compliance Inspection Report – Hardyston – 1stQ 2014
13. Smoke Detector & CO Compliance Inspection Report – Hamburg – 1stQ 2014
14. Land Use Report – March 2014
15. Sussex County Health Department Report – March 2014

Minutes:

1. Workshop Minutes of 3/12/14
2. Regular Minutes of 3/12/14

Agreements/Applications/Licenses:

1. GTBM, Inc. – Info- Cop Agreement Renewal - Police Department

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

ORDINANCES

1st READING: None

ORDINANCES

2nd READING: 2014-05

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON,
COUNTY OF SUSSEX AND STATE OF NEW JERSEY
AUTHORIZING THE CHIEF OF POLICE TO EXECUTE
AN APPLICATION FOR THE HARDYSTON FIRE DEPARTMENT
AND AN APPLICATION FOR THE HARDYSTON FIRST AID SQUAD
FOR A CHARITABLE SOLICITATION WITHIN THE
TOWNSHIP OF HARDYSTON**

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

SECTION 1. The Township of Hardyston hereby approves Hardyston Township Fire Department's request to hold a charitable solicitation at the intersection of New Jersey State Highway Route 94 and County Route 631. The dates and times approved for said solicitation are as follows: May 23, 24, 2014; August 29, 30, 2014; between the hours of 8:00 a.m. and 7:30 p.m.

SECTION 2. The Township of Hardyston hereby approves Hardyston Township Fire Department's request to hold a charitable solicitation at the intersection of New Jersey State Highway Route 23 and County Route 515. The dates and times approved for said solicitation are as follows: October 18, 19, 2014 between the hours of 8:00 a.m. and 2:30 p.m.

SECTION 3. The Township of Hardyston hereby approves Hardyston Township First Aid Squad's request to hold a charitable solicitation at the intersection of New Jersey State Highway Route 23 and County Route 515. The dates and times approved for said solicitation are as follows: May 23, 24, 2014 and August 29, 30, 2014 between the hours of 8:00 a.m. and 7:30 p.m.

SECTION 4. The approvals authorized herein are subject to and expressly conditioned upon the following:

- a. The Hardyston Township Fire Department's and Hardyston Township First Aid Squad's compliance with all rules, regulations and guidelines promulgated by the NJDOT for charitable solicitations, including, but not limited to, the posting of any and all necessary warning signs; and
- b. The approval of the Sussex County Board of Chosen Freeholders and the NJDOT.

SECTION 5. The Chief of Police is hereby authorized and directed to execute the application for a Charitable Solicitation Permit for the Hardyston Township Fire Department and the Hardyston Township First Aid Squad provided the above-stated conditions are met. The Hardyston Township Police Department shall be responsible for supervising the solicitation and enforcing the terms of the Charitable Solicitation Permit issued by the NJDOT.

SECTION 6. 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 7. This Ordinance may be renumbered for purposes of codification.

SECTION 8. 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 Verrilli to approve Ordinance 2014-05 on second reading, seconded by Cicerale. All in favor. Motion carried.

NEW BUSINESS:

A. LOSAP Discussion – Hardyston Township Volunteer Fire Department

William Hickerson of the Hardyston Township Volunteer Fire Department gave a presentation with regard to the Length of Service Awards Program (LOSAP) provided by the Township. Township Manager stated that currently the township provides a \$500 investment to each fireman or EMT who satisfies the point calculation that is within the township ordinance. She

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stated that the point system relates to hours of service, going on calls, etc. She stated that the law does provide for a higher level of award than the township is currently giving, but in order to increase the amount it would have to be done by referendum for the voters to decide.

A motion was made by Hamilton to have the Township Attorney draft a resolution to submit to the Sussex County Clerk's Office requesting that the question be placed on the November ballot, seconded by Miller. All in favor. Motion carried.

B. Public Event Use Application – Crystal Springs Resort – Annual Beer Fest 6/14/14

Township Manager stated that the application has been reviewed by the appropriate departments and that all of the paperwork is in order. A motion was made by Verrilli to approve the application as presented, seconded by Cicerale. All in favor. Motion carried.

C. Resolution #31-14 - Resolution rescinding Summer Recreation Petty Cash Fund

**RESOLUTION #31-14
RESOLUTION RESCINDING PETTY CASH FUND**

WHEREAS, it is the desire of the *Township of Hardyston*, County of Sussex, that the petty cash fund for the Summer Recreation be rescinded,

NOW, THEREFORE, BE IT RESOLVED that the *Township of Hardyston*, County of Sussex, hereby authorizes such action and two copies of this resolution be filed with the Division of Local Government Services, New Jersey Department of Community Affairs for approval.

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

D. Resolution #32-14 – Change in Custodian of Petty Cash Fund

**RESOLUTION #32-14
RESOLUTION: CHANGE IN CUSTODIAN OF PETTY CASH FUND**

WHEREAS, M. Brown was custodian of the Township of Hardyston Petty Cash Fund, and

WHEREAS, in accordance with N.J.S.A. 40:5-21, the Township of Hardyston is changing custodians to Jane Bakalarczyk; and

WHEREAS, Jane Bakalarczyk is covered under a blanket bond in the amount of \$6,000,000.00.

NOW, THEREFORE, BE IT RESOLVED that the *Township of Hardyston*, County of Sussex, hereby authorizes such action and two copies of this resolution be filed with the Division of Local Government Services, New Jersey Department of Community Affairs for approval.

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

E. Resolution #33-14 – NJDOT – Route 94

RESOLUTION #33-14

WHEREAS, the New Jersey Department of Transportation (NJDOT) recently completed a traffic investigation on Route 94 in Hardyston Township; and

WHEREAS, NJDOT investigation revealed the current centerline pavement markings on Route 94 meet and conform to current design standards; and

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WHEREAS, NJDOT will update existing records to reflect current No Passing Zone conditions along (US) (NJ) Route 94;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of Hardyston Township, County of Sussex, in the State of New Jersey, that it supports the use of a “No Passing Zone” on Route 94 in Hardyston Township as recommended by NJDOT.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be forwarded to NJDOT as requested.

A motion was made by Hamilton to approve the resolution as presented with the condition that the roadway should continue to be reviewed periodically, seconded by Miller. All in favor. Motion carried.

- F. Resolution #34-14 – Resolution authorizing the award of a professional services contract without competitive bidding to Matthew J. Giacobbe, Esq. for professional legal services

RESOLUTION #34-14

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE
TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND
STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A
PROFESSIONAL SERVICES CONTRACT WITHOUT
COMPETITIVE BIDDING TO MATTHEW J. GIACOBBE, ESQ.
FOR PROFESSIONAL LEGAL SERVICES ASSOCIATED WITH
TOWNSHIP POLICE MATTERS**

WHEREAS, there exists a need for professional legal services for Township police matters; and

WHEREAS, the Township wishes to retain the services of Matthew J. Giacobbe, Esq. to perform such services; and

WHEREAS, funds are available for this purpose; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for “professional services” without competitive bidding and the contract itself must be made available for public inspection.

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

1. The Township of Hardyston hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Matthew J. Giacobbe, Esq. whose office is located at 169 Ramapo Valley Road, Upper Level 105, Oakland, New Jersey 07436, to provide professional legal services for police matters for the Township at the rate of \$145 per hour.
2. This contract is awarded without competitive bidding as a professional service in accordance with the provisions of the Local Public Contracts Law because said services are performed by a person authorized by law to practice a recognized profession. This contract was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, the undersigned does hereby attest that neither Matthew J. Giacobbe, Esq. or Cleary Giacobbe Alfieri Jacobs, LLC, its subsidiaries, assigns or principals controlling in excess of 10% of the firm has made a contribution in the one (1) year period preceding the award of the contract that is reportable to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44-16 so as to affect his eligibility to perform this contract, nor will he or they make a reportable contribution during the term of the contract to any political party committee in the Township of Hardyston if a member of that political party is serving in an elective public office of the Township of Hardyston when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the Township of Hardyston when the contract is awarded.

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3. Cleary Giacobbe Alfieri Jacobs, LLC is advised of the responsibility to file an annual statement on political contributions with the New Jersey Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271 §3) if it received contracts in excess of \$50,000 from public entities in a calendar year. It is its responsibility to determine if filing is necessary.
4. Notice of this action shall be published once in the Township's official newspaper as required by law.
5. A copy of this Resolution shall be provided to Grant W. Rome, Township Chief Financial Officer and to Matthew J. Giacobbe, Esq., 169 Ramapo Valley Road, Upper Level 105, Oakland, New Jersey 07436 for their information and guidance.

This Resolution shall take effect immediately.

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

- G. Resolution #35-14 – Resolution authorizing the award of a professional services contract without competitive bidding to Robert A. Verry

RESOLUTION #35-14

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE
TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND
STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A
PROFESSIONAL SERVICES CONTRACT WITHOUT
COMPETITIVE BIDDING TO ROBERT A. VERRY TO SERVE AS
THE HEARING OFFICER FOR A POLICE DISCIPLINARY
MATTER**

WHEREAS, there exists a need for a hearing officer for a police disciplinary matter; and

WHEREAS, the Township wishes to retain the services of Robert A. Verry to perform such services; and

WHEREAS, funds are available for this purpose; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "professional services" without competitive bidding and the contract itself must be made available for public inspection.

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

1. The Township of Hardyston hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Robert A. Verry, whose address is Post Office Box 47, South Bound Brook, New Jersey 08880, to serve as the hearing officer for a police disciplinary matter for the Township at the rate of \$109 per hour.
2. This contract is awarded without competitive bidding as a professional service in accordance with the provisions of the Local Public Contracts Law because said services are performed by a person authorized by law to practice a recognized profession. This contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, Robert A. Verry, his subsidiaries, or assigns must not have made a contribution in the one (1) year period preceding the award of the contract that is reportable to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44-16 so as to affect his eligibility to perform this contract, nor shall he make a reportable contribution during the term of the contract to any political party committee in the Township of Hardyston if a member of that political party is serving in an elective public office of the Township of Hardyston when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the Township of Hardyston when the contract is awarded.
3. Robert A. Verry is advised of the responsibility to file an annual statement on political contributions with the New Jersey Election Law Enforcement Commission pursuant to

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N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271 §3) if he received contracts in excess of \$50,000 from public entities in a calendar year. It is his responsibility to determine if filing is necessary.

4. Notice of this action shall be published once in the Township's official newspaper as required by law.
5. A copy of this Resolution shall be provided to Grant W. Rome, Township Chief Financial Officer and to Robert A. Verry, Post Office Box 47, South Bound Brook, New Jersey 08880, for their information and guidance.

This Resolution shall take effect immediately.

Mayor Kula recused himself from the discussion and vote regarding the above matter. A motion was made by Verrilli to approve the resolution as presented, seconded by Cicerale. All in favor. Motion carried.

H. Resolution #27-14 – Self-Exam Resolution

**RESOLUTION #27-14
SELF-EXAMINATION OF BUDGET RESOLUTION**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination, and

WHEREAS N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997, and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 THRU 7.5 the Township of Hardyston has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the Township of Hardyston meets the necessary conditions to participate in the program for the 2014 budget year, so now therefore

BE IT RESOLVED, by the Township Council of the Township of Hardyston that in accordance with N.J.A.C. 5:30-7.6a & b and based upon the Chief Financial Officer's certification. The governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at 40A:4-45.3 et seq. are fully met (complies with the "CAP" law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate, and correctly stated.
 - b. Items of appropriation are properly set forth
 - c. In itemization, form, arrangement, and content the budget will permit the exercise of the comptroller function within the municipality.

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5. The budget and associated amendments have been introduced, publicly advertised, and in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED, THAT A COPY OF THIS RESOLUTION BE FORWARDED TO THE Director of the Division of Local Government Services.

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

I. 2014 Budget Amendment Hearing/Budget Adoption

Township Manager gave a verbal presentation of the 2014 Municipal Budget Amendment. 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 Miller to adopt the 2014 Municipal Budget, seconded by Verrilli. All in favor. Motion carried.

J. Correspondence

1. Walpack Township
2. Vernon Township
3. Sandyston Township
4. Township of Franklin
5. County of Sussex
6. County of Sussex
7. County of Sussex
8. County of Sussex
9. State of NJ
10. State of NJ

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

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

PUBLIC PORTION: A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. Resident Frank Lacatena asked if there was any word from the State on the status of the Holland Mountain Road/Route 23 upgrading project. Township Manager stated that the last time she reached out to the State she was told that the funding was about to expire again. She stated that she was told that they were having some problems with getting their approvals from all of the agencies involved. She stated that she will reach out to them again.

Resident Marty Schweighardt asked the Council to clarify Resolution #33-14. Township Manager explained that the Township had sent a letter to the Department of Transportation to review Route 94 from a safety perspective due to the increased volume of accidents occurring on that road. She stated that the response from the DOT was that the road needed to remain a "No Passing Zone" and in order to maintain that status, the Township needed to pass a resolution supporting maintaining the road as a "No Passing Zone". A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

ADJOURNMENT: A motion was made by Verrilli to adjourn at approximately 7:55 p.m., seconded by Miller. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk

