

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
NOVEMBER 12, 2014**

The meeting was called to order by Mayor Kula at approximately 7:20 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 Dawn Sullivan of Dorsey & Semrau.

SALUTE THE FLAG

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

Agreements/Applications/Licenses:

1. Raffle License – Hamburg PTA

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

ORDINANCES

1st READING: None

ORDINANCES

2nd READING: 2014-14

BOND ORDINANCE PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS, APPROPRIATING \$1,785,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,700,000 BONDS OR NOTES OF THE TOWNSHIP FOR THE FINANCING OF THE COST THEREOF TO BE UNDERTAKEN IN AND BY THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY.

ORDINANCE NO. 2014-14

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BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

Section 1. The improvements and purposes described in Section 3 of this bond ordinance are hereby authorized as general capital improvements to be made, acquired or undertaken by the Township of Hardyston, County of Sussex, New Jersey (hereinafter "Township"). For said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$1,785,000, said sum being inclusive of all appropriations heretofore made therefore, amounting in the aggregate to \$1,785,000, including the aggregate sum of \$85,000 as the down payment for the improvements or purposes. Said \$85,000 down payment is appropriated herein from the Capital Improvement Fund or other legally available funds of the Township, said sum being now available for down payment or capital improvement purposes, as required by the Local Bond Law of New Jersey, N.J.S.A. 40A:2-1, *et seq.* (the "Local Bond Law") by virtue of provisions for down payment or for capital improvement purposes in one or more previously adopted budgets of the Township.

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Section 2. For the financing of said improvements or purposes and to meet part of said \$1,785,000 appropriation not otherwise provided for hereunder, negotiable bonds of the Township are hereby authorized to be issued in the principal amount not to exceed \$1,700,000, pursuant to the Local Bond Law. In anticipation of the issuance of bonds, negotiable bond anticipation notes (the “Notes”) of the Township in an amount not to exceed \$1,700,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law. All Notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Township (the “Chief Financial Officer”); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer in accordance with the Local Bond Law. The Chief Financial Officer shall determine all matters in connection with the Notes issued pursuant to this ordinance; and the Chief Financial Officer’s signatures upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

Section 3. The improvements hereby authorized and the purposes, the estimated cost of such improvements and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for said improvements and the periods of usefulness of said improvements are as follows:

| Improvement/Acquisition | Estimated Cost | Down Payment (Capital Improvement Fund) | Maximum Amount of Bonds/Notes | Useful Life (Years) |
|---|-----------------------|--|--------------------------------------|----------------------------|
| <p>arious improvements and acquisitions including but not limited to (i) acquisition and installation of a generator, (ii) acquisition of utility vehicle for Fire Department, (iii) upgrades and expansion for Fire Company No. 1 (iv) acquisition of Fire Truck (Engine and equipment), (v) acquisition of access property (Lot 27.06, Block 63) to rear acreage on Wheatsworth Rd., (vi) fuel tank expansion Public Works, and (vii) acquisition of Backhoe, the forgoing to include all equipment, costs, and appurtenances necessary therefor or incidental thereto.</p> | \$1,785,000 | \$85,000 | \$1,700,000 | 14 |

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

(a) The purposes described in Section 3 of this bond ordinance are not current expenses of the Township and are improvements that the Township may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness is within the limitations of the Local Bond Law. Taking into consideration the amount of the obligations authorized for each purpose, according to the reasonable life of each purpose, computed from the date of the bonds authorized by the bond ordinance, the average period of usefulness is 14years.

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(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,700,000 and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$80,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

Section 5. The capital budget of the Township of Hardyston is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 7. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 8. The Township reasonably expects to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 of this ordinance and paid prior to the issuance of any bonds or notes authorized by this ordinance with the proceeds of such bonds or notes. This Section is intended to be and hereby is a declaration of the Township's official intent to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 1.300-2, and no action (or inaction) will be an artifice or device in accordance with Treasury regulation 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements.

Section 9. The governing body of the Township hereby covenants on behalf of the Township that to the extent any debt obligations are issued as tax-exempt debt obligations to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of such debt obligations authorized hereunder as is required under the Internal Revenue Code of 1986, as amended, including compliance with said Code with regard to the use, expenditure, investment, timely reporting and the rebate of investment earnings as may be required thereunder.

Section 10. The provisions of this ordinance are severable, to the extent that any clause, phrase, sentence, paragraph, or provision of this ordinance shall be declared void, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

Section 11. To the extent that any previous ordinance or resolution is inconsistent with or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 12. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond 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 Miller to approve Ordinance 2014-14 on second reading, seconded by Hamilton. All in favor. Motion carried.

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NEW BUSINESS:

- A. Resolution #86-14 – Resolution authorizing the participation in a Sussex County contract award for Road Salt and Grit

RESOLUTION #86-14

Resolution Authorizing the Participation in a Sussex County Contract Award for Road Salt and Grit

WHEREAS, Hardyston Township has the desire and need to participate in the recently awarded Sussex County Contracts for Road Salt and Grit supplies adopted on 10/8/14; and,

WHEREAS, the Township Manager and Public Works Director hereby recommend that the township participate in the contract awards to the following vendors at the per tonnage cost listed next to the respective vendor;

Rock Salt

| | |
|------------------------|-----------------|
| Morton Salt Inc. | \$65.47 per ton |
| 123 North Wacker Drive | |
| Chicago, IL 60606 | |

Snow Grit

| | |
|---------------------------|----------------|
| North Church Gravel, Inc. | \$9.20 per ton |
| 216 North Church Road | |
| Franklin, NJ 07410 | |

| | |
|---------------------|-----------------|
| Beaver Run Farms | \$11.00 per ton |
| 300 Beaver Run Road | |
| Lafayette, NJ 07848 | |

WHEREAS; the Chief Financial Officer has certified that the funds are available in the award of all contracts stated above, not to exceed \$150,000 for the period ending October, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of Hardyston Township that the Mayor and Municipal Clerk are hereby authorized to execute the necessary documents for contracting with the above vendors for the purpose of purchasing salt and grit pursuant to the County of Sussex bid specifications and contract award.

BE IT FURTHER RESOLVED; that the Municipal Clerk shall provide a copy of this resolution to the Superintendent of DPW, the County Purchasing Agent and all vendors listed above.

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

- B. Resolution #87-14 – Resolution authorizing the execution of the following Shared Service Agreements:

1. ACO/Pound Services – Wantage Township
2. Fire Prevention Services – Sussex Borough
3. Sewer Operator Services – Sussex Borough
4. Fire Prevention Services – Hamburg Borough

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RESOLUTION #87-14

**RESOLUTION AUTHORIZING THE EXECUTION OF THE FOLLOWING SHARED SERVICE
AGREEMENTS**

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

1. ACO/Pound Services – Wantage Township
2. Fire Prevention Services – Sussex Borough
3. Sewer Operator Services – Sussex Borough
4. Fire Prevention Services – Hamburg Borough

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

C. Resolution #88-14 – Governing Body Certification of the Annual Audit

**GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT
FORM OF RESOLUTION #88-14**

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 2013 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

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 Cicerale to approve the resolution as presented, seconded by Verrilli. All in favor. Motion carried.

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- D. Resolution #89-14 – Resolution accepting a Letter of Credit from Shotland Bauer, LLC in the amount of \$53,460.00 and a cash bond in the amount of \$5,940.00 for Pembridge – Phase 2

RESOLUTION #89-14

**RESOLUTION ACCEPTING AN IRREVOCABLE LETTER OF CREDIT IN THE
AMOUNT OF \$53,460.00 AND A CASH BOND IN THE AMOUNT OF \$5,940.00 FROM
SHOTLAND BAUER, LLC FOR PEMBRIDGE – PHASE 2**

WHEREAS, the Hardyston Township Planning Board granted approval to Shotland Bauer, LLC for Pembridge – Phase 2; and

WHEREAS, as a condition of said approval of Pembridge – Phase 2, Shotland Bauer, LLC was required to post a performance guarantee with the Township of Hardyston for the said site in the amount of \$59,400.00 and;

WHEREAS, Shotland Bauer, LLC has submitted to the Municipal Clerk an Irrevocable Letter of Credit in the amount of \$53,460 and a cash bond in the amount of \$5,940.00; and

WHEREAS, the letter of credit has been reviewed and approved as to form by the Township Attorney and Township Engineer.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Hardyston that it hereby accepts the above stated bonds from Shotland Bauer, LLC for Pembridge – Phase 2 as performance securities required by the Hardyston Township Planning Board.

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

- E. Resolution #90-14 – Resolution appointing Robert Huber to permanent position of Hardyston Township Plumbing Sub-Code Official

Resolution #90-14

**RESOLUTION APPOINTING
PLUMBING SUB-CODE OFFICIAL**

WHEREAS, Robert Huber was appointed to a thirty (30) day temporary position as Plumbing Sub-Code Official for the Township of Hardyston effective October 20, 2014; and

WHEREAS, he continues to be licensed and eligible for appointment as a sub-code official and has performed his duties to the satisfaction of the Hardyston Township Council.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Hardyston that Robert Huber be appointed to the permanent position of Plumbing Sub-Code Official for the term November 12, 2014 through November 11, 2018.

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

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- F. Resolution #91-14 – Resolution expressing the importance to recognize the strength of local pension funding in regards to recommendations from Governor Christie’s Pension and Health Benefit Study Commission

RESOLUTION #91-14

**RESOLUTION EXPRESSING THE IMPORTANCE TO RECOGNIZE THE
STRENGTH OF LOCAL PENSION FUNDING IN REGARDS TO
RECOMMENDATIONS FROM GOVERNOR CHRISTIE’S PENSION & HEALTH
BENEFIT STUDY COMMISSION**

WHEREAS, State actuaries confirm by the latest Valuation Report the pension and benefit reform enacted in 2010 and 2011, coupled with the consistent pension payments made by employees and local governing bodies, have resulted in the savings; and

WHEREAS, the fiscal health of “Other Than State” public pension systems, report a distinction between local commitments, and the commitments which are a State government’s responsibility; and

WHEREAS, according to the latest Valuation Reports, local government Public Employees Retirement System (local PERS) and local Police and Fire Retirement System (local PFRS), are more sound, due to the fact municipalities and counties have funded full employer contributions as required for over a decade, with local PERS currently funded (comparing assets to liabilities) at 73.9% and local PFRS is currently funded at 76.9%, according to the experts; and

WHEREAS, the State PERS, on the other hand, is currently funded at 48.1%, and State PFRS is at 50.8% and both will go lower for lack of payment; and

WHEREAS, the Officers of the League of Municipalities have submitted a statement to Governor Christie’s Pension and Health Benefit Study Commission, urging that the Final Report and Recommendations of that Study Commission not weaken the vitality of the local pension plans;

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

1. The Hardyston Township Council urges State policy-makers to recognize the deficit issues are State Funding problems, and reject any recommendations that would threaten municipal budgets and property taxpayers to share the cost.
2. We recognize the State’s budget problems and are anxious to see results, but cannot permit a shifting of the State burdens to our property taxpayers.
3. The Pension and Health Benefits commission must also address State mandated requirements which drive up the cost of funding health benefits insurance by property taxpayers.
4. A certified copy of this Resolution is to be forwarded to Governor Chris Christie, State Treasurer Andrew Sidamon-Eristoff, Honorable Steven Oroho – Senator – 24th Legislative District, the Honorable Alison McHose – Assembly Representative – 24th Legislative District, the Honorable Parker Space – Assembly Representative – 24th Legislative District, and to the New Jersey State League of Municipalities.

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

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- G. Resolution #76-14 – Resolution urging the New Jersey State Legislature to enact a 2% cap on tuition increases charged by the County Vocational Technical High Schools to local sending districts

RESOLUTION #76-14

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY URGING THE NEW JERSEY STATE LEGISLATURE TO ENACT A 2% CAP ON TUITION INCREASES CHARGED BY COUNTY VOCATIONAL TECHNICAL HIGH SCHOOLS TO LOCAL SENDING DISTRICTS

WHEREAS, N.J.S.A. 18A:54-20.1 authorizes County Vocational Technical High Schools to charge a per pupil tuition fee to local school districts sending student to attend the Vocational Technical High School; and

WHEREAS, a form of Vocational Technical High School tuition is currently charged by 19 of the State's 21 Counties; and

WHEREAS, tuition is a form of user fee that allocates the cost of educating a Vocational High School based on the number of students attending the Vocational High School; and

WHEREAS, the other major funding sources for Vocational Technical High Schools are State Aid and the County budget which is supported by the broad based property tax; and

WHEREAS, the Sussex County Vocational High School instituted a tuition in 2011, joining the majority of other vocational schools within the State of New Jersey; and

WHEREAS, the Hardyston Township Council does acknowledge that all levels of local government, municipal, County and schools are subject to a 2% tax cap and that an increase in per pupil tuition of greater than 2% could adversely affect the ability of local school districts to perform essential educational functions.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Hardyston that it hereby urges the New Jersey State Legislature to enact legislation placing a 2% cap on the annual per pupil tuition increase charged by County Vocational High Schools to local sending districts; and

BE IT FURTHER RESOLVED that copies of this Resolution be forwarded to the Honorable Steven Oroho – Senator – 24th Legislative District, the Honorable Alison McHose – Assembly Representative – 24th Legislative District, the Honorable Parker Space – Assembly Representative – 24th Legislative District, the Wallkill Valley Regional High School Board of Education, Rosalie Lamonte -County Superintendent of Schools, Gus Modla – Superintendent of the Sussex County Vocational Technical High School, the Sussex County Board of Chosen Freeholder, the Municipal Clerks of the 24 Sussex County municipalities, the NJ League of Municipalities and the NJ Association of Counties.

This item was carried from the meeting held on September 24, 2014. A motion was made by Hamilton to approve the resolution as presented, seconded by Miller. All in favor. Motion carried.

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

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

ADJOURNMENT: A motion was made by Verrilli to adjourn at approximately 7:35 p.m., seconded by Hamilton. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk