

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
MARCH 23, 2016**

The meeting was called to order by Mayor Hamilton 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 Kula, Councilman Miller, Councilman Cicerale, Councilman Verrilli, 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.

Monthly Reports:

1. Municipal Clerk Report – February 2016
2. Tax Collector Report – January 2016
3. Construction Certificate Activity Report – February 2016
4. Construction Permit Activity Report – Hardyston – February 2016
5. Construction Permit Activity Report – Hamburg – February 2016
6. Construction Permit Activity Report – Franklin – February 2016
7. Construction Permit Activity Report – Newton – February 2016
8. Construction Permit Activity Report – Sussex – February 2016
9. Construction Permit Activity Report – Wantage – February 2016
10. Police Department Report – February 2016
11. Municipal Court Report – February 2016
12. SCHD Report – February 2016
13. Littell Community Center Report – February 2016
14. Land Use Report – February 2016
15. Tax Collector Report – February 2016

Agreements/Applications/Licenses:

1. Raffle License – Special Olympics New Jersey
2. Raffle License – SB Foundation, Inc.

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

ORDINANCES

1st READING:

2016-04

CALENDAR YEAR 2016

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 0.00% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MARCH 23, 2016

WHEREAS, the Township Council of the Township of Hardyston in the County of Sussex finds it advisable and necessary to increase its CY 2016 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$258,889.85 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of Hardyston, in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2016 budget year, the final appropriations of the Township of Hardyston shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.50%, amounting to \$258,889.85, and that the CY 2016 municipal budget for the Township of Hardyston be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

A motion was made by Kula to approve Ordinance 2016-04 on first reading, seconded by Miller. All in favor. Motion carried.

ORDINANCES
2nd READING:

2016-03

AN ORDINANCE AMENDING CHAPTER 185, "ZONING," OF THE TOWNSHIP OF HARDYSTON TOWNSHIP CODE ADDING THE R-5 ATTACHED SINGLE FAMILY/MULTI-FAMILY RESIDENTIAL ZONE DISTRICT AND USE AND BULK REGULATIONS

Purpose Statement- the purpose of this Ordinance is to amend the Township of Hardyston Zoning Ordinance to add the R-5 Attached Single-Family/Multi-Family Residential Zone District and the applicable use and bulk regulations

BE IT ORDAINED by the Township Council of the Township of Hardyston as follows:

1. Section 185-4, Definitions, is hereby amended to include the following definition:

QUADRAPLEX DWELLING — Four (4) attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with the adjoining unit or units.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MARCH 23, 2016

2. Section 185-6, Designation of Zoning Districts, is hereby amended to add the following:

R-5 Attached Single Family/Multi-Family Residential District

3. Section 185-7 Zoning Map is hereby amended as follows:

The location and boundaries of the above districts are hereby established on the Zone Map of the Township of Hardyston in Sussex County, dated January 2016 (prepared by Carrine Piccolo-Kaufer, AICP, P.P.), which is attached hereto and made a part of this section. Copies of the map are on file in the office of Township Clerk and are available for inspection. [1]

[1]: Editor's Note: Said map is also included at the end of this chapter.

4. Article XXII, Sections 185-194 through 185-196 are to be amended as follows:

**ARTICLE XXII: R-5 Attached Single Family/Multi-Family Residential District
185 -194. Use Regulations**

- A. Principal uses. The following principal uses shall be permitted in the R-5 District:
- (1) Attached single-family dwellings.
 - (2) Quadraplex dwellings
- B. Accessory Uses. The following accessory uses shall be permitted in the R-5 District:
- (1) Required off-street parking spaces.
 - (2) Private garages and private patios and decks, as defined in this chapter.
 - (3) Signs as permitted by Article XIX.
 - (4) Community swimming pools, tennis courts and clubhouses and gyms not to exceed twenty-five (25) feet in height.
 - (5) Stormwater management structures
 - (6) Rental/Management Office
 - (7) Maintenance/storage buildings
 - (8) Any other use which the applicable Board determines is customarily incidental to the principal permitted use on the premises.
- C. Conditionally Permitted Uses. The following uses are permitted only after review and approval by the Planning Board pursuant to the standards and criteria set forth in Article XVI.
- (1) Institutional and public uses.
 - (2) Public utility uses and essential services.

185-195. Bulk requirements and other conditions

- A. Maximum number of residential units permitted in the district shall be 303.
- B. Maximum building coverage in the district shall be 20 percent
- C. Minimum perimeter setback to the zone boundary is 25 feet

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MARCH 23, 2016

- D. Minimum distance from a townhouse unit and a quadraplex unit is 80 feet
- E. Attached single-family dwellings and quadraplex dwellings: See 185-196 (schedule of bulk requirements below)
- F. Accessory structures: all accessory structures shall meet the bulk and other requirements of the R-3 Districts except as may otherwise be specifically provided in Section 185-196
- G. All required off-street parking shall conform to the Residential Site Improvement Standards (RSIS)
- H. Recreation amenities shall be constructed throughout the entire tract consistent with the amenities which have already been constructed and shall include both passive and active amenities including but not limited to walking paths, tot lots, open space, athletic fields and park/picnic areas
- I. Affordable Housing: A minimum of twenty-four (24) affordable housing unit shall be required to be built in connection with the construction of market rate residential units. Construction of the affordable units shall be phased to achieve a balanced mix of both affordable and market rate units. The mix of bedroom types and income distribution shall be subject to the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C 5:80-26.1 et seq.

185-196. Attached Single-Family House and Quadraplex Dwellings in the R-5 Attached Single Family/Multi-Family Residential District

Schedule of Bulk Requirements		
Development Standard	Attached Single-Family	Quadraplex Dwellings
Maximum number of units per structure	6	4
Maximum length of structure	200 feet	100 feet
Maximum number of single units served by a single common entrance	1	1
Minimum number of entrance/exits per unit	2	1
Maximum height [1]	35 feet	35 feet
Minimum distance between groups of structures:		
End to End	35 feet	15 feet
Rear to rear	60 feet	25 feet
Front to rear	75 feet	75 feet
Front to front	75 feet	75 feet
Front to side (except that buildings may join at corners)	50 feet	50 feet
Minimum distance to public road	65 feet	65 feet
Minimum distance to private road	25 feet	25 feet
Minimum lot width at street	12 feet	N/A
Minimum lot width at building front line	18 feet	N/A
Minimum distance to side property line	25 feet	N/A
Minimum distance to rear property line	25 feet	N/A
Minimum front yard	25 feet	N/A
Minimum rear yard	25 feet	N/A
Required off-set	Minimum of 4 feet every 50 feet	Minimum of 4 feet every 50 feet [2]
Required off-street parking spaces	Per Residential Site Improvement Standards	Per Residential Site Improvement Standards
Patios and decks	Permitted in rear yard but not within 15 feet of a rear property line	Permitted within the rear yard but not within 25 feet of another building[3]

[1] Accessory structures shall not exceed twenty five (25) feet in height.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MARCH 23, 2016

[2] Applies only to the front (street-facing) façade of the building.

[3] Patios and/or decks attached to the rear of one building shall be setback the following minimum distance from a patio and/or deck attached to the rear of another building: when facing rear-to-rear, 25 feet; when facing side-to-side, 15 feet.

5. Severability. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

6. Repealer. All existing ordinances or parts of existing ordinances which are inconsistent with the terms of this ordinance are to the extent of such inconsistency repealed.

7. Effect. This Ordinance shall take effect twenty (20) days after final adoption 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 by Miller to approve Ordinance 2016-03 on second reading, seconded by Verrilli. All in favor with Cicerale abstaining. Motion carried.

NEW BUSINESS:

A. 2016 Municipal Budget Introduction

Township Manager gave a written and verbal presentation of the 2016 Municipal Budget. A motion was made by Kula to approve the 2016 Municipal Budget as introduced, seconded by Miller. All in favor. Motion carried. Public hearing and adoption of the budget is scheduled for April 27, 2016.

B. Resolution #22-16 – Resolution regarding the 2016 Housing Element and Fair Share Plan

RESOLUTION #22-16

**RESOLUTION OF THE MAYOR AND COUNCIL
OF THE TOWNSHIP OF HARDYSTON
REGARDING THE
2016 HOUSING ELEMENT AND FAIR SHARE PLAN**

ADOPTED ON MARCH 23, 2016

WHEREAS, in accordance with the Mount Laurel Doctrine every municipality has a constitutional obligation to create a realistic opportunity for producing a fair share of the regional present and prospective need for housing low and moderate income families; and

WHEREAS, the New Jersey Supreme Court issued a Decision and Order on March 10, 2015, In Re Adoption of N.J.A.C. 5:96 & 5:97 by the Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), wherein the Court held that because COAH failed to adopt amended Third Round Rules, constitutional compliance cannot be evaluated under COAH's jurisdiction which thereby rendered the FHA's exhaustion of administration remedies futile; and

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON MARCH 23, 2016

WHEREAS, the New Jersey Supreme Court in Mount Laurel IV ordered that the Courts may resume their role as the forum of first instance for evaluating compliance with Mount Laurel obligations; and

WHEREAS, in accordance with Mount Laurel IV, the Township of Hardyston filed a Declaratory Judgment action with the Court on July 1, 2015 under Docket No. SSX-L-431-15; and

WHEREAS, this matter is being Case Managed by the Honorable Stephan C. Hansbury, J.S.C. who entered an Order on November 2, 2015, which among other relief, extended the period of temporary immunity to April 6, 2016; and

WHEREAS, pursuant to the Order of November 2, 2015, the Township of Hardyston was required to submit a Housing Element and Fair Share Plan (HEFSP) to the Court on or before April 4, 2016; and

WHEREAS, the Court entered an Order on February 10, 2016 along with a letter to counsel dated February 23, 2016, which clarified the November 2, 2015 Order and confirmed that it would be acceptable to the Court, if the Planning Board adopted a Resolution accepting the HEFSP with an indication that, if approved by the Court, the Planning Board would proceed to promptly conduct a public hearing and adopt it as part of the Master Plan approval process and that approval of the governing body would also be required; and

WHEREAS, Carrine Piccolo-Kaufer, A.I.C.P., P.P., has prepared a HEFSP dated March, 2016 which has been reviewed by the Township of Hardyston Planning Board and the HEFSP is consistent with the goals and objectives of the Township of Hardyston's Master Plan and that if approved by the Court, the Planning Board will proceed to promptly adopt it as part of the Master Plan approval process in accordance with the requirements of the Municipal Land Use Law; and

WHEREAS, the governing body has reviewed the HEFSP.

NOW, THEREFORE, BE IT RESOLVED, that the governing body will proceed to endorse and/or adopt and implement the HEFSP if approved by the Court and the Planning Board.

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
MARCH 23, 2016**

BE IT FURTHER RESOLVED that Notice of this action shall be printed once in the official Township Newspaper.

This Resolution shall take effect immediately.

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

- C. Resolution #23-16 – Resolution declaring the gypsy moth a public nuisance in Hardyston Township

RESOLUTION #23-16

WHEREAS, the gypsy moth *Lymantria dispar*, has been found heavily defoliating tree and plant growth in the Township of Hardyston; and

WHEREAS, continued destruction of foliage may result in loss of valuable forest lands and trees; and

WHEREAS, the Township Council of the Township of Hardyston has determined that a gypsy moth control program should be instituted with the State of New Jersey Department of Agriculture and that application for any Federal or State funds available be authorized.

NOW THEREFORE BE IT HEREBY RESOLVED by the Township Council of the Township of Hardyston that the gypsy moth is declared to be a public nuisance and the protection of vegetation or plant life therefrom is deemed to be a subject matter of public welfare, and that all measures deemed necessary, in compliance with the State of New Jersey Department of Agriculture recommendations, is hereby authorized to suppress this forest and shade tree pest.

I, Jane Bakalarczyk, Clerk of the Township of Hardyston, County of Sussex, State of New Jersey, do hereby certify that this Resolution was adopted by the municipal government body at an open public meeting which was duly advertised to the citizens of the municipality in accordance with the law, pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-9.

I also certify that this municipality has, or will, comply with the notice provisions required by N.J.S.A. 4:7-39.

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

- D. Resolution #24-16 – Shared Service Agreement for Street Sweeping – Hamburg Borough

RESOLUTION #24-16

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

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

1. Street Sweeping – Hamburg Borough

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

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
MARCH 23, 2016**

E. Sparta Mountain Wildlife Management Area Proposed Forest Stewardship Plan

A motion was made by Miller to submit a letter of objection to the NJ Department of Environmental Protection, seconded by Verrilli. All in favor. Motion carried.

F. Emergency Medical Services Update

First Aid Squad Administrator, Andrew Smetana, stated that after a meeting with potential volunteers, there is not enough interest to start a Hardyston only squad, but there is interest in creating a new regional squad. Township Manager stated that the next step would be to have a meeting with Franklin Borough to discuss regionalization.

G. Correspondence

1. County of Sussex
2. State of NJ
3. State of NJ
4. State of NJ
5. State of NJ
6. Jersey Central Power & Light
7. Wheatsworth Rd Associates, LLC
8. Premier Management Associates

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

BILLS TO BE PAID: A motion was made by Miller to approve the bill list as presented, seconded by Kula. 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 the Council if the areas to be sprayed for gypsy moths have been identified. Township Manager stated that the areas that have been identified by the NJ Department of Agriculture inspectors are Holland Mountain Road and Sand Pond Road. Mr. Lacatena also asked about the objection letter to be sent to the Department of Environmental Protection regarding the Sparta Mountain Wildlife Management Area Proposed Forest Stewardship Plan. Township Manager stated that she will work together with the Township Attorney to have the Council's comments incorporated into the objection letter to be sent to the DEP. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

ADJOURNMENT: A motion was made by Miller to adjourn at approximately 7:45 p.m., seconded by Kula. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk