

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON  
APRIL 6, 2010**

The meeting was called to order by Mayor Kievit 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 Ross, Councilwoman Hamilton, Councilman Kula, Councilman Miller, Deputy Manager/DPW Director Robert F. Schultz, 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.**

**Agreements/Applications/Licenses:**

1. Raffle – Wallkill Valley Booster Club
2. Raffle – PTA Paradise Knoll
3. Raffle – Noah’s Ark Animal Welfare Assn, Inc.
4. KML Technology, Inc. – Police Department Emergency Phone System Service Agreement
5. Everything Entertainment, Inc. – Contract for rides for Hardyston Day

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

**ORDINANCES:**

**1<sup>st</sup> READING: 2010-06**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY AMENDING PORTIONS OF CHAPTER 60, “ANIMALS,” OF THE REVISED GENERAL ORDINANCES**

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

**SECTION 1.** Chapter 60, Animals, Section 60-1, Definitions, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of the following term(s):

**§ 60-1. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

POTENTIALLY DANGEROUS DOG — Any dog or dogs hybrid declared potentially dangerous by the Court pursuant to § 60-23.1 of this chapter.

VICIOUS DOG — Any dog or dog hybrid declared vicious by the Court pursuant to § 60-23.1 of this chapter.

**SECTION 2.** Chapter 60, Animals, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of Section 60-23.1, Vicious or potentially dangerous dogs, to read as follows:

**§ 60-23.1 Vicious or potentially dangerous dogs.**

A. Purpose:

The purpose of this Section is to adopt, by reference, all provisions of Public Law 1989, Chapter 307, N.J.S.A. 4:19-17 through 4:19-43, as amended and supplemented, which is the uniform set of state requirements on the owners of vicious or potentially dangerous dogs.

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**B. Cost Recovery:**

Pursuant to N.J.S.A. 4:19-26, if a dog is to be declared vicious or potentially dangerous by a municipal court, and all appeals pertaining thereto have been exhausted, the owner of the dog shall be liable to the Township of Hardyston for any costs and expenses incurred by the Township in the impoundment or destruction of the dog. Such costs could include veterinary, shelter, medical attention required, maintenance expenses, special costs to the Township for Animal Control Officer charges, transportation, postage and noticing costs, related legal expenses, and an administrative fee of \$60. The owner shall incur the expense of impounding the dog in a facility other than the municipal pound, regardless of whether the dog is ultimately found to be vicious or potentially dangerous.

**C. Liability Insurance:**

When a municipal court has declared a dog to be a potentially dangerous dog, it may require the owner to maintain liability insurance to cover any damage or injury caused by the potentially dangerous dog. The liability insurance shall contain a provision requiring the municipality in which the owner resides to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

**D. Registration of potentially dangerous dogs:**

(1) The Township Clerk shall issue a potentially dangerous dog registration number and red identification tag along with a municipal potentially dangerous dog license upon a demonstration of sufficient evidence by the owner to the Animal Control Officer that he has complied with the Court's orders. The last three digits of each potentially dangerous dog registration number issued by a municipality will be the three-number code assigned to that municipality in the regulations promulgated pursuant to Section 17 of the Act. The Animal Control Officer shall:

(a) Verify, in writing, compliance to the Municipal Clerk or other official designated to license dogs in the municipality.

(b) Publicize a telephone number for reporting violations of the Act. This telephone number shall be forwarded to the Department, and any changes in this number shall be reported immediately to the Department;

(2) The annual fee for licensing of a potentially dangerous dog and each renewal thereafter shall be as set forth in § 88-1(B)(3)(e).

**SECTION 3.** 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 4.** If any 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.

**SECTION 5.** This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

Councilman Ross asked who determines whether a dog is a potentially vicious dog. Councilman Miller referred Councilman Ross to the paragraph in the ordinance where it states that this is determined by the court. It was the consensus of the Council to discuss this ordinance further at the next workshop meeting. A motion was made by Hamilton to approve Ordinance 2010-06 on first reading, seconded by Miller. All in favor. Motion carried.

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**2010-07**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND  
STATE OF NEW JERSEY AMENDING PORTIONS OF CHAPTER 88, "FEES" OF THE  
REVISED GENERAL ORDINANCES**

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

**SECTION 1.** Chapter 88, Fees, Section 88-1, Fees payable to Municipal Clerk, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of the following items:

**§ 88-1. Fees payable to Municipal Clerk.**

B. Licenses.

(3) Dog license and/or renewal (§§ 60-4B , 60-6B and 60-23.1(D)(2)).

(a) Spayed/neutered: \$8.

(b) Nonspayed/nonneutered: \$12.

(c) Late penalty (per month): \$5.

(d) Replacement tag: \$1.

***(e) The annual fee for licensing a potentially dangerous or vicious dog and each renewal thereof shall be \$500 per year.***

**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, 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.

**SECTION 4.** This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

Councilman Ross asked how the annual fee of \$500.00 was determined. Township Clerk stated that this is the maximum fee allowable by the State of New Jersey. Councilman Ross asked that this be further discussed at the next workshop meeting. A motion was made by Ross to approve Ordinance 2010-07 on first reading, seconded by Miller. All in favor. Motion carried.

**2010-08**

**AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON,  
COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE  
REVISED GENERAL ORDINANCES WITH THE ADDITION OF CHAPTER 142,  
SECONDHAND PRECIOUS METALS, GEMS AND JEWELRY DEALERS**

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

**SECTION 1.** The Hardyston Township Revised General Ordinances are hereby amended and supplemented with the addition of Chapter 142, "Secondhand Precious Metals, Gems and Jewelry Dealers", to read as follows:

**CHAPTER 142 SECONDHAND PRECIOUS METALS, GEMS AND JEWELRY  
DEALERS**

**§142-1 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

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**DEALER**- Any person, partnership, corporation or other entity, whether permanent or itinerant, who on one or more occasions, through any means, buys or sells secondhand gold, silver, precious metals, gems or jewelry, and includes anyone advertising the purchase or sale of any of the aforementioned items.

**ITINERANT BUSINESS**- Any business conducted intermittently within the Township of Hardyston or at varying locations.

**MINOR**- Any person under the age of 18 years.

**PERMANENT-BASED BUSINESS**- Any business conducted on a year-round basis and housed in a single structure, such as a store or residence.

**§142-2 Registration and license required; fee; term.**

- A. Each dealer conducting business within the jurisdiction of the Township of Hardyston shall first register with the Chief of Police, who shall fingerprint the applicant and institute such an investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public welfare. In the event that the dealer is a business entity other than a sole proprietorship, the officers in a corporation or the partners in a partnership (or limited partnership) shall be deemed to be the applicant(s) who shall be fingerprinted and investigated in accordance with this section. Upon completion of the investigation, the Chief of Police shall either issue or deny the license based upon the results of his investigation. Upon the issuance of the license, the applicant shall be given a copy of this Chapter 142. Upon the issuance of the license, the applicant shall pay to the Township Clerk the annual fee of \$200.00 for such license.
- B. A license issued under the provisions of this chapter shall not be transferable and shall terminate on December 31 of the year in which said license is issued.

**§142-3 Records of purchases and sales required.**

Each dealer shall maintain a complete record of each purchase and sale, including the amount paid, a description of the item and any identifying numbers or engravings. The dealer shall also obtain the name, address, and date of birth, driver's license number and state of issuance for the person from whom the items were purchased, received or sold. This information is to be documented on the secondhand jewelry transaction receipt form supplied by the Hardyston Township Department. These records shall be subject to the inspection of any authorized police officer of the Township of Hardyston. The records required to be maintained shall be kept confidential by the dealer and shall be released only to appropriate law enforcement personnel.

**§142-4 Description of transactions to be delivered to Police Chief.**

Each dealer doing business in the Township of Hardyston shall deliver to the Chief of Police the description of all items purchased, received or sold, within 72 hours of the completion of the transaction, on forms prescribed by the Chief of Police.

**§142-5 Holding time for purchased items.**

No dealer shall sell, melt, change the form of or dispose of any articles purchased or received within forty-five (45) days from the date the notification is made to the Chief of Police, and all such items shall remain on the premises where the purchase was made and made available for at least forty-five (45) days to any authorized police officer requesting such items.

**§142-6 Identification of persons transacting business with dealers.**

Each dealer must require identification of the person with whom it is transacting business and no transaction may be made with any minor, as hereinabove defined, nor with any individual who is in an intoxicated state and/or is under the influence of intoxicating liquor, narcotics or hallucinogenic or habit-producing drugs.

**§142-7 Revocation of license.**

Licenses issued under the provisions of this chapter may be revoked by the Chief of Police, after a hearing, upon notice to the applicant, for any of the following causes:

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- A.** Fraud, misrepresentation or false statement contained in the application for a license.
- B.** Fraud, misrepresentation or false statement made in the course of carrying on the business of purchasing secondhand precious metals, gems and jewelry.
- C.** Any violation of this chapter.
- D.** Conviction of any crime or disorderly persons' offense involving moral turpitude.
- E.** Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

**§142-8 Violations and penalties.**

Any person as defined above who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000 or by imprisonment for a term not exceeding 90 days, or both, within the discretion of the Municipal Judge. A separate offense shall be deemed committed in each day during or on which a violation occurs or continues.

**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 by Ross to approve Ordinance 2010-08 on first reading, seconded by Hamilton. All in favor. Motion carried.

**ORDINANCES:**

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

**NEW BUSINESS:**

- A. Tax Collector Resolution #25-10
  - 1. Various Veteran Deduction Refunds

**RESOLUTION # 25-10**

WHEREAS, the following taxpayers were eligible for Veteran Deductions for the 2009 tax year. Approval was granted at the end of the 2009 so therefore refunds are in order for their deductions as follows:

Block	Lot	Name	Address	Amount
17.01	17	Kathy Murray	34 Tannery Hill Dr	\$ 250.00
17.01	17	David Murray	34 Tannery Hill Dr	\$ 250.00
17.02	57	James Turnbull	35 Sugar Maple Ln	\$ 250.00
17.02	57	Lynn Turnbull	35 Sugar Maple Ln	\$ 250.00

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund the above taxpayers for approval of Veteran deductions in the amount of \$ 1,000.00.

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

**B. Resolution #26-10 – Shared Services Agreement with Sussex Borough for DPW Services**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH THE BOROUGH OF SUSSEX FOR THE PROVISION OF DEPARTMENT OF PUBLIC WORKS SERVICES**

**WHEREAS**, the Borough of Sussex desires to contract with the Township of Hardyston for the furnishing of department of public works services; and

**WHEREAS**, the Township of Hardyston has the ability to make these services available to the Borough of Sussex under the terms and conditions set forth in the attached contract; and

**WHEREAS**, the parties desire to enter into a contract pursuant to the “Uniform Shared Services and Consolidation Act,” N.J.S.A. 40A:65-1, et seq., for the furnishing of such services.

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

1. The Manager and Township Clerk are hereby authorized and directed to execute a Shared Services Agreement, a copy of which is attached hereto, with the Borough of Sussex for the provision of Department of Public Works services.
2. This Resolution shall take effect immediately.

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

**C. Resolution #27-10 – Inter-local Agreement with Hamburg Borough for Recycling Services**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH THE BOROUGH OF HAMBURG FOR CURBSIDE RECYCLING SERVICES TO BE PROVIDED BY HARDYSTON TOWNSHIP**

**WHEREAS**, the Borough of Hamburg desires to contract with the Township of Hardyston for curbside recycling services; and

**WHEREAS**, the Township of Hardyston has the ability to make these services available to the Borough of Hamurg under the terms and conditions set forth in the attached contract; and

**WHEREAS**, the terms include the following compensation to be paid to the Township of Hardyston by the Borough of Hamburg:

One Half Year	2010	\$ 14,250.00
Year Two	2011	\$ 29,640.00
Year Three	2012	\$ 30,529.20
Year Four	2013	\$ 31,445.08
Year Five	2014	\$ 32,388.43
One Half Year	2015	\$ 16,680.00

**WHEREAS**, the parties desire to enter into a contract pursuant to the “Uniform Shared Services and Consolidation Act,” N.J.S.A. 40A:65-1, et seq., for the furnishing of such services.

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

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1. The Manager and Township Clerk are hereby authorized and directed to execute a Shared Services Agreement, a copy of which is attached hereto, with the Borough of Hamburg for the provision of curbside recycling services.
2. This Resolution shall take effect immediately.

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

- D. **Resolution #28-10** – Resolution authorizing a complaint to be filed with the Council of Local Mandates for reinstatement of Watershed Aid

**A RESOLUTION AUTHORIZING  
A COMPLAINT TO BE FILED WITH THE COUNCIL OF LOCAL  
MANDATES FOR REINSTATEMENT OF WATERSHED AID TO  
THE TOWNSHIP OF HARDYSTON, COUNTY OF  
SUSSEX, STATE OF NEW JERSEY**

**WHEREAS**, Governor Christie recently presented a budget which removes and is void of all of the watershed aid previously provided to Hardyston Township in the amount of \$194,721.00; and

**WHEREAS**, this watershed aid was part of the Highlands Act which was to offset and financially support the mandates and requirements of the Highlands Planning and Protection Act when it was adopted by the State Legislature in 2004 for the protection of watershed lands and public drinking waters by Highlands municipalities for the benefit of residents throughout the State of New Jersey; and

**WHEREAS**, the Highlands Act included such funding in lieu of a tax or user fee or land steward fee for such communities as a financial offset of the land restrictions imposed by the Act; and

**WHEREAS**, without such watershed aid and funding in conjunction with the Highlands Planning and Protection Act, the State of New Jersey now proposes to eliminate funding that supports the mandates and requirements of the Highlands Act; and

**WHEREAS**, the Council of Local Mandates was created pursuant to the State Mandate State Pay Amendment by the New Jersey Constitution; and

**WHEREAS**, the Council of Local Mandates has authority to rule whether a State law, rule or regulation imposes an unconstitutional unfunded mandate upon municipalities; and

**WHEREAS**, the removal of funding to support the legislation known as the Highlands Act will transform said legislation to an unfunded mandate; and

**WHEREAS**, accordingly it is recommended that Hardyston Township initiate a complaint before the Council on Local Mandates to challenge such a decision for the State to impose an unfunded mandate on Highlands municipalities such as Hardyston 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 Municipal Administrator is hereby authorized to either submit for the municipality or join with other Highlands communities as to the filing of a complaint with the Council on Local Mandates alleging that under the proposed State budget that the Highlands Act will become an unfunded mandate in violation of the New Jersey Constitution, Article VIII, §2, ¶5 and N.J.S.A. 52:13H-2, because it does not authorize resources other than property taxes to offset the direct expenditures required for the implementation of the Highlands Act.

This Resolution shall take effect immediately.

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

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**BILLS TO BE PAID** A motion was made by Ross 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 William Castiglione asked the Council why Hardyston does not have a policy in place with regard to residency preference for the police officer test. Councilman Ross stated that he has discussed this with the Chief of Police and Township Manager, and that although the rules cannot be changed for this test period, he stated that revisions will be discussed before the next test.

The next member of the public to approach the Council was Franklin resident Wayne Yahm. Mr. Yahm stated that he will be running for the office of Sussex County sheriff in the upcoming June primary election and stated that he just wanted to introduce himself to the Council. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

**ADJOURNMENT** A motion was made by Ross to adjourn at approximately 7:20 p.m., seconded by Hamilton. All in favor. Motion carried.

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Jane Bakalarczyk, RMC/CMC  
Municipal Clerk