

## **MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON JULY 28, 2021**

The meeting was called to order by Mayor Kaminski 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 Cicerale, Councilman Kula, Councilman Miller, Councilman Verrilli, Manager Carrine Piccolo-Kaufer, 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 – June 2021
2. Tax Collector Report – June 2021
3. Construction Certificate Activity Report – June 2021
4. Construction Permit Activity Report – Hardyston – June 2021
5. Construction Permit Activity Report – Hamburg – June 2021
6. Construction Permit Activity Report – Franklin – June 2021
7. Construction Permit Activity Report – Newton – June 2021
8. Construction Permit Activity Report – Sussex – June 2021
9. Construction Permit Activity Report – Wantage – June 2021
10. Municipal Court Report – June 2021
11. Police Department Report – June 2021
12. Land Use Report – June 2021
13. Sussex County Health Department Report – June 2021

### **Agreements/Applications/Licenses:**

1. Raffle License – Nicholas Wihlborg Foundation, Inc.
2. Raffle License – PBA Local 315 Civic Assoc., Inc., Chester Township
3. GTBM, Inc. – E-Ticket Agreement - Police Department
4. Amusement License – Anthony Pignataro (Tony's Pizza – Rt 23)

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

## **ORDINANCES**

### **1st READING: 2021-07**

**Purpose Statement-** the purpose of this Ordinance is to amend the Township of Hardyston Zoning Ordinance establish standards for commercial drive-thru establishments, and permit said establishments as a conditional use in the B-1 and B-2 zones, and as an accessory use to a permitted shopping center use in the C-R zone.

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

1. Section 185-4, Definitions, is hereby amended as follows:

- a. Drive-in use is hereby repealed and replaced with the following:

**DRIVE THROUGH FACILITY**– A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto

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the premise and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle.

b. The following definitions are hereby added as follows:

RETAIL, DRIVE-THROUGH (also referred to as retail drive-through) – A retail business as defined herein that by design, physical facilities, service or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their vehicle.

2. Subsection C, Conditionally permitted uses, of Article VIII, B-1 Neighborhood Business District, Section 185-34, Use Regulations is hereby amended to add the following:

(6) Drive through facilities for a use/commercial activity permitted as a principal use in the B-1 zone

3. Subsection C, Conditionally permitted uses, of Article IX, B-2 Highway-Business Service District, Section 185-36, Use Regulations is hereby amended to read as follows:

(2) Drive through facilities for a use/commercial activity permitted as a principal use in the B-2 zone

4. Subsection H, Drive-in drinking and eating establishments, of Section 185-58, Specific Conditions for conditions for conditional uses, of Article XVI Regulations Governing Conditional Uses is hereby repealed and replaced with following:

H. Drive through facilities.

(1) Queues:

(a) Queues shall be wholly contained on the subject property and shall not interfere with parking spaces, loading spaces, circulation aisles, ingress/egress driveways, or emergency vehicle access.

(b) Queues shall be incorporated into the overall site circulation plan and shall therefore not have separate dedicated ingress/egress to surface streets. Additional site ingress/egress driveways dedicated to queues shall not be permitted.

(c) Queue length shall be measured from the point at which queued drivers are required to wait the longest for the proposed service, whether that be the initial ordering point or the point of service delivery, back to the point at which entering the queue cannot interfere with parking spaces, loading spaces, circulation aisles, ingress/egress driveways, or emergency vehicle access. Under no circumstances shall parking spaces, loading spaces, circulation aisles, ingress/egress driveways, or emergency vehicle accesses or surface roadways and shoulders be considered acceptable parts of a queue.

(d) Applicants shall provide a traffic study prepared by a licensed professional documenting relevant and verifiable local/regional traffic data of peak hour drive-through turn-over rates for the

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proposed use, and/or using corporate/industry data for similar uses or nationwide Institute of Traffic Engineers (ITE) data if no other data is available. The required queue length, per service delivery lane, shall be determined by utilizing the latest NJDOT Highway Access Permit System calculation for peak hour trips of the proposed use, dividing by the accepted hourly turn-over rate per service delivery lane, rounding the product up to the nearest integer, and multiplying by 20 feet per vehicle. Where there proposed use does not exactly match NJDOT or ITE nomenclature the closest use with the highest peak hour shall be used.

- (e) Minimum Length. In no instance shall the queue length be less than 200 feet (10 vehicles x 20 feet) per service delivery lane.
  - (f) Minimum Width. In no instance shall a queue lane be less than 10 feet wide.
  - (g) Bypass Lane. Queue lanes shall have a bypass lane not less than 12 feet wide to permit queued drivers the opportunity to exit the queue and reenter the parking lot and/or to allow emergency vehicles and other motorists to circulate passed the queue through the parking lot. Where there are multiple side by side queues, such as but not limited to car washes and banking institutions, the bypass lane shall be adjacent to the outermost queue.
  - (h) Queue entrances, exits, height restrictions, lanes, and directionals shall be appropriately signed and striped. Stop signs shall be provided where the queue exit intersects site circulation aisles.
  - (i) Trash and recycling receptacles must be provided within the queue at a rate of 1 for every 100 feet of queue length.
- (2) Buffer. Where adjoining properties are zoned or used for residential purposes there shall be a solid 6 foot fence and a minimum 3 feet wide landscape buffer with dense shrubbery that matures at a minimum 6 feet height. The fence and buffer shall be installed continuously adjacent to the queue and/or bypass lane inclusive of locations where vehicle headlights entering and exiting the queue can shine across the property line. The buffering is intended to protect adjoining properties from light, noise, and exhaust fumes.
- (3) Noise. The maximum volume of any exterior speakers used for taking orders shall not exceed 65dB. There shall be no speakers or sound making devices that are not part of the ordering system and no ambient background music shall be permitted.
- (4) Hours of Operation. Where adjoining property is zoned or used for residential purposes:
- (a) Drive-through hours are restricted to 7 a.m. to 10:00 p.m. for all potential uses.
  - (b) Where the hours of operation for the drive-through use are less than those permitted for the internal use, the closing and opening of the drive-through must be clearly signed for approaching drivers.
- (5) Light. Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the

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lighting standards set forth in Article XXVIII Outdoor Lighting of the Zoning Ordinance. Drive-through lighting, inclusive of menu boards and ordering stations, shall be turned off when not in operation. Excepting that a lit "Drive-Thru Closed" sign conforming with shielding and light trespass requirements is permitted at the queue entrance to alert approaching drivers.

(6) Pedestrian walkways. Pedestrian walkways must have clear visibility, and be emphasized by enhanced paving or markings when they intersect the queues. Drive-through lanes shall be designed and placed to minimize their crossing principal pedestrian access ways or otherwise impeding pedestrian access. The entrance/exit doors of internal uses shall be located in such a manner that a person entering/exiting such use is not required to immediately cross a drive-through exit lane.

(7) Parking. The provision of drive-through service facilities shall not justify a reduction in the number of required off-street parking spaces for the accompanying use.

5. Subsection BB, Shopping Center, of Section 185-58, Specific Conditions for conditional uses, of Article XVI Regulations Governing Conditional Uses is hereby amended and supplemented to read as follows:

BB. Shopping center.

(1) Principal uses and structures permitted in a shopping center.

(a) A shopping center, as defined in § 185-4, which may include the following uses:

- i. Retail sales of goods.
- ii. Retail sales of personal services and minor appliance or office machinery repair.
- iii. Delicatessens, bakeries, candy stores, food markets and grocery stores.
- iv. Restaurants.
- v. Banks.
- vi. Offices.
- vii. Fitness centers.

(2) Permitted accessory uses and structures.

(a) Other uses customarily incidental to the principal permitted use.

(b) Drive through facilities associated with the principal permitted use subject to the conditions for drive through facilities in Subsection H of Section 185-58.

6. 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.

7. 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.

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8. Effect. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Councilman Cicerale recused himself from the discussion and vote regarding Ordinance 2021-07. Township Manager advised that she and the Township Attorney had reviewed this Ordinance and vetted same for any possible conflicts of interest and advised that the four voting members of the Council, since Councilman Cicerale had already decided to recuse, do not have a conflict of interest with respect to this Ordinance. She stated that this is as a result of the Ordinance impacting a number of properties throughout the Township.

A motion was made by Verrilli to approve Ordinance 2021-07 on first reading, seconded by Kula with Cicerale abstaining. All in favor. Motion carried.

## **ORDINANCES**

### **2nd READING:**

**2021-08**

### **AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN THE TOWNSHIP AND AMENDING AND SUPPLEMENTING CHAPTER 185 "ZONING" OF THE TOWNSHIP CODE**

**WHEREAS**, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called "cannabis" for adults at least 21 years of age; and

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (the "Act"), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive

regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchases items to a consumer, and which service would include the ability of a consumer to make a

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purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

**WHEREAS**, Section 3 of the Act defines a “cannabis establishment” as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”; and

**WHEREAS**, Section 31a of the Act authorizes municipalities to adopt by ordinance regulations governing the number of (1) cannabis establishments, (2) cannabis distributors and (3) cannabis delivery services, except for the delivery of cannabis items and related supplies by a cannabis delivery service based and initiated from outside of the municipality; and

**WHEREAS**, Section 31a of the Act also authorizes municipalities to adopt by ordinance regulations governing the local licensing endorsement, location, manner and times of operation of cannabis establishments and cannabis distributors, and the location and manner of cannabis delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, Section 31b of the Act authorizes municipalities to prohibit by ordinance the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality, except for the delivery of cannabis items and related supplies by a delivery service based and initiated from outside of the municipality; and

**WHEREAS**, Section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (i.e., by August 21, 2021); and

**WHEREAS**, pursuant to Section 31b of the Act, the failure to do so shall mean that for a period of five (5) years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

**WHEREAS**, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again, in 2026, have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating with appropriate approvals within the municipality; and

**WHEREAS**, the Township Council of Hardyston Township has determined that, due to the detrimental impacts that permitting one or more classes of cannabis business might have on New Jersey municipalities in general, and on our community in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township’s residents and members of the public who visit, travel, or conduct business in Hardyston, to amend the Township’s regulations to prohibit all manner of cannabis/marijuana-related within the geographic boundaries of Hardyston Township.

**NOW THEREFORE, 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.** Chapter 185 “Zoning” of the Township Code is hereby amended to read as follows:

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**Article V. Prohibited Uses**

**§185-26 Definitions.**

For purposes of this Article, the following definitions shall apply:

“Cannabis” means all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2016, c. 16 for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. “Cannabis” does not include: medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

“Cannabis cultivator” means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

“Cannabis delivery service” means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

“Cannabis distributor” means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

“Cannabis establishment” means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

“Cannabis manufacturer” means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

“Cannabis retailer” means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a

certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis

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delivery service which will be delivered by the cannabis delivery service to that consumer.

“Cannabis wholesaler” means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

**§185-27 Cannabis establishments, distributors and delivery services prohibited.**

Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Township of Hardyston, except for the delivery of cannabis items and related supplies by a licensed cannabis delivery service based and initiated from a cannabis delivery service licensed location outside of the Township.

**SECTION 2.** Any article, chapter, section, paragraph, subsection, clause, or other provision of the Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

**SECTION 3.** In case, for any reason, any portion or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other portion or provision of this Ordinance, except so far as the portion or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

**SECTION 4.** This Ordinance shall take effect in accordance with the 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 2021-08 on second reading, seconded by Cicerale. All in favor. Motion carried.

**NEW BUSINESS:**

A. Tax Collector Resolutions

1. Resolution #63-21 – Refund – Corelogic Tax Services

**RESOLUTION  
#63-21**

**WHEREAS,** Block 63 Lot 26.22 also known as 11 Emerald Drive owned by CJS Investments Inc., and

**WHEREAS,** Corelogic Tax Services paid 1<sup>st</sup> quarter 2021 taxes to Block 63 lot 26.22 and payment was meant for another parcel outside of Hardyston, and

**WHEREAS,** Corelogic Tax Services is due a refund in the amount of \$342.34.



**NOW THEREFORE BE IT RESOLVED**, that the Tax Collector be authorized to refund Corelogic Tax Services in the amount of \$342.34.

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

2. Resolution #64-21 – Redemption of Tax Sale Certificate – Rustic Ridge Holdings, LLC

**RESOLUTION  
#64-21**

**WHEREAS**, at the Tax Sale held on October 3, 2018, a lien was sold on Block 67.03, Lot 1.27, also known as 29 Mountain View Ct., for 2017 delinquent taxes; and,

**WHEREAS**, this lien, known as Tax Sale Certificate # 2018-010, was sold to Rustic Ridge Holdings, LLC, for a 15% redemption fee and \$0 premium; and,

**WHEREAS**, Walter Macko, owner, has effected redemption of Certificate #2010-010 and subsequent taxes in the amount of \$42,731.17

**NOW THEREFORE BE IT RESOLVED**, that the Treasurer be authorized to issue a check in the amount of \$42,731.17 payable to Rustic Ridge Holdings, LLC, 60 Deer Trail Lake Road, Stockholm, NJ 07460 for the redemption of Tax Sale Certificate #2010-010.

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

3. Resolution #65-21 – Resolution authorizing participation in electronic tax sales

**RESOLUTION #65-21**

**RESOLUTION OF THE TOWNSHIP OF HARDYSTON, IN THE  
COUNTY OF SUSSEX AND STATE OF NEW JERSEY, AUTHORIZING  
ELECTRONIC TAX SALES**

**WHEREAS**, N.J.S.A. 54:5-19.1 permits municipalities to satisfy requirements of the “tax sale law,” N.J.S.A. 54:5-1 et seq., electronically, through the use of any nationally recognized electronic municipal tax lien service, pursuant to rules and regulations to be promulgated by the Director of the Division of Government Services; and

**WHEREAS**, the Director of the Division of Local Government Services has promulgated rules and regulations for pilot programs; and

**WHEREAS**, the rules and regulations authorize a municipality to submit an application for participation in the pilot program for an electronic tax sale; and

**WHEREAS**, an electronic tax sale is innovative and provides a greater pool of potential lien buyers, thus creating the environment for a more complete tax sale process; and

**WHEREAS**, the Township of Hardyston (‘Township’) wishes to participate in the pilot program for an electronic tax sale; and

**WHEREAS**, the Director of the Division of Local Government Services has approved NJ Tax Lien Investors/RealAuction.com LLC ('RealAuction.com LLC') to conduct electronic tax sales; and

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**WHEREAS**, the cost to enter into an Agreement with RealAuction.com LLC for 'Electronic Tax Lien Certificate Sale Services' is well below the bid threshold established by N.J.S.A. 40A:11-3, permitting the Township to enter into the Agreement by Resolution, without public advertising for bids.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Township of Hardyston, County of Sussex, State of New Jersey, that the Tax Collector is hereby authorized to enter into an Agreement with RealAuction.com LLC for Electronic Tax Lien Certificate Sale Services, at a cost of \$15.00 per property submitted by the Township for Electronic Tax Lien Certificate Sale.

This Resolution shall take effect immediately.

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

4. Resolution #66-21 – Redemption of Tax Sale Certificate – US Bank Cust/Pro Cap 8/Pro Capital Mgt II

**RESOLUTION  
#66-21**

**WHEREAS**, at the Tax Sale held on October 22, 2020, a lien was sold on Block 15, Lot 13, also known as 3709 RT 94, for 2019 delinquent taxes; and,

**WHEREAS**, this lien, known as Tax Sale Certificate # 2020-004, was sold to US BANK CUST/PRO CAP 8/PRO CAPITAL MGT II, for a 18% redemption fee and \$0 premium; and,

**WHEREAS**, Sunrise Title Services, Inc., on behalf of the owner, Imperial Realty Partnership, LLP has effected redemption of Certificate #2020-004 and subsequent taxes in the amount of \$12,374.06.

**NOW THEREFORE BE IT RESOLVED**, that the Treasurer be authorized to issue a check in the amount of \$12,374.06 payable to US BANK CUST/PRO CAP 8/PRO CAPITAL MGT II, 50 South 16<sup>th</sup> Street, Suite 2050, Philadelphia, PA 19102 for the redemption of Tax Sale Certificate #2020-004.

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

- B. Resolution #67-21- Resolution to cancel escrow balance

**Resolution #67-21**

Whereas, There is an Escrow Account within the Other Trust Fund account of the Township of Hardyston and, the account balance was researched and found to be an amount that should be returned; and

Whereas, Numerous efforts have been used to contact the person who originally posted said escrow with no results; and

Whereas, It is necessary to formally cancel said escrow balance so that the balance may be returned to the proper account, or credited to surplus;

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Now, Therefore, be it resolved, by the Mayor and Council of the Township of Hardyston, that the following escrow account balance in the Other Trust Fund be canceled, and transferred to the Current Fund:

<u>Name</u>	<u>Amount Canceled</u>
ZB-5-17-1 Flat Acres Farms	\$64.00

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

C. Resolution #68-21 – Chapter 159 – SFY21 Body-Worn Camera Grant

**RESOLUTION #68-21**

**STATE OF NEW JERSEY, DEPARTMENT OF LAW AND PUBLIC SAFETY,  
DIVISION OF CRIMINAL JUSTICE, SFY21 BODY-WORN CAMERA GRANT**

WHEREAS, N.J.S. 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof not was determined at the time of the adoption of the budget, and

WHEREAS, Said Director may also approve the insertion of any item of appropriation for equal amount,

**SECTION I.**

NOW THEREFORE, BE IT RESOLVED THAT THE MAYOR AND COUNCIL OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX, AND STATE OF NEW JERSEY, hereby request the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Local Municipal Budget of the Township of Hardyston for the year 2021, in the sum of \$50,950, which is, know available as a revenue from State of New Jersey, Department of Law and Public Safety, Division of Criminal Justice, SFY21 Body-Worn Camera Grant, pursuant to the provision of Statute, and

**SECTION II.**

BE IT FURTHER RESOLVED, that a like sum of \$50,950 and the name is hereby appropriated under the caption State of New Jersey, Department of Law and Public Safety, Division of Criminal Justice, SFY21 Body-Worn Camera Grant.

**SECTION III.**

BE IT FURTHER RESOLVED, that the above is a result of a Grant award from State of New Jersey, Department of Law and Public Safety, Division of Criminal Justice, SFY21 Body-Worn Camera Grant, and /or/ has been anticipated as a revenue from the State of New Jersey, Department of Law and Public Safety, Division of Criminal Justice, SFY21 Body-Worn Camera Grant, and upon receipt shall be deposited into the Township of Hardyston Current Fund, and,

BE IT FURTHER RESOLVED, that two executed copies of this resolution be filed with the Director of the Division of Local Government Services.

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

D. Resolution #69-21 – Resolution authorizing the use of a Source Well National Contract for the Township of Hardyston, Department of Public Works

**Resolution # 69-21**

**A Resolution Authorizing the Use of a Source Well National Contract for the Township of Hardyston,  
Department of Public Works**

**WHEREAS**, the Source Well National Contract advertised and received bids for the purchase of construction and agricultural equipment, contract number 04139-JCB and was awarded on May 31, 2019

**WHEREAS**, the bid proposal included an option for the bidder to provide goods and/or services to current and/or potential members including government, higher education, K 12 education, non-profits and all other public agencies located nationally without substitution or deviation from the bid specification; and

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**WHEREAS**, JCB, Inc., was awarded the contract with purchases authorized through their distributors and have extended their pricing to registered members of the NJPA, thereby affording the Township of Hardyston the opportunity of direct purchase through Hoffman Equipment, Inc., without competitive bidding.

**NOW, THEREFORE, BE IT RESOLVED** that the Township of Hardyston in the County of Sussex, State of New Jersey wishes to purchase a 2021 Bucket Loader - Model # 3CVX 12L4WH and

**BE IT FURTHER RESOLVED** that the Mayor and Township Clerk are hereby authorized and directed to execute said contract and related contract documents; and

**BE IT FURTHER RESOLVED** that this contract will be in effect from the date of award until receipt of goods.

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.

- E. Resolution #70-21 – Resolution authorizing the issuance of not exceeding \$4,229,500 bond anticipation notes of the Township of Hardyston

**RESOLUTION #70-21**

**RESOLUTION AUTHORIZING THE ISSUANCE OF NOT EXCEEDING  
\$4,229,500 BOND ANTICIPATION NOTES OF THE TOWNSHIP OF HARDYSTON, IN  
THE COUNTY OF SUSSEX, NEW JERSEY**

**BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP  
OF HARDYSTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AS FOLLOWS:**

Section 1. Pursuant to a bond ordinance of The Township of Hardyston, in the County of Sussex (the “Township”) entitled: “Bond ordinance appropriating \$4,825,000, and authorizing the issuance of \$4,595,000 bonds or notes of the Township, for various improvements or purposes authorized to be undertaken by the Township of Hardyston, in the County of Sussex, New Jersey”, finally adopted on November 28 2018 (#2018-13), bond anticipation notes of the Township in a principal amount not exceeding \$3,585,000 shall be issued for the purpose of temporarily financing the improvement or purpose described in Section 3 of said bond ordinance, including (to any extent necessary) the renewal of any bond anticipation notes heretofore issued therefor.

Section 2. Pursuant to a bond ordinance of the Township entitled: “Bond ordinance providing for the improvement of the fire protection system at the North Church Technical Center in and by the Township of Hardyston, in the County of Sussex, New Jersey, appropriating \$460,000 therefor, directing a special assessment of part of the cost thereof, authorizing the issuance of \$437,000 bonds or notes of the Township for financing the same and repealing an ordinance of the Township heretofore adopted on November 1, 2011 (#2011-15)”, finally adopted on June 26, 2019 (#2019-07), bond anticipation notes of the Township in a

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principal amount not exceeding \$437,000 shall be issued for the purpose of temporarily financing the improvement or purpose described in Section 3 of said bond ordinance, including (to any extent necessary) the renewal of any bond anticipation notes heretofore issued therefor.

Section 3. Pursuant to a bond ordinance of the Township entitled: “Bond ordinance making a supplemental appropriation of \$218,000 for the improvement of the fire protection system at the North Church Technical Center in and by the Township of Hardyston, in the County of Sussex, New Jersey, directing a special assessment of part of the cost thereof, and authorizing the issuance of \$207,500 bonds or notes of the Township for financing such appropriation”, finally adopted on February 26, 2020 (#2020-01), bond anticipation notes of the Township in a principal amount not exceeding \$207,500 shall be issued for the purpose of temporarily financing the improvement or purpose described in Section 3 of said bond ordinance, including (to any extent necessary) the renewal of any bond anticipation notes heretofore issued therefor.

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Section 4. All bond anticipation notes (the “notes”) issued hereunder shall mature at such times as may be determined by the treasurer, the chief financial officer or the acting 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 and shall be signed and sealed by officials and officers of the Township in any manner permitted by N.J.S.A. §40A:2-25. The Chief Financial Officer shall determine all matters in connection with the notes issued hereunder, and the Chief Financial Officer’s signature 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. The Chief Financial Officer is hereby authorized to sell part or all of the notes at not less than par 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. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the notes hereunder is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 5. Any note issued pursuant to this resolution shall be a general obligation of the Township, and the Township’s faith and credit are hereby pledged to the punctual payment of the principal of and interest on the notes and, unless otherwise paid or payment provided for, an amount sufficient for such payment shall be inserted in the budget and a tax sufficient to provide for the payment thereof shall be levied and collected.

Section 6. The Chief Financial Officer is hereby authorized and directed to do all other matters necessary, useful, convenient or desirable to accomplish the delivery of the notes to the purchasers thereof as promptly as possible, including (i) the preparation, execution and dissemination of a Preliminary Official Statement and Final Official Statement with respect to the notes, (ii) preparation, distribution and publication, if necessary, of a Notice of Sale with respect to the notes, (iii) execution of a Continuing Disclosure Undertaking, with respect to the notes in accordance with Rule 15c212 promulgated by the Securities and Exchange Commission and (iv) execution of an arbitrage and use of proceeds certificate certifying that, among other things, the Township, to the extent it is empowered and allowed under applicable law, will do

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and perform all acts and things necessary or desirable to assure that interest paid on the notes is not included in gross income under Section 103 of the Internal Revenue Code of 1986, as amended.

Section 7. All action heretofore taken by Township officials and professionals with regard to the sale and award of the notes is hereby ratified, confirmed, adopted and approved.

Section 8. 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.

F. Tax Collector Resolutions

1. Resolution #71-21 – Premium Payment due for Tax Sale Certificate

**RESOLUTION  
#71 -21**

**WHEREAS**, Tax Sale Certificate #2014-000 was issued at the Tax Sale on October 2, 2014 with zero percent redemption and a premium of \$2,100.00 on Block 16 Lot 14.03 also known as 37 Crystal Springs Road; and

**WHEREAS**, N.J.S.A 54:5-33 states that if a redemption is not made within five years from the date of the Sale the premium payment shall be turned over to the Treasurer of the Municipality; and

**WHEREAS**, Tax Sale Certificate #2014-000 was five years from the date of the Tax Sale on October 2, 2019, therefore the premium in the amount of \$2,100.00 is to be turned over to the Treasurer;

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**NOW THEREFORE BE IT RESOLVED**, by the Township Council of the Township of Hardyston that this Governing Body acknowledges that the premium for Tax Sale Certificate #2014-000 in the amount of \$2,100.00 be turned over to the Treasurer of the Township of Hardyston, and

**BE IT FURTHER RESOLVED**, that the Tax Collector be authorized to issue a check in the amount of \$2,100.00 for said premium to the Treasurer of the Township of Hardyston.

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

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2. Resolution #72-21 – Premium Payment due for Tax Sale Certificate

**RESOLUTION  
#72-21**

**WHEREAS**, Tax Sale Certificate #11-19 was issued at the Tax Sale on September 28, 2011 with zero percent redemption and a premium of \$76,000.00 on Block 63 Lot 1.01 also known as 3490 RT 94; and

**WHEREAS**, N.J.S.A 54:5-33 states that if a redemption is not made within five years from the date of the Sale the premium payment shall be turned over to the Treasurer of the Municipality; and

**WHEREAS**, Tax Sale Certificate #11-19 was five years from the date of the Tax Sale on September 28, 2016 therefore the premium in the amount of \$76,000.00 is to be turned over to the Treasurer;

**NOW THEREFORE BE IT RESOLVED**, by the Township Council of the Township of Hardyston that this Governing Body acknowledges that the premium for Tax Sale Certificate #11-19 in the amount of \$76,000.00 be turned over to the Treasurer of the Township of Hardyston, and

**BE IT FURTHER RESOLVED**, that the Tax Collector be authorized to issue a check in the amount of \$76,000.00 for said premium to the Treasurer of the Township of Hardyston.

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

- G. Resolution #73-21 – Resolution authorizing the adoption of the 2021 Sussex County, New Jersey Hazard Mitigation Plan Update

**RESOLUTION #73-21**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON**



**AUTHORIZING THE ADOPTION OF THE  
2021 SUSSEX COUNTY, NEW JERSEY HAZARD MITIGATION PLAN UPDATE**

**WHEREAS**, all jurisdictions within Sussex County have exposure to hazards that increase the risk to life, property, environment, and the County and local economy; and

**WHEREAS**; pro-active mitigation of known hazards before a disaster event can reduce or eliminate long-term risk to life and property; and

**WHEREAS**, The Disaster Mitigation Act of 2000 (Public Law 106-390) established new requirements for pre and post disaster hazard mitigation programs; and

**WHEREAS**; a coalition of Sussex County municipalities with like planning objectives has been formed to pool resources and create consistent mitigation strategies within Sussex County; and

**WHEREAS**, the coalition has completed a planning process that engages the public, assesses the risk and vulnerability to the impacts of natural hazards, develops a mitigation strategy consistent with a set of uniform goals and objectives, and creates a plan for implementing, evaluating and revising this strategy;

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**NOW, THEREFORE, BE IT RESOLVED** that the Township of Hardyston:

- 1) Adopts in its entirety, the 2021 Sussex County Hazard Mitigation Plan Update (the “Plan”) as the jurisdiction’s Hazard Mitigation Plan and resolves to execute the actions identified in the Plan that pertain to this jurisdiction.
- 2) Will use the adopted and approved portions of the Plan to guide pre- and post-disaster mitigation of the hazards identified.
- 3) Will coordinate the strategies identified in the Plan with other planning programs and mechanisms under its jurisdictional authority.
- 4) Will continue its support of the Mitigation Planning Committee as described within the Plan.
- 5) Will help to promote and support the mitigation successes of all participants in this Plan.
- 6) Will incorporate mitigation planning as an integral component of government and partner operations.
- 7) Will provide an update of the Plan in conjunction with the County no less than every five years.

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

H. Appointment – Deputy Registrar

Due to the retirement of Patricia Egan, a motion was made by Verrilli to appoint Dana Vitz to fill the vacancy of Deputy Registrar with a term expiring on 12/31/2021, seconded by Cicerale. All in favor. Motion carried.

I. Correspondence

1. Sparta Township
2. Jefferson Township
3. Jefferson Township
4. Jefferson Township
5. Lafayette Township
6. Lafayette Township
7. Lafayette Township
8. Ogdensburg Borough

9. Hampton Township
10. Hampton Township
11. West Milford Township
12. West Milford Township
13. State of NJ
14. State of NJ
15. Sussex County Municipal Utilities Authority
16. Jersey Central Power & Light

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

**BILLS TO BE PAID:** A motion was made by Verrilli 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 Bill Walsh, 3 Beach View Ct, inquired as to the status of his drainage issue. Township Manager stated that the Department of Public Works and the Township Engineer are working on a solution. She stated that she will follow up with them to check on their progress. Resident Marty Schweighardt, 44 Tannery Hill Dr, asked for clarification on Item D, Resolution #69-21. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

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**EXECUTIVE SESSION:**

**BE IT RESOLVED** by the Township Council of the Township of Hardyston on the 28th day of July, 2021, 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.
  - (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: Cicerale  
 Seconded by: Miller

<b>MOTION</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Kula	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Miller	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Verrilli	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Kaminski	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Cicerale	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>

Motion carried.

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

**ADJOURNMENT:** A motion was made by Miller to adjourn at approximately 8:30 p.m., seconded by Kula. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC  
Municipal Clerk