

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON
SEPTEMBER 27, 2023**

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 Verrilli, Councilman Kula, Councilman Cicerale, Manager Carrine Piccolo-Kaufer, Clerk Jane Bakalarczyk and Township Attorney Robert Rossmeissl of Dorsey & Semrau. Councilman Miller was absent from this meeting.

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 – August 2023
2. Tax Collector Report – August 2023
3. Construction Certificate Activity Report – August 2023
4. Construction Permit Activity Report – Hardyston – August 2023
5. Construction Permit Activity Report – Hamburg – August 2023
6. Construction Permit Activity Report – Franklin – August 2023
7. Construction Permit Activity Report – Newton – August 2023
8. Construction Permit Activity Report – Sussex – August 2023
9. Construction Permit Activity Report – Wantage – August 2023
10. Municipal Court Report – August 2023
11. Police Department Report – August 2023
12. Land Use Report – August 2023
13. Department of Public Works Report - August 2023
14. Sussex County Health Department Report – July 2023

Agreements/Applications/Licenses:

1. Raffle – K of C Council #12649 St. John Vianney
2. Bingo – K of C Council #12649 St. John Vianney
3. Raffle – Sussex County Association of Realtors
4. Raffle – Pompton Falls Volunteer Fire Dept #3

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

MANAGERS REPORT:

Township Manager reported and gave the Council updates on the following:

- Outdoor Wood Boilers
- Brecia Farms Complaint
- EV Charging Stations Grant

ORDINANCES

1ST READING:

2023-14

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX,
STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 172,
VEHICLES AND TRAFFIC, OF THE REVISED GENERAL ORDINANCES
REGARDING HOLLAND MOUNTAIN ROAD**

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

SECTION 1. Chapter 172, Vehicles and Traffic, Section 172-27, Speed Limits, of the aforesaid Revised General Ordinances is hereby amended and supplemented with respect to the speed limit on Holland Mountain Road to read as follows:

§ 172-27. Speed Limits

<u>Name of Street</u>	<u>Direction</u>	<u>Speed Limit</u>	<u>Location</u>
Holland Mountain Road	Both	25 mph	From the intersection of NJSH Route 23 for a distance of 225 feet West of Route 23

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 Kula to approve Ordinance 2023-14 on first reading, seconded by Verrilli. All in favor. Motion carried.

ORDINANCES

2nd READING:

2023-10

ORDINANCE OF THE TOWNSHIP OF HARDYSTON, IN THE COUNTY OF SUSSEX AND STATE OF NEW JERSEY, ACCEPTING THE LAND DONATION OF BLOCK 14, LOT 22.01, ALSO KNOWN AS 3601 ROUTE 94, LOCATED IN THE TOWNSHIP OF HARDYSTON

WHEREAS, U.S. Concrete, Inc. is the owner of vacant land located within the Township of Hardyston known as Block 14, Lot 22.01 on the Township Tax Map and consisting of approximately 190 acres ('Property'); and

WHEREAS, U.S. Concrete, Inc. has advised the Township that it wishes to donate said Property to the Township without any specific conditions or compensation ('Land Donation'); and

WHEREAS, the Mayor and Council believe that it would be in the best interest of the Township to accept this donation of Property subject to a due diligence review of the environmental condition of the Property, a clear title search and final review or revision to the agreement by the Township Attorney; and

WHEREAS, the Township on February 22, 2023, approved Resolution #21-23, authorizing the Township to enter into a land donation agreement between U.S. Concrete, Inc. and the Township of Hardyston, concerning the Property ('Land Donation Agreement'); and

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WHEREAS, Resolution #21-23 conditioned the Township’s acceptance of the Land Donation upon the completion of a due diligence review of the environmental condition of the property, a clear title search, and a final review of or revision to the agreement by the Township Attorney (‘Due Diligence Process’); and

WHEREAS, N.J.S.A. 40A:12-1, et seq., the Local Lands and Buildings Law, authorizes municipalities to acquire real property by gift, pursuant to a duly adopted ordinance; and

WHEREAS, the Land Donation Agreement is conditioned upon all real estate taxes being current prior to closing, the Township adopting the instant Land Acquisition Ordinance, the conducting of a satisfactory environmental review of the property, and an acceptable title search of the property (‘Agreement Requirements’).

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:

1. Subject to the Township completing due diligence to the satisfaction of the Township Council, the Township does hereby graciously accept the donation of the property located at Block 14, Lot 22.01 on the Township Tax Map (‘Property’), from U.S. Concrete, Inc.
2. Subject to the Township completing due diligence to the satisfaction of the Township Council, the Township Attorney is hereby directed to prepare a Deed transferring the Property from U.S. Concrete, Inc. to the Township of Hardyston.
3. The Mayor, Township Manager, Township Attorney, Township Clerk, and/or such other Township Officials as the law may provide, are hereby authorized to prepare and execute such additional documents as may be required to effectuate the acquisition of the Property.
4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.
5. 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. This Ordinance shall take effect immediately upon final passage and publication according to 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 Kula to approve Ordinance 2023-10 on second reading, seconded by Kaminski. All in favor. Motion carried.

2023-11

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CERTAIN PORTIONS OF CHAPTER 165, TOWERS & WRECKERS, OF THE REVISED GENERAL ORDINANCES TO ESTABLISH MAXIMUM RATES FOR APPROVED TOWING COMPANIES IN THE TOWNSHIP OF HARDYSTON

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

SECTION 1. Chapter 165, Towers & Wreckers, Section 165-3, Details of Towing Agreements, subsection J., of the aforesaid Revised General Ordinances is hereby amended to read as follows:

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J. Towing companies shall prepare an invoice for towing charges for each vehicle towed, consistent with the maximum New Jersey State Police Rates set annually by the Garden State Towing Association, where applicable.

SECTION 2. Chapter 165, Towers & Wreckers, Section 165-4, Rates for Towing Services of the aforesaid Revised General Ordinances is hereby amended to read as follows:

§ 165-4. Rates for towing services.

A. The rates applicable for all towing companies contracted with the Township of Hardyston shall not exceed the enumerated fees set by the Garden State Towing Association's annual fees set for the maximum New Jersey State Police Towing Rates. These tariffs are annually recalculated based upon a random sampling of reasonable fees utilized by commercial and municipal towers. The Hardyston Township Police Department has determined that the average rate per category based upon the Association's census is reasonable and is acceptable for use by this agency. These rates are subject to change throughout the year.

B. The rates applicable to towing services performed under the guidelines of the State of New Jersey shall be posted in a conspicuous place, at the towing companies' facilities.

C. Complaints of any kind relative to services, overcharging, theft of parts, damage to towed or stored vehicles and the like shall be referred to the Chief of Police for investigation.

(1) Such violations or any other violation of this chapter may be cause for imposition of penalties by the Chief of Police, enumerated as follows:

- (a) Written warning; and/or
- (b) Suspension from five tow calls; and/or
- (c) Suspension for three months; and/or
- (d) Permanent revocation.

(2) The penalty set forth in Chapter 1, Article II, of this Code shall not be applicable to violations determined by the Chief of Police under this section.

(3) Towing companies permanently revoked from the rotating list by the Chief of Police may request a hearing before the Township Council to appeal said revocation.

D. In such cases, an appeal may be filed with the Township Clerk within 10 business days of the imposition of the penalty. A hearing may be held by the Hardyston Township Council within 30 days of the filing of such an appeal. The Hardyston Township Council shall render its determination within 30 days following the conclusion of the hearing. The governing body's decision shall be final and conclusive.

SECTION 4. 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 5. 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 6. This Ordinance may be renumbered for purposes of codification.

SECTION 7. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried. A motion was made by Verrilli to approve Ordinance 2023-11 on second reading, seconded by Kula. All in favor. Motion carried.

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**AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY,
AUTHORIZING TAX EXEMPTION AND PAYMENT IN LIEU OF TAXES
AND ADOPTING AND AUTHORIZING THE EXECUTION OF A
FINANCIAL AGREEMENT FOR PAYMENT IN LIEU OF TAXES WITH
NOVELLE, LLC, PURSUANT TO N.J.S.A. 40A:20-1 ET SEQ.**

WHEREAS, Nouvelle, LLC (“Nouvelle”) has been qualified by the State of New Jersey to do business as an urban renewal entity (“URE”) under the provisions of the Long-Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., as amended and supplemented (the “LTTE Law”); and

WHEREAS, Nouvelle seeks to effectuate the redevelopment, operation, and maintenance of the Project known as 132 Wheatsworth Road, Hardyston, New Jersey, 07419, Block 63 And Lot 26.01 on the Township Tax Map (the “Project”); and

WHEREAS, in order to improve the feasibility of the renovation, operation, and maintenance of the Project, Nouvelle made application to the Township requesting a long term tax exemption and financial agreement with respect to the Project; and

WHEREAS, there was also submitted as part of the application a form of a financial agreement, pursuant to which Nouvelle agrees to pay, in lieu of tax payments, an Annual Service Charge in lieu of taxes on the Project based on the gross revenues of the Project, with minimum Annual Service Charges pursuant to N.J.S.A. 40A:20-12 (“PILOT Agreement”); and

WHEREAS, the Project will conform to all applicable municipal zoning ordinances and will be in conformance with the Township’s Master Plan; and

WHEREAS, the Township Council has reviewed the terms of the PILOT Agreement, and wishes to approve Nouvelle’s application on such terms; and

WHEREAS, the Township Council has determined that the Project represents an undertaking permitted by the LTTE Law; and

WHEREAS, the Township hereby finds that the relevant benefits of the Project to the including the creation of affordable housing will outweigh the costs, if any, associated with the tax exemption, which relevant benefits are further described in the PILOT Agreement; and

WHEREAS, the Township hereby determines that the assistance provided to the Project pursuant to the PILOT Agreement will be a significant inducement for Nouvelle to proceed with the Project and contribute to the feasibility of the Project.

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

SECTION 1.

A. General

The aforementioned recitals are incorporated herein as though fully set forth at length.

B. Approval of Exemption from Taxation

An exemption from taxation as set forth in the Agreement for Payment in Lieu of Taxes (attached hereto as “Exhibit A”) is hereby approved and granted to Nouvelle, LLC (“Nouvelle”) with respect to the Project known as 132 Wheatsworth Road, Hardyston, New Jersey, 07419, Block 63 And Lot 26.01 on the Township Tax Map (the “Project”), in accordance with the terms set forth in the Agreement for Payment in Lieu of Taxes

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(“PILOT Agreement”); provided that in no event shall the term of the PILOT Agreement exceed the earlier of thirty-five (35) years from the date of execution thereof or (ii) to the

extent permitted by the LTTE Law, thirty (30) years from the Nouvelle's receipt of a Certificate of Occupancy (as defined in the PILOT Agreement) for the Project and only so long as Nouvelle remains subject to and in compliance with the PILOT Agreement and the LTTE Law and any other agreement related to the Project or the Premises; and provided, further, that in no event shall the resulting property tax obligation in each year the property tax exemption is in effect, when combined with the Annual Service Charge as defined in the PILOT Agreement, be less than the amount of the Land Taxes (as defined in the PILOT Agreement) prior to redevelopment.

C. Execution of PILOT Agreement Authorized

(i) The Mayor, in consultation with legal counsel to the Township, is hereby authorized and directed to execute the PILOT Agreement, substantially in the form as it has been presented to the Mayor and Council, subject to additions, deletions, modifications, or revisions deemed necessary and appropriate in consultation with counsel, and any other agreements necessary to effectuate the PILOT Agreement.

(ii) The Township Clerk is hereby authorized and directed, upon the execution of the PILOT Agreement in accordance with the terms of Section C(i) hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed to affix the seal of the Township upon such document.

(iii) Within thirty (30) days of its execution, the Township Clerk shall file certified copies of this ordinance and the executed PILOT Agreement with the Tax Assessor of the Township and shall forward a certified copy of this Ordinance and the executed PILOT Agreement to the Director of the Division of Local Government Services within the New Jersey Department of Community Affairs in accordance with Section 12 of the LTTE Law.

(iv) The executed copy of the PILOT Agreement shall be filed with the Office of the Township Clerk.

D. Entity Obligations

(i) The Project shall conform with all Federal and State laws and ordinances and regulations of the Township relating to its construction and use.

(ii) Nouvelle shall, in the operation of the Project, require compliance with all laws so that no person because of race, religious principles, color, national origin or ancestry, will be subject to discrimination.

(iii) Nouvelle shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the PILOT Agreement.

E. Action Regarding PILOT Agreement

The Mayor, the township Manager, the Township Clerk, and any other Township official, officer or professional, including but not limited to, Township legal counsel, and the auditor to the Township, are each hereby authorized and directed to execute and deliver such documents as are necessary to facilitate the transactions contemplated hereby, and to take such actions or refrain from such actions as are necessary to facilitate the transactions contemplated hereby, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

SECTION 2. 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.

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SECTION 3. 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.

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

SECTION 5. Availability. A copy of this Ordinance shall be available for public inspection at the offices of the Township

A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried. A motion was made by Verrilli to approve Ordinance 2023-12 on second reading, seconded by Cicerale. All in favor. Motion carried.

OLD BUSINESS:

Councilman Cicerale asked the Township Manager to clarify the sections in Ordinance 2023-13 regarding parking and fences. Ordinance 2023-13 was introduced at the September 14, 2023 meeting and is scheduled for second reading on October 25, 2023.

NEW BUSINESS:

A. Tax Collector Resolutions

1. Resolution #76-23 – Refund – Block 36, Lot 24 QFARM – 46 Silver Grove Road – Red Hot Chili Garden, LLC

RESOLUTION #76-23

WHEREAS, Block 36 Lot 24 Qualification QFARM also known as 46 Silver Grove Rd. owned by Red Hot Chili Garden, LLC, and

WHEREAS, Red Hot Chili Garden, LLC paid taxes for February and May 2023, and received a lower assessment on their property for 2023, and

WHEREAS, Mr. Scott Holzhauser, Tax Assessor for Hardyston Township has approved this assessment for 2023, and therefore their tax payments for August and for November 2023 be refunded in the amount of \$1,411.43.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund taxes totaling \$1,411.43 for 2023.

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

2. Resolution #77-23 – Refund – Block 35, Lot 2.07 – 5 Marc Drive

RESOLUTION #77-23

WHEREAS, Block 35 Lot 2.07 also known as 5 Marc Drive owned by Louis and Karen Dulfer, and

WHEREAS, Mr. and Mrs. Dulfer’s property is 100% tax exempt due to a Veteran Exemption as of August 21, 2023

WHEREAS, Mr. and Mrs. Dulfer paid the August quarter and are due a refund in the amount of \$916.80.

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NOW THEREFORE BE IT RESOLVED, that the Tax Collector be authorized to refund Mr. and Mrs. Dulfer in the amount of \$916.80.

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

- B. Resolution #78-23 – Resolution accepting the bids for the sale of certain municipal lands and properties from the Township auction of September 21, 2023

RESOLUTION #78-23

A RESOLUTION OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY, ACCEPTING THE BIDS FOR THE SALE OF CERTAIN MUNICIPAL LANDS AND PROPERTIES FROM THE TOWNSHIP AUCTION OF SEPTEMBER 21, 2023

WHEREAS, on September 21, 2023, the Township of Hardyston ('Township') conducted the sale of municipal properties no longer needed by the Township in accordance with Resolution #42-23; and

WHEREAS, the Township Clerk reports that the schedule below outlines the bidders and their respective proposals to purchase said lands and recommends that the Township Council accept these bids.

Block and Lots	Bidder Name & Address	Bid Amount
Block 83, Lot 27.02	Mike Parise 4 Anthony Court Hamburg, NJ, 07419	\$4,590.00
Block 83, Lot 27.01	Mike Parise 4 Anthony Court Hamburg, NJ, 07419	\$2,340.00
Block 79, Lot 90	Carmel Properties, LLC 55 Harding Parkway Mount Vernon, NY, 10552	\$22,590.00

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Hardyston, in the County of Sussex, State of New Jersey, that the proposals set forth in the schedule above are hereby accepted and incorporated herein.

BE IT FURTHER RESOLVED that the terms of such acceptance will be set forth in the Contracts of Sale to be executed with the respective bidders.

BE IT FURTHER RESOLVED as follows:

1. All municipal officials are hereby authorized to take whatever actions may be necessary to implement the terms of this Resolution.
2. This Resolution shall take effect immediately.

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

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C. Correspondence

1. West Milford Township
2. West Milford Township
3. West Milford Township

4. West Milford Township
5. West Milford Township
6. Sandyston Township
7. SRG (Site Remediation Group)

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

COUNCIL COMMENTS: None

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 asked about the status of his drainage issue. Township Manager stated that the Township is moving forward with a solution to the drainage issue and that work is scheduled to begin within a week. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

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

Jane Bakalarczyk, RMC/CMC
Municipal Clerk