MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON FEBRUARY 16, 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, Councilman Kula, Councilman Miller, Manager Marianne Smith and Clerk Jane Bakalarczyk. Councilwoman Hamilton 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 – January 2010
2. Tax Collector Report – January 2010
3. Construction Certificate Activity Report – January 2010
4. Construction Permit Activity Report – Hardyston – January 2010
5. Construction Permit Activity Report – Hamburg – January 2010
6. Construction Permit Activity Report – Franklin – January 2010
7. HTMUA – Minutes of 1/4/10
8. Municipal Court Report – January 2010
9. Fire Official 2009 Annual Report

Agreements/Applications/Licenses:

1. Raffle – Wallkill Valley Booster Club
2. Raffle – Hardyston Township Volunteer Fire Dept.
3. Enforsys Police Systems, Inc. – 2010 Annual Maintenance/Support

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

ORDINANCES:
1st READING: **None**

ORDINANCES:
2nd READING: **2010-01**

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 3, "ADMINISTRATION OF GOVERNMENT" OF THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF ARTICLE XV, ENTITLED "CRIMINAL HISTORY BACKGROUND CHECKS OF EMPLOYEES AND VOLUNTEERS OF YOUTH SERVING ORGANIZATIONS"

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 3, Administration of Government, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of Article XV, "Criminal History Background Checks of Employees and Volunteers of Nonprofit Youth Serving Organizations", to read as follows:

ARTICLE XV Criminal History Background Checks of Employees and Volunteers of Nonprofit Youth Serving Organizations

§ 3-58. Definitions.

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

CRIMINAL HISTORY RECORD BACKGROUND CHECK — A determination whether a person has a criminal record by cross-referencing that person's individual data with those on file with the Federal Bureau of Investigation, Identification Division, and the State Bureau of Identification of the Division of State Police.

EMPLOYEES — All full-time, part-time and seasonal employees of the Hardyston Township Recreation.

SPONSORED PROGRAM — Recreation programs run directly and jointly by the Township, including oversight, control and/or fiscal contribution.

STATE BUREAU OF IDENTIFICATION — The entity located within the New Jersey State Police responsible for retrieving criminal background information on individuals as requested by state, local or private entities.

VOLUNTEER – A person who has direct, non-supervised and ongoing interaction in the course of his/her service with minors. This includes, but is not limited to, a coach, assistant coach and manager of a team.

VOLUNTEER REVIEW OPERATION ("VRO") — The unit located within the State Bureau of Identification that is responsible for administering criminal background checks for volunteer coaches as specified in this article.

YOUTH-SERVING ORGANIZATION - Any corporation, association or other organization which provides recreational, cultural, charitable and social activities for persons younger than 18 years of age.

§ 3-59. Request for criminal background check; costs.

(A) The Township of Hardyston requires that all employees and volunteers of youth-serving organizations involved in sponsored programs and/or utilizing the Township's recreational facilities request through the Hardyston Township Police Department that the State Bureau of Identification and the Federal Bureau of Investigation ("FBI") conduct a criminal history record background check on each prospective and current coach of nonprofit youth-serving organizations in accordance with N.J.A.C. 13:59-1.1 et seq. and with the procedures and guidelines adopted by the VRO. No person will be permitted to act as an employee or volunteer until the results of the background checks have been received and reviewed by the Manager of the Township.

(B) The Hardyston Township Police Department shall conduct the criminal history record background check(s) only upon receipt of the written consent to the check(s) from the prospective or current employee or volunteer or from the organization itself.

(C) The VRO shall advise the Township Police Department of the eligibility of the prospective or current coach. Any information received by the Township Manager shall be confidential.

(D) The organization shall bear the costs for conducting such checks for prospective or current coaches participating in cosponsored programs in accordance with the regulations established by the VRO.

§ 3-60. Conditions under which person is disqualified from service.

A person may be disqualified from serving as an employee or volunteer of a nonprofit youth serving organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

(A) In New Jersey, any crime or disorderly persons offense:

(1) Involving danger to the person, meaning those crimes and disorderly persons offenses as set forth in N.J.S.A. 2C:11-1, et seq., such as criminal homicide; N.J.S.A. 2C:12-1, et seq., such as assault, reckless endangerment, threats, stalking; N.J.S.A. 2C:13-1, et seq., such as kidnapping; N.J.S.A. 2C:14-1, et seq., such as sexual assault; or, N.J.S.A. 2C:15-1,et seq., such as robbery;

(2) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq., such as endangering the welfare of a child;

(3) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes.

(4) Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except Paragraph (4) of Subsection (a) of N.J.S.A. 2C:35-10.

(B) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in Subsection 33-34(A) of this section.

In addition, a person shall be disqualified from serving as an employee or volunteer of a nonprofit youth serving organization if such individual fails to consent to submit to a criminal history record background check pursuant to this Article.

§ 3-61 Submissions; exchange of background check information.

(A) Prospective or current employees and volunteers of youth-serving organizations for sponsored programs and/or for utilizing Township recreational facilities shall submit their names, addresses, fingerprints, written consent, and any other necessary information to the organization for the criminal history record background check to be performed. The organization shall submit this documentation to the Hardyston Township Police Department, who shall refer the information to the State Bureau of Investigation for the background check. Thereafter, the Township Recreation Department shall conduct periodic background checks after the date of the initial background check, but not less than every 36 months.

(B) The Hardyston Township Police Department shall act as a clearinghouse for the collection and dissemination of information obtained as a result of conducting criminal history record background checks pursuant to this section.

§ 3-62. Limitations on access and use of criminal history record information.

(A) Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to authorized personnel of the youth serving organization, on a need-to-know basis, as authorized by federal or state statute, rule or regulation, executive order, administrative code, local ordinance or resolution regarding obtaining and dissemination of criminal history record information obtained under this section.

(B) Such persons or organizations shall limit their use of criminal history record information solely to the authorized purpose for which it was obtained, and criminal history record information furnished shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. This record shall be destroyed immediately after it has served its intended and authorized purpose. Any person violating the federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

§ 3-63. Determination by Township Police Department; appeal process.

(A) The VRO shall make a recommendation based on the provisions of N.J.S.A. 15A:3A-1 et seq. as to whether the prospective or current volunteer coach is being recommended. The VRO will provide the Hardyston Township Police Department with a letter of recommendation or nonrecommendation for each individual for whom the VRO completed a background check.

(B) The Township Manager shall promptly notify a prospective or current employee or volunteer who receives a letter of nonrecommendation from the VRO. Individuals who receive a letter of nonrecommendation from the VRO will not be permitted to participate as a employee or volunteer. Such individuals may obtain a copy of their criminal history record by contacting the VRO in writing. The individuals shall then have 30 days from the receipt of notification from the Township to petition the appeals committee consisting of the Director of the Township Recreation Department, the Township Manager and the Township Police Chief for a review and to cite reasons substantiating the review.

(C) Individuals who receive a letter of nonrecommendation from the VRO may be permitted to serve as an employee or volunteer if they affirmatively demonstrate rehabilitation to the appeal committee. In determining whether a person has affirmatively demonstrated clear and convincing evidence of rehabilitation, the appeals committee may consider the following factors in conjunction with the provisions of N.J.S.A. 15A:3A-1 et seq.:

(1) The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
(2) The nature and seriousness of the offense;
(3) The circumstance under which the offense occurred;
(4) The date of the offense;
(5) The age of the person when the offense was committed;
(6) Whether the offense was an isolated or repeated incident;
(7) Any social conditions which may have contributed to the offense; and
(8) Any evidence of rehabilitation, including good conduct in prison or the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs or the recommendation of those who have had the person under their supervision.

(D) In all instances, the final determination of whether an individual will be permitted to serve as an employee or volunteer utilizing the Township's recreational facilities will lie in the sole discretion of the appeals committee, who must vote unanimously.

(E) The appeals committee shall promptly advise the prospective or current employee or volunteer whether he or she is qualified.

(F) When the Township Police Department receives a letter of nonrecommendation from the VRO, the Police Department shall file that letter within its Department and it shall keep the written notification on file for three years from the date it was issued.

(G) The Department of Recreation may request the Police Department to review its files to determine if there is written notification on file stating whether a criminal history record background check of a current or prospective employee or volunteer reveals a disqualifying offense or stating that the person has affirmatively demonstrated rehabilitation under this act.

§ 3-64. Exemptions.

The Township shall only permit the following exemptions under this Article:

(A) Any person who, by virtue of their occupation, is required by statute to undergo a Federal and State criminal history record background check similar in nature to the requirements contained herein, and who can provide proof of the results of such background check, is exempt from the requirement hereunder if such check was conducted within the past year. After such demonstration of proof of

compliance, such individual shall then be subject to subsequent checks pursuant to Section 33-35(A).

(B) Any active employees of local, county and state law enforcement agencies.

(C) If the organization already utilizes a different means for obtaining criminal history record background checks, such as Little League baseball, then such organization may annually submit its own certification certifying the names of the individual employees and/or volunteers and providing proof that such criminal history record background check was performed for that year. In addition, the organization must also submit to the Department of Community Services and Recreation and the Township Police Department, the guidelines and parameters of such independent background check company for the conducting of its background checks. In the event the Police Department determines that the independent background check company's guidelines and parameters are insufficient, then the Township reserves the right to not grant the exemption under this Subsection to the organization.

§ 3-65. Remedies for breach by youth-serving organizations.

Any violation of this chapter by a youth-serving organization is considered a serious threat to the health and life of the youth of the Township. As a result, upon violation, the Township may suspend or terminate use of Township facilities, and the youth-service organization and the officer who executed the affidavit shall be subject to fines and other penalties. In determining the remedy such factors as whether the breach was intentional, the severity of the noncompliance, and the good-faith steps taken to cure the violation should be considered.

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 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 Ross to adopt Ordinance 2010-01 on second reading, seconded by Miller. All in favor. Motion carried.

2010-02

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 WHEATSWORTH ROAD

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 Wheatsworth Road to read as follows:

§ 172-27. Speed Limits

Name of Street	Direction	Speed Limit	Location
Wheatsworth Road	Both Zone 1	35mph	From the intersection of NJSH Route 94 for a distance of 0.2 miles East of Route 94
	Both Zone 2	25mph	From a point 0.2 miles East from the intersection of NJSH Route 94 to the jurisdictional border line with Hamburg Borough

SECTION 2. Chapter 172, Vehicles and Traffic, Section 172-13, Stopping or Standing Prohibited During Certain Hours on Certain Streets, of the aforesaid Revised General Ordinances is hereby amended and supplemented with respect to Wheatsworth Road to read as follows:

§ 172-17. Stopping or standing prohibited during certain hours on certain streets.

Name of Street	Sides	Hours	Location
Wheatsworth Road	Both	All	Entire length within Hardyston Twp. from NJSH Route 94 to the jurisdictional border with Hamburg Borough

SECTION 3. A crosswalk shall be painted and delineated to M.U.T.C.D. standards on Wheatsworth Road located in the Township of Hardyston at the following location: From the walking path at Wheatsworth Field by the entrance to the Wheatsworth Field parking lot entrance, across Wheatsworth Road, meeting the walking path in Emerald Estates.

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 Ross to adopt Ordinance 2010-02 on second reading, seconded by Miller. All in favor. Motion carried.

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON FEBRUARY 16, 2010

2010-03

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY MAKING THE PROVISIONS OF SUBTITLE ONE OF TITLE 39 WITH VARIOUS TRAFFIC REGULATIONS APPLICABLE TO RIDGEFIELD COMMONS AND REGULATING THE USE OF SAID ROADWAYS, STREETS, DRIVEWAYS AND PARKING LOTS BY MOTOR VEHICLES

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

SECTION 1. The Ridgefield Commons Home Owners Association has filed a written consent dated May 28, 2009 with the Township of Hardyston that the provisions of Subtitle One of Title 39 of the revised statutes of New Jersey be made applicable to the semi-public roads, streets, driveways and parking lots located at The Ridgefield Commons development, as depicted on the attached site plan dated August, 2009 located in the Township of Hardyston, County of Sussex, State of New Jersey and that the following regulations shall be enforceable:

REGULATIONS:

1. General Parking:

   A. All vehicles must park in designated areas and between the lines provided.

   B. No person shall stop or stand a vehicle upon any of the streets or parts of streets described below, except in areas covered by other parking restrictions.

Name of Street	Sides	Hours	Location
All Roads	Both	All	Entire Length

2. Through Streets and Stop Intersections:

   A. Through Streets:

   The following streets or parts of streets are hereby designated as Through Streets. Stop signs shall be installed on the near right side of each street intersecting the through street.

Name of Street	Limits
Ridgefield Road	Entire length
Winding Way	Entire length

   B. Stop Intersections:

   The following described intersections are hereby designated as Stop Intersections. Stop signs shall be installed as provided therein.

Intersection	Stop Sign(s) on:
Crestmont Court & Virginia Drive	Crestmont Court
Crestmont Court & Highview Knoll	Crestmont Court

3. Speed Limits:

A. The speed limit for both directions of travel on the following roadways are:

Name of Roadway	M.P.H.	Limits
Ridgefield Road	25	Entire length
Winding Way	25	Entire length
All other roads	15	Entire length

B. Regulatory and warning signs shall be erected and maintained to effect the above designated speed limits authorized by the Department of Transportation.

4. Tow-Away Zones:

Any vehicle parked or standing as to obstruct or impede a normal flow of traffic, block entrances or exit ways, loading zones, oil fills, any grassy area, pedestrian walkway, or are deemed by a Township police officer to present in any way a safety or traffic hazard may be removed by towing the vehicle at the owners or operators expense.

Recommendations:

That all signs, posts, or other necessary materials be installed and paid for by the applicant. All signing shall conform to the current Manual on Uniform Traffic Control Devices, pursuant to N.J.S.A. 39:4-198 and N.J.S.A. 39:4-183.27.

Unless another penalty is expressly provided for by the New Jersey Statute, every person convicted of a violation of this ordinance or any supplement thereto shall be liable to a penalty of not more than $50.00 dollars or imprisonment for a term not exceeding (15) days or both.

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 upon publication and as required by law and upon the posting of appropriate signs.

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 Ross to adopt Ordinance 2010-03 on second reading, seconded by Kula. All in favor. Motion carried.

2010-04

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY CREATING CHAPTER 113, TAXICABS, AUTOCABS AND LIMOUSINES, OF THE REVISED GENERAL ORDINANCES

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

SECTION 1. The aforesaid Revised General Ordinances are hereby amended and supplemented with the addition of Chapter 113, Licensing of Autocabs and Limousines, to read as follows:

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON FEBRUARY 16, 2010

CHAPTER 113 LICENSING OF LIMOUSINES

§ 113-1. Definitions.

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

DRIVER — Any person who drives a limousine within this Township.

LIMOUSINE — A motor vehicle used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided that such a vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. Nothing in this definition shall be construed to include taxicab, hotel buses or buses regulated by the New Jersey Department of Transportation.

LIMOUSINE SERVICE — Includes the business of carrying passengers for hire by limousine.

OWNER — Includes any individual, copartnership, association, corporation or joint-stock company, their lessees, trustees or receivers appointed by any court whatsoever.

STREET — Includes any street, avenue, park, parkway, highway, boulevard or other public place.

TOWNSHIP — The Township of Hardyston, Sussex County, New Jersey.

§ 113-2. License required; expiration.

No person shall operate a limousine or engage in the limousine business within the Township without first obtaining a license from the Township Council. The license shall expire March 31 of the year in which it was issued, unless sooner suspended or revoked by the Township Council.

§ 113-3. Circumstances under which a License is Issued.

A. Principal Place of Business in Hardyston. Whenever the owner of a Limousine has its Principal Place of Business located within the Township of Hardyston, said owner shall annually file for a license for each such owned Limousine to be issued by the Township in accordance with *N.J.S.A. 48:16-17*. The Township of Hardyston shall issue such license upon the owner's satisfaction of all of the requirements set forth in this article.

B. Foreign Limousine Registration with Business Address in Hardyston. Whenever the owner of a Limousine: (1) maintains a Business Address in the Township of Hardyston, and (2) owns a Limousine that is registered in another state or in the District of Columbia, and (3) satisfied all of the requirements set forth in this article; and (4) desires to obtain a license for each such Limousine from the Township of Hardyston; said owner shall annually file for a license for each such owned Limousine to be issued by the Township in accordance with *N.J.S.A. 48:16-22.4.a*. The Township of Hardyston shall issue such license upon the owner's satisfaction of all of the requirements set forth in this article.

C. Intra-Municipal Service. Whenever a Limousine Service provides intra-municipal service on a point-to point basis within the Township of Hardyston, the owner of the Limousine or Limousine Service shall annually file for a license for each Limousine providing said service, to be issued by the Township as permitted by *N.J.S.A. 48:16-18.1*. The Township of Hardyston shall issue such License upon the owner's satisfaction of all of the requirements set forth in this article.

§ 113-4. Types of licenses.

There are hereby established two classes of limousine licenses, to be known as "limousine driver's license" and "limousine owner's license."

A. Driver's license. The holder of a limousine driver's license shall be entitled to operate within the Township any limousine whose owner has been licensed under this chapter. There shall be no limit to the number of limousine driver's licenses issued by the Township.

B. Owner's license. The holder of a limousine owner's license shall be entitled to operate a limousine owned by him within the Township, provided that the person driving the limousine holds a valid limousine driver's license. There shall be no limit to the number of limousine owner's licenses issued by the Township.

§ 113-5. Licensing of limousine owners.

A. Application for license.

(1) No limousine owner's license shall be issued for any vehicle required to be licensed until the owner files an application for a limousine owner's license setting forth the character of the vehicle proposed (including VIN number) to be licensed, the correct name of the owner and all majority shareholders thereof, identification of all other business interests of the owner and all majority shareholders thereof, the residence and address of the principal place of business of such owner, a statement confirming the applicant's United States Citizenship, a statement as to whether the applicant has been convicted of a crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed and a complete schedule of the rates proposed to be charged and such other facts as the Township Council may require. The application for license shall be made in duplicate to the Township Clerk on forms provided by the municipality.

(2) All applicants must complete and sign Form SBI-212B, Request for Criminal History Record Information for a Noncriminal Justice Purpose, for a criminal history name search identification check pursuant to N.J.S.A. 53:1-20.5 et seq. In addition, the applicant must submit a cashier's check, certified check or money order drawn on a United States bank in the amount required by the Division of State Police, payable to Division of State Police-SBI, for the criminal history name search. If the applicant is a corporation, then this requirement shall apply to the officers of the corporation. The fully executed form and the applicant's check or money order must be submitted along with the application for a limousine owner's license.

(3) All applicants must submit a letter of clearance issued by the MVC or other applicable authority as proof of having satisfactorily complied with the fingerprint requirement as established by N.J.S.A. 48:16-22.3a before a license will be issued.

(4) Where a limousine owner's license has previously been issued, the approval of the Township Council shall not be required as a condition for issuance of additional vehicle licenses.

B. Investigation of applicant. When the aforesaid application is properly filled out and signed by the applicant, the original and duplicate thereof shall be filed with the Township Clerk. The Clerk shall refer the duplicate, Form SBI-212B and the criminal history name search fee to the Chief of Police, who shall make, or cause to be made, such investigation of the applicant's business responsibility and moral character as he deems necessary for the protection of the public good. The duplicate shall be kept on file in the Police Department upon completion of the investigation. The investigation shall include a criminal history name search identification check pursuant to N.J.S.A. 53:1-20.5 et seq. The criminal history check results shall be kept confidential. For the purposes of this check, the Hardyston Township Police Department is hereby authorized to have access to the Criminal History Record Information file through the State Bureau of Investigation.

(1) As a result of such investigation, the Chief of Police shall note on the application his recommendation and his reasons therefor and return the application to the Township Clerk. Such recommendation shall be returned to the Township Clerk within 20 days of the Police Department's receipt of the duplicate application.

(a) Any recommendation by the Chief of Police that a license should not be issued to the applicant shall be based on one or more of the following findings with respect to the applicant:

[1] Conviction of a crime adverse to the operation of a limousine. In determining whether a conviction relates adversely to the operation of a limousine, the following factors shall be considered:

[a] Nature of the limousine business.
[b] Nature and seriousness of the crime.
[c] Circumstances under which the crime occurred.
[d] Date of the crime.
[e] Age of the person when the crime was committed.
[f] Whether the crime was an isolated or repeated incident.
[g] Social conditions which may have contributed to the crime.
[h] Any evidence of rehabilitation.

[2] Unethical business practices adverse to the operation of a taxicab or limousine.

[3] Conclusive evidence that the applicant has within four months of the application been addicted to the habitual use of drugs or intoxicating liquors.

(b) In the absence of such findings, the Chief of Police shall recommend that the license be granted.

(2) The Township Clerk shall present the completed application to the Township Council, who shall, at the next regularly scheduled public meeting after receipt of the recommendation of the Chief of Police, determine, based on the recommendation of the Chief of Police and application of the factors set forth in § 113-5B(1), whether the license shall issue.

C. Approval of application. The Township Clerk shall not issue any limousine owner's license until the application therefor is approved by the Township Council and the applicant has demonstrated satisfactory compliance with the provisions of N.J.S.A. 48:16-13 to 48:16-22 and with all other conditions precedent to issuance of the license set forth in this chapter.

D. License fee. A separate license application shall be filed and a separate license fee shall be paid for each vehicle. The annual license fee per vehicle shall be $50.00.

E. Verification Fee. The Applicant shall annually pay to the Township of Hardyston a non-refundable, non-transferable fee for verification of the accuracy of its license application information as follows:

(1) Whenever the Applicant represents that its Principal Place of Business is located within the Township of Hardyston, the Township shall conduct its own investigation to confirm whether such a Principal Place of Business exists within the Township of Hardyston. The Verification Fee for this investigation shall be $100.00 for each such Limousine and each such Business Address each License Year.

(2) Whenever the Applicant represents that it maintains a Business Address in the Township of Hardyston and owns a Limousine that is registered in another state or the District of Columbia, the Township shall conduct its own investigation to confirm both the Hardyston Business Address and the validity of the foreign registration of each Limousine. The Verification

fee shall be $100.00 for each such Limousine and each such Business Address each License Year.

(3) Whenever the Applicant seeks an intra-municipal license for the Township of Hardyston, and represents that its Principal Place of Business is located in another New Jersey municipality, there shall be no verification fee required, provided that the Applicant presents a valid license for each such Limousine from the New Jersey municipality in which the Applicant's Principal Place of Business is located.

F. Posting of license. Each limousine owner's license issued shall bear a number and shall state the name of the person to whom it is issued. It shall briefly describe the vehicle licensed and indicate the motor vehicle license number, year, make and vehicle identification number (VIN). It shall state the name of the company supplying insurance coverage, the policy number and the name, address and telephone number of the insurance agent. Each license shall be signed by the Township Clerk and shall have the Township Seal affixed thereto. The license shall be placed in a conspicuous location in the limousine.

G. Additional rules and regulations. The Township Council may, by resolution, make such rules and regulations in relation to the operation of limousines and the conduct of operators thereof as it may determine to be necessary and proper in the best interests of the township. A certified copy of any such resolution shall be forwarded to all licensees within 10 days following adoption.

§ 113-6. Insurance: operation of limousines.

A. Insurance requirements.

(1) No limousine shall be operated wholly or partly along any street in this Township until the owner of the limousine shall have filed with the Township Clerk, in which the owner has his/her principal place of business within this Township, a certificate of insurance, by a company duly licensed to transact business under the insurance laws of this state, in the sum of $1.5 million against loss by reason of the liability imposed by law upon every limousine for damages on account of bodily injury or death suffered by a person as result of an accident occurring by reason of the ownership, maintenance or use of the limousine upon any public street. A current copy shall always be kept on file with the Township Clerk throughout the duration of the license(s).

(2) The operation shall be permitted only so long as the insurance policy remains in full force and effect as to the full and collectible amount of $1.5 million. Limousine owners, or anyone on its behalf, shall not undertake to cancel or have canceled any such policy without giving the Township Clerk 10 days' notice of the intention to do so. No such policy shall be filed by the Township Clerk unless such policy shall contain a provision to the effect that the Township Clerk shall be afforded at least 10 days' notice of the intention of the insurance company which issued such policy to cancel same.

(3) The insurance policy shall provide for a payment of any final judgment recovered by any person on account of the ownership, maintenance and use of such limousine upon any public street or any fault in respect thereto and shall be for the benefit of every person suffering loss, damage or injury as aforesaid.

B. Every person operating a limousine, whether an owner and/or driver, who is transporting a child on roadways, streets or highways of this Township, shall be responsible for the protection of the child by properly using a child passenger restraint system that complies with federal vehicle safety standards.

C. Availability of license for inspection; minimum equipment standards.

(1) The original license shall be retained within the limousine and shall be available for inspection by any police officer of the state.

(2) No limousine shall operate on the highways of this state unless it has a license issued and the limousine is equipped, in accordance with minimum standards established by the Director of the Division of Motor Vehicles in the Department of Transportation, with:

(a) A two-way communications system, which, at a minimum, shall provide for communication to a person outside the vehicle for a distance of not less than 100 miles and which requirement may be satisfied by a mobile telephone.

(b) A removable first-aid kit and an operable fire extinguisher, which shall be placed in an accessible place within the vehicle.

(c) Sideboards attached to the permanent body construction of the vehicle if the height of the vehicle floor is 10 inches or more above ground level

§ 113-7. Limousine driver's license.

A. License required. It shall be unlawful for any person to drive a limousine unless such person shall have a license issued for such purpose pursuant to the provisions of this chapter.

B. Application for driver's license.

(1) No limousine driver's license shall be issued to any person until such person has filed an application in writing setting forth his full name, his place of residence, age, proof of his physical ability to operate a limousine, certification that the applicant is a citizen of the United States and certification as to his good moral character, which shall include disclosure of convictions of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed. The application for a driver's license shall be made in duplicate to the Township Clerk on forms provided by the municipality.

(2) Applicants shall fully complete "Form D" (available at the New Jersey State Police Internet website, www.njsp.org, or the Police Department) and follow the instructions for obtaining a criminal history background check, which includes making an appointment to be fingerprinted by the state contract vendor. Applicants who fail to obtain a criminal history background check or otherwise refuse to consent to or cooperate in securing a criminal history check shall not be considered for a license. If the applicant is a corporation, then this requirement shall apply to the officers of the corporation. As a result of such investigation, the Chief of Police shall note, in writing, his recommendation and his reasons therefor to the Township Clerk. The investigation and recommendation of the Chief of Police shall be made in accordance with the guidelines set forth in § 113-5B.

C. Photograph required. Each applicant for a limousine driver's license shall submit with his application therefor two recent photographs of himself approximately 1 1/2 inches by 1 1/2 inches in size. One of the photographs shall be permanently attached to the application, and the other photograph shall be affixed to the license so that it cannot be removed.

D. Age requirements. No limousine driver's license shall be issued to any person unless he is at least 21 years of age and has had at least one year of driving experience.

E. Fee. The fee for a limousine driver's license shall be $50.

F. Upon receipt by the Township Clerk of an application for a limousine driver’s license, the duplicate thereof shall be forwarded to the Chief of Police, who shall determine whether or not the applicant is duly licensed by the State of New Jersey to operate a motor vehicle and qualified to operate a limousine and that he/she is of good moral character. The Township Clerk shall present the completed application, along with the recommendation from the Chief of Police

as to whether the application shall issue, at the next regularly scheduled public meeting. If the Township Council so directs, the Township Clerk shall issue the license to the applicant.

G. Term of license; renewals. All limousine drivers' licenses issued under this chapter shall be for a period of one year commencing on April 1 and expiring on March 31. Renewals for drivers' licenses shall be made on or before April 1 of each year. Any licenses applied for and issued after April 1 of any given year shall also expire on March 31.

H. Display of license. Every holder of a limousine drivers' license shall have such license, with the photograph attached, openly, clearly and conspicuously exhibited in the vehicle he is driving, which is to be placed next to the owner's license.

I. Receipt for fares. Every limousine driver shall, when requested, give a passenger a receipt for the fare paid.

§ 113-8. Refusal of application for license; suspension or revocation of license.

The Township Council or its designee may, in its discretion, refuse to issue or renew or may, after notice and hearing, revoke or suspend any license issued under the provisions of this article if the applicant has been convicted of any crime, disorderly persons offense or petty disorderly in this state or in any other state or territory, or has been convicted of a violation under Title 39, Motor Vehicles and Traffic Regulations, of the Revised Statutes of New Jersey or who violates any provision of this article or has any judgment unsatisfied of record arising out of an automobile accident or who has made false answers in the application for such license or any renewal thereof or who has failed or fails to render reasonably prompt, safe and adequate limousine services or who has not complied fully with all requirements of this article for such class of licensure, or if the licensee or applicant has in any degree contributed to any injury to person or damage to property arising out of negligent operation of motor vehicle or as to any limousine owner's license if the motor vehicle licensed or to be licensed by reason of unsafe or unsanitary conditions is dangerous to the safety or health of the occupants, and others, or if the policy of insurance required herein has once lapsed or such coverage is not maintained at all times, or a limousine, at any time, carries more passengers than the same is authorized to carry by the terms of this article.

§ 113-9. Limousine appearance.

No lettering, emblem or advertising may be placed on a licensed limousine.

§ 113-10. Solicitation prohibited.

Limousine drivers shall not knowingly solicit business in a manner similar to that of a taxicab or attempt to solicit business by knowingly misleading a prospective passenger.

§ 113-11. Compliance with state laws.

Nothing in this article shall exempt any person owning or operating a limousine from complying with the laws relating to the ownership, regulation and operation of limousines in the State of New Jersey.

§ 113-12. Violations and penalties.

A person who shall own and operate a limousine in any street in this state in violation of the provisions of this article shall be subject to the following penalties:

A. For operating a limousine without a license issued by a municipality, operating a limousine without authority to operate a limousine in interstate service granted by the Federal Highway Administration, or the Interstate Commerce Commission, knowingly permitting a driver to operate a limousine without a validly issued driver's license or a validly issued commercial driver's license, if required, failure to have filed an insurance policy, operating a limousine in which the number of passengers exceeds the maximum: a fine of $1,000 for the first offense and a fine of $2,000 for the second or subsequent offense.

B. For operating a limousine without the special registration plates required or operating a limousine without the limousine being properly inspected: a fine of $1,000 for the first offense and a fine of $2,000 for the second or subsequent offense.

C. For operating a limousine without the attached sideboards, if required, failure to retain within the limousine appropriate proof of insurance or failure to execute and deliver to the Director of the Division of Motor Vehicles the power of attorney required: a fine of $250 for the first offense and $500 for the second and subsequent offense.

D. For failure to be equipped with a two-way communications system, a removable first-aid kit or an operable fire extinguisher: a fine of $50 for the first offense and $100 for the second and subsequent offense.

§ 113-13. Unlicensed drivers; liability of owner.

In the event that the limousine is being operated by a party who does not have the license called for in this article, both the driver and the owner of the limousine shall be subject to the penalty provisions hereinabove set forth.

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.

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 Ross to adopt Ordinance 2010-04 on second reading, seconded by Kula. All in favor. Motion carried.

NEW BUSINESS:

A. Resolution #15-10 – Resolution authorizing Hardyston Township to participate in the Paris Grant Electronic Document Management System Implementation Project to be sponsored by the County of Sussex

WHEREAS, Hardyston Township has completed a Needs Assessment and Records Management Strategic Plan that has been approved by the New Jersey State Records Committee; and

WHEREAS, Hardyston Township is now eligible to apply for PARIS Grant funding; and

WHEREAS, the County of Sussex is applying for a 2010 PARIS Grant from the State Division of Archives and Records Management to assist with the implementation of Electronic Document Management System (EDMS) technology offered as a Shared Service for participating Municipalities; and

WHEREAS, the State of New Jersey has made PARIS Grant funds available to assist county and municipal governments in their records management, preservation and storage efforts.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Hardyston that Hardyston Township shall participate in the PARIS Grant Electronic Document Management System Implementation Project to be sponsored by the County of Sussex.

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

B. Resolution #13-10 –Agreement with Eneractive Solutions for Management Services for Solar Renewable Energy Credits

RESOLUTION #13-10

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made this 16th day of February, 2010, by and between:

TOWNSHIP OF HARDYSTON
A municipal corporation of the State of New
Jersey with offices at the Township Municipal Building,
149 Wheatsworth Road, Hardyston, New Jersey, 07419

(Hereinafter, "Township")

and:

ENERACTIVE SOLUTIONS,
whose principal place of business
is located at 700 Mattison Avenue, Suite A,
Asbury Park, New Jersey, 07712,

(Hereinafter "Consultant")

W I T N E S S E T H:

WHEREAS, the Mayor and Township Council of the Township of Hardyston wishes to retain Eneractive Solutions for the purpose of assisting the Township of Hardyston by providing management services for the Township's Solar Renewable Energy Credits (SREC's); and

WHEREAS, N.J.S.A. 40A:11-1 et seq. requires that all contacts be in writing; and

WHEREAS, the Mayor and Township Council of the Township of Hardyston wishes to enter into a written contract with Eneractive Solutions for the provision of such services.

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements herein contained, the parties agree as follows:

1. Consultant shall be paid for the professional services provided to the Township of Hardyston in accordance with the Consultant's proposal dated January 14, 2010, attached hereto and made a part hereof. The services provided should include, but not be limited to, the following:

"Services" shall include the professional services regarding the management of the Township's Solar Renewable Energy Credits (SREC's) and other various related services as

outlined in the aforementioned proposal dated January 14, 2010. An itemized list of services provided by project and identifying time should be submitted monthly.

2. The Consultant shall furnish the Administration of the Township of Hardyston with a separate itemized voucher on a monthly basis for services performed in connection with the municipal consulting services to which the Consultant has been retained for, specifically the services regarding the management of the Township's Solar Renewable Energy Credits (SREC's).

3. Although Eneractive Solutions has been appointed as a professional consultant for the Township of Hardyston, it is understood and agreed that the Consultant will be assisted in his responsibilities to the Township of Hardyston by other staff professionals within its company. Under no circumstances does the appointed Consultant have the authority or ability to name any other professionals outside of its company to perform the professional consulting services in connection with this agreement for the Township of Hardyston.

4. The Consultant shall be entitled to be reimbursed for actual out-of-pocket costs for all postage, express mail, photocopies ($.05 per copy), facsimile charges ($.25 per fax), long distance telephone calls, filing fees, recording fees and other necessary disbursements made on behalf of the Township under this Agreement.

5. During the term of this Agreement, the parties hereto agree to comply with the Affirmative Action requirements set forth in N.J.A.C. 17:27, and hereby incorporate by reference the mandatory Affirmative Action language set forth in Exhibit A which is attached hereto and made a part hereof.

6. This contract has been awarded to Eneractive Solutions, with offices located at 700 Mattison Avenue, Suite A, Asbury Park, New Jersey, 07712, based on the merits and abilities of Eneractive Solutions to provide the services as described herein. This contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 *et seq*. As such, the undersigned does hereby attest that Eneractive Solutions, its subsidiaries, assigns or principals controlling in excess of 10% of the company have neither made a contribution, that is reportable to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44-16, in the one (1) year period preceding the award of the contract that would affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract to any political party committee in the Township of Hardyston if a member of that political party is serving in an elective public office of the Township of Hardyston when the

contract is awarded, or to any candidate committee of any person serving in an elective public office of the Township of Hardyston when the contract is awarded.

7. Eneractive Solutions is advised of the responsibility to file an annual statement on political contributions with the New Jersey Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271 §3) if Eneractive Solutions received contracts in excess of $50,000 from public entities in a calendar year. It is Eneractive Solution's responsibility to determine if filing is necessary.

8. Eneractive Solutions shall furnish the Administration of the Township of Hardyston with the required and applicable Certificates of Insurance for general liability, automobile and workers compensation in amounts acceptable to the Township. In addition Eneractive Solutions shall furnish to the Township Administration a Certificate of Insurance showing coverage for errors and omissions in amounts of at least $200,000.

9. In order to receive payments from the escrow or deposit account from the chief financial officer of the Township, Eneractive Solutions agrees to submit vouchers on a monthly basis in accordance with the schedules and procedures established by such officer. These vouchers will identify, with specificity, the personnel performing the service, the date of service performance, the hours spent, the hourly rate, and the expenses incurred.

10. Prior to any payment from the Township pursuant to Section 9 above, the Township shall require the Township Manager to review and certify the voucher for accuracy. Thereafter, the voucher must ultimately be authorized by the Mayor and Township Council.

11. The term of this agreement shall be five years as of the effective date of this contract. At the end of the initial five year term this agreement may be renewed for two subsequent five year renewal terms upon mutual consent of both parties at the end of each five year term. However, notwithstanding these provisions, the term of this Agreement may be terminated by either party upon 60 days written notice.

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

C. Resolution #16-10 – Agreement for Professional Services for the advising on procurement of electricity supply and delivery

RESOLUTION #16-10

AGREEMENT FOR PROFESSIONAL SERVICES FOR THE ADVISING ON PROCUREMENT OF ELECTRICITY SUPPLY AND DELIVERY

This Professional Services Agreement (this "Agreement") is made effective as of the 16th day of February 2010, ("Effective Date") by and between ENERActive Solutions LLC having its principal offices at 700 Mattison Avenue, Asbury Park, New Jersey 07712 (ENERACTIVE) and the Township of Hardyston, a municipal corporation in the State of New Jersey located at 149 Wheatsworth Road, Hardyston, New Jersey 07419 ("Client"). ENERActive and Client sometimes individually referred to herein as "Party" or collectively as "Parties".

Recitals:

WHEREAS, ENERActive is engaged in the business of advising, planning, and managing procurement strategies for electricity and natural gas to the Township of Hardyston; and,

WHEREAS, ENERActive has been retained by Client to advise on the procurement, on a competitive basis, of electricity and natural gas; and,

WHEREAS, Client agrees that ENERActive shall be compensated as provided for herein;

NOW, THEREFORE, in consideration of the respective representations, warranties and covenants contained herein, ENERActive and Client hereby agree as follows:

1. **ENERActive's Services**

ENERActive agrees to provide Professional Services to determine and meet Client's full usage requirements at all Township of Hardyston Facilities for Electric and Natural Gas Commodities and Client agrees to receive and pay for these Professional Services. These services will determine the value for potential savings off of current default costs but also provide the County with the tools to evaluate and mange the load on an ongoing basis.

2. Scope of Work

ENERActive will collect historical usage and bills from the Township of Hardyston and the Local Distribution Company ("LDC"). This information will be analyzed for accuracy and then compared to current LDC tariff rates based on rate class to determine potential savings and next steps. A detailed report will be completed which will show an estimated savings potential, where applicable for the supply of electricity and natural gas. Estimated savings potential will be determined using the following assumptions:

- Current market conditions will remain flat or increase slightly
- Default cost to serve vs. Third Party Supply cost to serve
- Past twelve months of historical usage is an accurate portrayal of future usage
- All accounts will switch to Third Party Supply

When necessary, ENERActive will work with the Township of Hardyston to determine the proper bid specifications for the procurement of electric and natural gas supply. The focus of this process will be to implement a supply strategy utilizing standard industry products, such as Fixed, Index or Block & Index (each described briefly below). Each product is made up of a commodity piece which is approximately 80% of the supply and an adder piece which makes up the other 20%.

- Fixed price products have little risk are will allow for budget certainty throughout the term of the agreement. Both the commodity and adder will be hedged utilizing futures contracts.
- Index products hedge only the adder and allow the commodity to float on the open market. Pricing is based on a published market index. This is a riskier product due to the unknown futures market so the benefit of the contract will not be known immediately.
- Block & Index products will hedge the adder and allow the customer to hedge a portion of the commodity piece or none. It is a very flexible product that allows for some budget certainty as well as market involvement.

If there is a potential for savings it will ENERActive will bring the bid to the market and determine final suppliers and costs. All specifications will be determined using the below criteria.

- Risk tolerances and financial objectives
- Product descriptions and bid specifications
- Third Party Supplier negotiations
- Issuing of bid
- Assessment of qualified bidders
- Perform comparative analysis to determine low cost provider
- Execution of final contract

Upon execution of an agreement, ENERActive will provide active portfolio management. This process will provide the Township of Hardyston with quarterly reports on the progress and savings of the contracts, evaluation of all bills to ensure proper costing by the supplier, and constant re-evaluation of market conditions during the term of the contract. Constantly evaluating market conditions allows for hedging future positions when the market presents a good buying opportunity.

3. Client's Responsibilities

The Client will designate a representative authorized to act in its behalf with respect to all energy procurement transactions to ENERActive Energy. All information between the Client and ENERActive should flow through this representative.

4. Business Terms

ENERActive shall have no authority to bind Client in any transaction for the purchase or sale of the products unless authorized in writing by Client, or Client's duly authorized representatives. ENERActive is responsible for distributing confirmations for all transactions in accordance with the industry standards.

It is understood and agreed that ENERActive does not and cannot act as a principal to, or take title to the products and that ENERActive does not and cannot asses the legal capacity of counterparties to enter in to contracts relating to the products, guarantee delivery of the products, or asses the creditworthiness of counter parties.

The parties agree that Client and its relevant counter party will be wholly responsible for the settlement of each transaction between Client and winning supplier. Such transactions will be settled and confirmed by the specific terms of each agreement with the winning electric or natural gas supplier.

5. Compensation

ENERActive Solutins proposes to execute this scope of work for a per transaction fee based on the sale and executed third party contract for electricity and/or natural gas supply. Each transaction will be recorded in an addendum to follow this agreement. ENERActive will be paid directly by the third party suppliers.
All fees are exclusive of any sales tax.

6. Term

The term of this agreement shall be five years as of the effective date of this contract. At the end of the initial five year term this agreement may be renewed for two subsequent five year renewal terms upon mutual consent of both parties at the end of each five year term. However, notwithstanding these provisions, the term of this Agreement may be terminated by either party upon 60 days written notice.

7. Limit of Liability

IN NO EVENT SHALL EITHER PARTY BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR UNDER ANY THEORY OR CAUSE FOR ACTION OF ANY KIND, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSENERACTIVEUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFIT OR BUSINESS OPPORTUNITY) ARISING OUT OF OR PERTAINING TO THE SUBJECT MATTER OF THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SAID DAMAGES. NO ACTION MAY BE BROUGHT RELATING TO THIS AGREEMENT AT ANY TIME MORE THAN TWELVE (12) MONTHS AFTER THE FACTS GIVING RISE TO THE CAUSE FOR ACTION OCCURRED.

The entire liability of ENERACTIVE in connection with this Agreement shall not exceed the amount of ENERACTIVE's fees for the provision of the applicable transaction in question. ENERActive shall not be liable to the Client or be deemed in default of this Agreement by reason of any delay in performing, or any failure to perform, any obligations in relation to the services provided by ENERActive, if the delay or failure was due to any cause beyond ENERActive's reasonable control.

8. Indemnification

To the extent permitted by law, Client shall protect, defend, indemnify and hold harmless ENERActive from and against all liabilities, claims, damages, suits, actions, claims and all other obligations and proceedings whatsoever, including without limitations all judgments rendered against and all fines and penalties imposed upon ENERActive and any reasonable fees attorney's fees and other costs of defense arising out of injuries to persons, including death or damage to third-party property to the extent caused by, or occurring in connection with, any willful or negligent act or omission of Client, its employees or agents or contractors.

To the extent permitted by law ENERActive shall protect, defend, indemnify and hold harmless Client from and against all liabilities, claims, damages, suits, actions, claims and all other obligations and proceedings whatsoever, including without limitations all judgments rendered against and all fines and penalties imposed upon Client and any reasonable fees attorney's fees and other costs of defense arising out of injuries to persons, including death or damage to third-party property to the extent caused by, or occurring in connection with, any willful or negligent act or omission of ENERActive, its employees or agents or subcontractors.

The indemnification by ENERActive and Client under this Section shall to the same extent apply to ENERACTIVE's and Clients directors, officers, employees, agents and subcontractors.

9. Disputes

Any disputes arising between Client and ENERActive, and any disputes between the parties involving a counter party matched or purportedly matched with Client by ENERActive shall be resolve pursuant to good faith efforts by such disputing parties. The parties shall first attempt to resolve the dispute by means of negotiations between employees of each party who possess full authority to resolve said dispute. Should such claim or dispute not be mutually resolved between the parties within ninety (90) days thereafter, the aggrieved Party shall then seek to resolve the matter in accordance with the following provisions: (1) All claims, disputes and/or matters in question between the Customer and ENERActive arising out of or relating to this Agreement, or the breach of it will be decided by Arbitration if and only if the parties hereto mutually agree, (2) otherwise, the matter in dispute shall be decided in a Court of competent jurisdiction within the State of New Jersey.

10. Notices and Correspondence

A notice or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered to the appropriate address specified below by prepaid first class mail, courier, facsimile or other electronic means.

To ENERActive Solutions LLC:	To Customer:	
700 Mattison Ave., Suite A	Hardyston Township_____	Name
Asbury Park, NJ 07712	149 Wheatsworth Road_____	Street
P. 732-988-8850	Hardyston, NJ 07419_____	City, State, Zip
F. 732-988-9596	Marianne Smith, Twp Mgr_____	Contact Name
	973-823-7020_____	Phone

11. Successor and Assignment

The Client and ENERActive each bind itself and its partners, successors, executors, administrators, and assigns in respect to all covenants, agreements and obligations of this agreement. Neither party may assign or transfer any of its rights under this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld).

12. General

This Agreement constitutes the entire Agreement between parties and supersedes any previous agreement or understanding with respect to the subject matter hereof and may not be varied except in writing between the parties. All other terms and conditions, express or implied by statute or otherwise, are excluded to the full extent permitted by law. If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these conditions and the remainder of the provisions in question shall not be affected.

13. Affirmative Action Requirements

During the term of this Agreement, the parties hereto agree to comply with the Affirmative Action requirements set forth in N.J.A.C. 17:27, and hereby incorporate by reference the mandatory Affirmative Action language set forth in Exhibit A which is attached hereto and made a part hereof.

14. Applicable Law

This Agreement shall be governed by and shall be construed, enforced and performed in accordance with the laws of the State of New Jersey.

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

D. Correspondence

1. Lafayette Township
2. Lafayette Township
3. Lafayette Township
4. Lafayette Township
5. Lafayette Township
6. NJ State League of Municipalities
7. NJ State League of Municipalities
8. NJ State League of Municipalities
9. NJ State League of Municipalities
10. NJ State League of Municipalities
11. NJ State League of Municipalities
12. NJ State League of Municipalities
13. NJ State League of Municipalities
14. NJ State League of Municipalities

15. NJ State League of Municipalities
16. NJ State League of Municipalities
17. NJ State League of Municipalities
18. NJ State League of Municipalities
19. State of NJ

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

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

EXECUTIVE SESSION:

BE IT RESOLVED by the Township Council of the Township of Hardyston on the 16th day of February, 2010, 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.

(**X**) 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.

( ) 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: Ross_
Seconded by: Miller

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON FEBRUARY 16, 2010

MOTION	YES	NO	ABSTAIN	ABSENT
Ross	__x__	_____	_____	_____
Kievit	__x__	_____	_____	_____
Kula	__x__	_____	_____	_____
Hamilton	_____	_____	_____	___x__
Miller	__x__	_____	_____	_____

Motion carried.

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

A motion was made by Ross to approve the agreement between the Township of Hardyston and Hardyston Township PBA Local 374 for the period January 1, 2010 through December 31, 2011, seconded by Miller. All in favor. Motion carried.

A motion was made by Ross to approve minor revisions to the "Snow Removal Guidelines for the Township of Hardyston" that were originally adopted on January 12, 2010, seconded by Miller. All in favor. Motion carried.

ADJOURNMENT: A motion was made by Ross to adjourn at approximately 7:25p.m., seconded by Miller. All in favor. Motion carried.

_____
Jane Bakalarczyk, RMC/CMC
Municipal Clerk