

MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL MEETING HELD ON APRIL 25, 2006

The meeting was called to order by Mayor Hamilton at 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 Armstrong, Councilman Ross, Councilman Kievit, Councilman Lasinski, Manager Marianne Smith and Clerk Jane Bakalarczyk.

**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 – March 2006
2. Construction Official Report – March 2006
3. Tax Collector Report – March 2006
4. Municipal Court Report – March 2006
5. Sales Listing Report – 1/1/06 – 3/31/06
6. Smoke Detector & CO Alarm Inspections – 1<sup>st</sup> Q 2006
7. Planning Board – Minutes/Resolution
8. HTMUA – Minutes of 2/8/06
9. EDC – Minutes of 2/13/06
10. Sparta Health Department – March 2006

**Minutes:**

1. Regular Minutes of 3/21/06
2. Workshop Minutes of 3/28/06
3. Executive Session Minutes of 3/28/06
4. Workshop Minutes of 4/11/06

**Licenses:**

1. 50/50 – Hardyston PTA
2. 50/50 Off-Premise – NJ Organization Cystic Fibrosis
3. Raffle – Lafayette Township PTO

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

**OLD BUSINESS:**

**ORDINANCES:**

**1st READING:**

**2006-08**

**ORDINANCE OF THE TOWNSHIP OF HARDYSTON  
AMENDING CHAPTER 185 ENTITLED ZONING  
SECTION 185-26 ENTITLED MIDD-5  
MINIMUM IMPACT RESIDENTIAL DISTRICT  
MEDIUM IMPACT DEVELOPMENT  
DISTRICT – MIDD-5, SECTION 185-27  
ENTITLED “ZONING REQUIREMENT”  
TO AUTHORIZE AN INCENTIVE  
OFF-SITE CLUSTER PROVISION**

**NOW THEREFORE**, be it ordained by the Township Council of the Township of Hardyston, State of New Jersey as follows:

**SECTION 1**

Section 185-27. Entitled "Zoning Requirements" of the Medium Intensity Development District – 5 (MIDD-5) is hereby amended to add a new Subsection D authorizing incentive in offsite cluster, which shall state as follows:

"Section 185-27D. Offsite cluster of residential units from Block 63, Lots 26 and 27 located on Wheatsworth Road to Block 72, Lots 5.01 and 21 located on Franek Road and Route 94 is hereby authorized subject to the following requirements.

(1) The Applicant shall dedicate to the Township of Hardyston at least 100 acres of open space with driveway access to Wheatsworth Road on Block 63, Lots 26 and 27.

(2) The off-site clustering of residential units shall be allowed provided the maximum number of residential units located on Block 72, Lot 5.01 and 21 located on Franek Road shall not exceed the maximum number allowed on the Franek Road lots plus no more than one unit per five acres for the land dedicated in Block 63, Lots 26 and 27 located on Wheatsworth Road.

(3) The dedicated land shall provide for sufficient uplands outside the wetlands and transition areas to meet the requirements of the Town Council of the Township of Hardyston.

(4) The residences constructed on the Franek Road

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parcel shall conform with the standards of the MIDD-5 District and shall utilize conventional individual sewage disposal systems also known as septic systems for waste disposal.

(5) The total gross density of the two tracts combined shall not exceed one unit per five acres.

(6) The open space shall be dedicated to the Township of Hardyston at the time the final subdivision plat is executed by the Township. The applicant shall not be permitted to commence any site grading, improvements, or construction prior to the dedication. The applicant shall obtain all governmental approvals for the open space lot prior to final, including but not limited to a Letter of Interpretation (LOI) and wetlands or transition area waivers and permits for at least 40 acres of open space useable for play fields and recreational purposes. Further, the dedication shall be a condition of both Preliminary and Final subdivision approvals and of a developers agreement with the Governing Body. If the dedication does not occur within nine months of the approval receiving final subdivision approval, the approvals shall not be useable and shall be deemed void. The developers agreement shall confirm these requirements.

(7) The Applicant shall be required to comply with the growth share ordinance requirements of the Township of Hardyston and construct said units on Block 72, Lots 5.01 and 21.

(8) The residential units on the Franek Road parcel shall comply with the standards of the MIDD-5 zone with the exception of the extra density resulting from the cluster from off-site.

**SECTION 2.** Severability. - If any section, paragraph, subdivision, clause or provision of this ordinance shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this ordinance shall be deemed valid and effective.

**SECTION 3.** This ordinance shall take effect after publication and passage according to law.

A motion was made by Armstrong to approve Ordinance 2006-08 on first reading, seconded by Kievit. All in favor. Motion carried.

**ORDINANCES:**

**2<sup>nd</sup> READING:** **2006-02**

**AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON TO AMEND SECTION 185-4 OF CHAPTER 185 AND ADD ARTICLE XXV TO ADDRESS *STORMWATER MANAGEMENT REQUIREMENTS FOR NON-RESIDENTIAL MAJOR DEVELOPMENTS***

**NOW THEREFORE** be it ordained by the Township Council of the Township of Hardyston that *Section 185 is hereby amended as follows:*

*Section 185-4 of the Zoning Ordinance entitled "Definitions" is hereby amended to add and amend the following definitions:*

*CAFRA PLANNING MAP - The geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.*

*CAFRA CENTERS, CORES OR NODES - Those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.*

*COMPACTION - The increase in soil bulk density.*

*CORE - A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.*

*COUNTY REVIEW AGENCY - An agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:*

*A county planning agency; or*

*A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.*

*DEPARTMENT - The New Jersey Department of Environmental Protection.*

*DESIGNATED CENTER - A State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.*

*DESIGN ENGINEER - A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.*

*DEVELOPMENT - The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required pursuant to this chapter*

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*or under the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a*

*State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.*

*DRAINAGE AREA - A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.*

*ENVIRONMENTALLY CRITICAL AREAS - An area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.*

*EMPOWERMENT NEIGHBORHOOD - A neighborhood designated by the Urban Coordinating Council in consultation and conjunction with the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.*

*EROSION - The detachment and movement of soil or rock fragments by water, wind, ice or gravity.*

*INFILTRATION - The process by which water seeps into the soil from precipitation.*

*MAJOR DEVELOPMENT - Any "development" that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of stormwater management is considered the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.*

*MUNICIPALITY - Any city, borough, town, township or village.*

*NODE - An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.*

*NUTRIENT - A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.*

*POLLUTANT - Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. Pollutant includes both hazardous and nonhazardous pollutants.*

*RECHARGE - The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.*

*SEDIMENT - Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.*

*SITE - The lot or lots upon which development is to occur or has occurred.*

*SOIL - All unconsolidated mineral and organic material of any origin.*

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*STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1) - An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.*

*STATE PLAN POLICY MAP - The geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.*

*STORMWATER - Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.*

*STORMWATER RUNOFF - Water flow on the surface of the ground or in storm sewers, resulting from precipitation.*

*STORMWATER MANAGEMENT BASIN - An excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).*

*STORMWATER MANAGEMENT MEASURE - Any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.*

*TIDAL FLOOD HAZARD AREA - A flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.*

*URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD - neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.*

*URBAN ENTERPRISE ZONES - A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.*

*URBAN REDEVELOPMENT AREA - Previously developed portions of areas:*

- (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;*
- (2) Designated as CAFRA Centers, Cores or Nodes;*
- (3) Designated as Urban Enterprise Zones; and*
- (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.*

*WATERS OF THE STATE - The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.*

*WETLANDS OR WETLAND - An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.*

**ARTICLE XXV  
STORMWATER MANAGEMENT**

**§ 185-104. Policy Statement**

*Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural best management practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.*

**§ 185-105. Purpose**

*It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for “major development,” as defined in Section 185-4.*

**§ 185-106. Applicability**

- A. *This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:*
1. *Non-residential major developments*
  2. *Aspects of residential major developments that are not preempted by the Residential Site Improvement Standards at N.J.A.C. 5:21.*
- B. *This ordinance shall also be applicable to all major developments undertaken by Hardyston Township.*

**§ 185-107. Compatibility with Other Permit and Ordinance Requirements**

*Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rules or regulations, statutes, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.*

**§ 185-108. General Standards**

- A. *Design and Performance Standards for Stormwater Management Measures*
1. *Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in Section 185-109. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to*

*meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.*

2. *The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.*

**§ 185-109. Stormwater Management Requirements for Major Development**

- A. *The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 185-115.*
- B. *Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).*
- C. *The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 185-109.F and 185-109.G:*
  1. *The construction of an underground utility line provided that the disturbed areas are re-vegetated upon completion;*
  2. *The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and*
  3. *The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.*
- D. *A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 185-109.F and 185-109.G may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:*
  1. *The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;*
  2. *The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 185-109.F and 185-109.G to the maximum extent practicable;*

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3. *The applicant demonstrates that, in order to meet the requirements of Sections 185-109.F and 185-109.G, existing structures currently in use, such as homes and buildings, would need to be condemned; and*
4. *The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under 185-109.D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 185-109.F and 185-109.G that were not achievable on-site.*

*E. Nonstructural Stormwater Management Strategies*

1. *To the maximum extent practicable, the standards in Sections 185-109.F and 185-109.G shall be met by incorporating nonstructural stormwater management strategies set forth at Section 185-109.E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.*
2. *Nonstructural stormwater management strategies incorporated into site design shall:*
  - a. *Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;*
  - b. *Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;*
  - c. *Maximize the protection of natural drainage features and vegetation;*
  - d. *Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;*
  - e. *Minimize land disturbance including clearing and grading;*
  - f. *Minimize soil compaction;*
  - g. *Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;*
  - h. *Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;*
  - i. *provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:*
    - (1) *Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy*

*Section 185-109.E.3. below;*

- (2) Site design features that help to prevent discharge of trash and debris from drainage systems;*
  - (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and*
  - (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.*
- 3. Site design features identified under Section 185-109.E.2.i.(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 185-109.E.3.c below.*
- a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:*
    - (1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or*
    - (2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.*

*Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.*
  - b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.*
  - c. This standard does not apply:*
    - (1) Where the township engineer determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;*

- (2) *Where flows from the water quality design storm as specified in Section 185-109.G.1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:*
      - a. *A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or*
      - b. *A bar screen having a bar spacing of 0.5 inches.*
    - (3) *Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in Section 185-109.G.1; or*
    - (4) *Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.*
  4. *Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 185-109.F and 185-109.G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the planning or zoning board is maintained in perpetuity.*
  5. *Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 185-112., or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org).*

*F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards*

1. *This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.*
  - a. *The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.*
  - b. *The minimum design and performance standards for groundwater recharge are as follows:*
    - (1) *The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 185-110., either:*
      - (a) *Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater*



*runoff calculations at Section 185-110., complete one of the following:*

- (1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;*
  - (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;*
  - (3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or*
  - (4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.*
- 2. Any application for a new agricultural development that meets the definition of major development in Section 185-4 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.*

**G. Stormwater Runoff Quality Standards**

- 1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The*

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*requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.*

<b>Table 1: Water Quality Design Storm Distribution</b>			
<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>	<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

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2. *For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 185-112., or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org). The BMP Manual and other sources of technical guidance are listed in Section 185-112. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.*
  
3. *If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:*

$$R = A + B - (AXB)/100$$

*Where*

*R = total TSS percent load removal from application of both BMPs, and*

*A = the TSS percent removal rate applicable to the first BMP*

*B = the TSS percent removal rate applicable to the second BMP*

<b>Table 2: TSS Removal Rates for BMP</b>	
<b>Best Management Practice</b>	<b>TSS Percent Removal Rate</b>
<i>Bioretention Systems</i>	90
<i>Constructed Stormwater Wetland</i>	90
<i>Extended Detention basin</i>	40 - 60
<i>Infiltration Structure</i>	80
<i>Manufactured Treatment Device</i>	See Section 185-111.C
<i>Sand Filter</i>	80
<i>Vegetative Filter Strip</i>	60 - 80
<i>Wetpond</i>	50 - 90

4. *If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.*
  
5. *Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize*

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*nutrient removal while still achieving the performance standards in Sections 185-109.F and 185-109.G.*

6. *Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 185-112.*
7. *In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.*
8. *Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:*
  - a. *The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:*
    - (1) *A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.*
    - (2) *Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.*
  - b. *All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act N.J.S.A. 4:24-39 et seq.*
  - c. *If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the*

*Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:*

- (1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;*
  - (2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;*
  - (3) Temperature shall be addressed to ensure no impact on the receiving waterway;*
  - (4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;*
  - (5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and*
  - (6) All encroachments proposed under this section shall be subject to review and approval by the Department.*
- d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 185-109.G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to 185-109.G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in 185-109.G.8.a.(1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.*
- e. Paragraph 185-109.G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.*

**Section 185-110. Calculation of Stormwater Runoff and Groundwater Recharge**

A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:

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- a. *The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or*
  - b. *The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.*
2. *For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology at Section 185-110.A.1.a and the Rational and Modified Rational Methods at Section 185-110.A.1.b. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).*
  3. *In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.*
  4. *In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.*
  5. *If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.*

*B. Groundwater recharge may be calculated in accordance with the following:*

1. *The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.*

**Section 185-111. Standards for Structural Stormwater Management Measures**

A. *Standards for structural stormwater management measures are as follows:*

1. *Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).*
2. *Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 185-113.D.*
3. *Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.*
4. *At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.*
5. *Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 185-113.*

B. *Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section 185-109. of this ordinance.*

C. *Manufactured treatment devices may be used to meet the requirements of Section 185-109. of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.*

**Section 185-112. Sources for Technical Guidance**

A. *Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.*

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1. *Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.*
  2. *The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.*
- B. Additional technical guidance for stormwater management measures can be obtained from the following:*
1. *The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;*
  2. *The Rutgers Cooperative Extension Service, 732-932-9306;*
  3. *The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.*

**Section 185-113. Safety Standards for Stormwater Management Basins**

- A. *This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.*
- B. *Requirements for Trash Racks, Overflow Grates and Escape Provisions*
  1. *A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:*
    - a. *The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.*
    - b. *The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.*
    - c. *The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the*

*net area of opening through the rack.*

- d. *The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.*
2. *An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:*
    - a. *The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.*
    - b. *The overflow grate spacing shall be no less than two inches across the smallest dimension.*
    - c. *The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.*
  3. *For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:*
    - a. *If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section 185-113.C a freestanding outlet structure may be exempted from this requirement.*
    - b. *Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface.*
    - c. *In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.*

**C. Variance or Exemption from Safety Standards**

1. *A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the planning or zoning board or other agency with jurisdiction that the variance or exemption will not constitute a threat to public safety.*

**Section 185-114. Requirements for a Site Development Stormwater Plan**

**A. Submission of Site Development Stormwater Plan**

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1. *Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 185-114.C below as part of the submission of the applicant's application for subdivision or site plan approval.*
2. *The applicant shall demonstrate that the project meets the standards set forth in this ordinance.*
3. *The applicant shall submit 4 copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 185-114.C of this ordinance.*

*B. Site Development Stormwater Plan Approval*

1. *The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.*

*C. Checklist Requirements for Stormwater Plans*

*The following minimum information shall be required to be provided :*

1. *Topographic Base Map*

*The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.*

2. *Environmental Site Analysis A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.*

3. *Project Description and Site Plan(s)*

*A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where*

*alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.*

4. *Land Use Planning and Source Control Plan*

*This plan shall provide a demonstration of how the goals and standards of Sections 185-108. through 185-111. are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.*

5. *Stormwater Management Facilities Map*

*The following information, illustrated on a map of the same scale as the topographic base map, shall be included:*

- a. *Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.*
- b. *Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.*

6. *Calculations*

- a. *Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 185-109. of this ordinance.*
- b. *When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.*

7. *Maintenance and Repair Plan*

- a. *The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 185-115.*

8. *Waiver from Submission Requirements*

- a. *The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 185-114.C.1 through 185-114.C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.*

**Section 185-115. Maintenance and Repair**

*A. Applicability*

1. *Projects subject to review as in Section 185-104.C of this ordinance shall comply with the requirements of Sections 185-115.B. and 185-115.C.*

*B. General Maintenance*

1. *The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.*
2. *The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.*
3. *Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.*
4. *If the person responsible for maintenance identified under Section 185-115.B.2 above is not a public agency, the maintenance plan and any future revisions based on Section 185-115.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.*
5. *Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure;*

*removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.*

6. *The person responsible for maintenance identified under Section 185-115.B.2 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.*
7. *The person responsible for maintenance identified under Section 185-115.B.2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.*
8. *The person responsible for maintenance identified under Section 185-115.B.2 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 185-115.B.6 and 185-115.B.7 above*
9. *The requirements of Sections 185-115.B.3 and 185-115.B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.*
- 10 *In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.*

- C. *Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.*

**Section 185-116. Effective Date**

*This ordinance shall take effect immediately upon the approval by the county review agency, or sixty (60) days from the receipt of the ordinance by the county review agency if the county review agency should fail to act.*

**Section 185-117. Severability**

*If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent*

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*jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.*

**Section 185-118. Repealer.**

*All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.*

*This ordinance shall take effect within twenty (20) days of the date of adoption hereof.*

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 Kievit to approve Ordinance 2006-02 on second reading, seconded by Ross. All in favor. Motion carried.

**2006-03**

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON TO AMEND SECTION 147-8 OF CHAPTER 147 AND SECTION 158-19 OF CHAPTER 158 TO ADD FIRE SUPPRESSION SYSTEM REQUIREMENTS

Section 147-8 entitled Design Standards and Required Site Improvements of Chapter 147 entitled "Site Plan Review" is hereby amended to add the following section:

- O. *Fire Protection Facilities.* The purpose of this subsection is to insure that adequate fire protection facilities are provided within residential developments. In the CR and R-4 zone, a public potable and fire suppression water system shall be provided in accordance with the Residential Site Improvements Standards (RSIS), N.J.A.C. 5:21-1 et. seq. for residential developments utilizing sewage collection and treatment. In all other zones, a fire suppression water system shall be provided for all residential preliminary major subdivisions and all major preliminary site plans for non-residential developments in accordance with the following standards:
- a. Where public or private central water supply is available and has been approved by the Township of Hardyston, fire hydrants shall be installed to provide a source of water for fire fighting. Where public or private central water supply is not available for a residential subdivision, underground water storage tanks shall be located and installed within the development. The location of the tank shall be approved by the reviewing board with input from the Hardyston Fire Department. Any fire suppression tank provided shall be located such that the distance from the proposed suction point for the tank to the required building setback line of each proposed lot shall not exceed 2,000 feet. This length shall be measured along the centerline of the right of way. This distance shall also include the length of the driveway, measured along the driveway for flag lots and lots with common driveways. When more than one tank is required to meet this requirement, the spacing between tanks shall not exceed 3,000 feet. Each tank shall be located within the public right of way or an easement acceptable to the Township of Hardyston. Tanks constructed to service residential subdivisions shall be dedicated to the Township. For non-residential sites, underground water tanks shall be installed in a location acceptable to the reviewing board with input from the Hardyston Fire Department.

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All tanks must have paved access within 7 linear feet of its suction point. A permanent sign, approved by the Hardyston Township Engineer, shall be installed at every tank location to show the existence and capacity of such tank. In addition, when tanks are located in the vicinity of a roadway, "No Stopping or Standing" zones shall be delineated at each tank location for a distance of 75 feet in each direction from such tank along the side of the street abutting the tank. Such delineation shall be appropriately identified by signs meeting standards of the Manual on Uniform Traffic Control Devices.

The minimum capacity of every underground storage tank within a residential subdivision shall be 20,000 gallons. Tank capacities for non-residential developments shall be based on the highest degree of hazard of the principal structures to be protected but shall no case shall the tank capacity be less than 10,000 gallons. The fire protection systems shall be approved by the reviewing board with input from the Hardyston Fire Department. Unless an equivalent alternate fire protection system is authorized by the reviewing board, underground water storage tanks will be provided and shall be constructed and installed as follows: All underground water storage tanks shall be (minimum) single walled fiberglass construction. The tank shall be installed in accordance with the manufacturer's recommendations and NFPA Standards. Tanks shall at a minimum include the following features.

One (1) flange with 6" draw tube.

Four (4) 4" flanges.

6" Dry Hydrant NST Female Connection, each connection must have internal conical strainer, snap ring, yellow dust cap. PVC pipe must pass through all adapters into tank.

A water level gauge of suitable design shall be provided.

4" fill connection with two (2) 2 ½" NST Female Connections with dust caps.

This water supply is intended solely for minimal "first attack" storage.

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In all subdivisions where a fire protection system is required, no building permit shall be issued for a principal structure upon any lot within the subdivision until fire protection to the extent necessary for such dwelling is installed and its operability tested and approved by the Hardyston Township Engineer.

- (2) The hydrants, tank size design and location in conjunction with a site plan application for a non-residential structure shall be approved by the reviewing board with input from the Hardyston Fire Department.

Section 158-19 entitled "Public Use and Service Areas" of Chapter 158 entitled "Subdivision of Land" is hereby amended to add the following:

- E. In all applications for approval of any preliminary major subdivision in any residential zone. The preliminary subdivision plans shall include provisions for a fire suppression system in accordance with requirements stated in Section 147-8.O. of the municipal ordinances.

**Severability.**

If any section, paragraph, subdivision, clause or provision of this ordinance shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this ordinance shall be deemed valid and effective.

**Repealer.**

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

This ordinance shall take effect within twenty (20) days of the date of adoption hereof.

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 Kievit to approve Ordinance 2006-03 on second reading, seconded by Lasinski. All in favor. Motion carried.

**2006-04**

AN ORDINANCE TO AMEND THE ESTABLISHED MINIMUM AND MAXIMUM SALARIES FOR OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF HARDYSTON TO PROVIDE THE METHOD FOR THE PAYMENT OF ANNUAL SALARY INCREMENTS IN THE DISCRETION OF THE TOWNSHIP COUNCIL

BE IT ORDAINED by the Township Council of the Township of Hardyston that Section 1 and Section 2 be amended to include and amend the following:

Section 1. The minimum and maximum salary range for officers or employees of the Township of Hardyston who are employed on an annual salary basis shall be and is hereby fixed as follows:

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POSITION	MINIMUM	MAXIMUM
Water and Sewer Operator	\$55,000	\$78,000
Fire Prevention Inspector	\$ 5,154	\$10,154
Fire Official	\$ 8,734	\$13,734

Section 2. The minimum and maximum rates of compensation for each employee or class of employees who are employed on an hourly basis shall be and are hereby fixed as follows:

POSITION	MINIMUM HOURLY	MAXIMUM HOURLY
Road Supervisor	\$24.25	\$28.00
Assistant Road Supervisor	\$24.00	\$27.00

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 Kievit to approve Ordinance 2006-04 on second reading, seconded by Ross. All in favor. Motion carried.

**2006-05**

AN ORDINANCE TO AMEND SECTION 10 OF CHAPTER 62 OF THE CODE OF  
THE TOWNSHIP OF HARDYSTON ENTITLED "OUTDOOR CONSTRUCTION  
ACTIVITIES; HOURS PERMITTED"

***NOW, THEREFORE, BE IT ORDAINED*** by the Mayor and Township Council of the Township of Hardyston that Section 10 of Chapter 62 of the Hardyston Township Code, entitled "Outdoor construction activity; hours permitted" be amended as follows:

**Section 1.** ***§62-10. Outdoor construction activities, hours permitted IS***  
***HEREBY AMENDED AS FOLLOWS:***

***§62-10. Outdoor construction activities, hours permitted***

A. *The carrying on of excavation, demolition, outdoor construction, repair or alteration in conjunction with any project approved by the planning board or board of adjustment or any license issued by the Township Council shall be limited to the following hours unless alternate hours are approved by the Township Council to address a special situation:*

- (1) *Monday through Friday: 7:00 A.M. to 7:00 P.M.*
- (2) *Saturdays, state and federal holidays: 8:00 A.M. to 6:00 P.M.*

**Section 2.** ***Severability.*** *If any part of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of the Ordinance. Any ordinance or portion thereof that may be inconsistent with the ordinance is hereby repealed to the extent of the inconsistency.*

**Section 3.** ***Effective date.*** *This ordinance shall take effect in the time and manner prescribed by law.*

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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 Hamilton to approve Ordinance 2006-05 on second reading, seconded by Kievit. All in favor. Motion carried.

**2006-06**

AN ORDINANCE TO AMEND CHAPTER 17 OF THE HARDYSTON TOWNSHIP  
CODE REGARDING MEMBERS OF THE ECONOMIC DEVELOPMENT  
ADVISORY COMMISSION

**NOW, BE IT ORDAINED** by the Hardyston Township Council that Chapter 17 of the Hardyston Township Code entitled “Economic Development Advisory Commission” is hereby revised as follows:

**Section 1.** §17-2 Members is hereby revised to state:

Said Commission shall consist of the members of the Township Council, who shall serve during their terms on the Township Council, together with not fewer than three (3) nor more than nine (9) additional members who shall reside and/or own a business located in the Township, who shall be appointed by and serve at the pleasure of the Township Council.

**Section 2.** **Severability.** If any part of this Ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portion of the Ordinance. Any ordinance or portion thereof that may be inconsistent with the ordinance is hereby repealed to the extent of the inconsistency.

**Section 3.** **Effective date.** This Ordinance shall take effect in the time and manner prescribed 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 Kievit to approve Ordinance 2006-06 on second reading, seconded by Ross. All in favor. Motion carried.

**2006-07**

CALENDAR YEAR 2006  
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS  
AND TO ESTABLISH A CAP BANK

**WHEREAS**, the Local Government Cap Law, N.J.S. 40A: 445.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and,

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

**WHEREAS**, the Township Council of the Township of Hardyston in the County of Sussex finds it advisable and necessary to increase its CY 2006 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

**WHEREAS**, the Township Council hereby determines that a 1.0% increase in the budget for said year, amounting to \$46,751.57 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

**NOW THEREFORE BE IT ORDAINED**, by the Township Council of the Township of Hardyston, in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2006 budget year, the final appropriations of the Township of Hardyston shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.50%, amounting to \$163,630.50 and that the CY 2006 municipal budget for the Township of Hardyston be approved and adopted in accordance with this ordinance; and,

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

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

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

A motion was made 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 Kievit to approve Ordinance 2006-07 on second reading, seconded by Lasinski. All in favor.  
Motion carried.

**NEW BUSINESS:**

A. 2006 Budget Hearing

Township Manager Marianne Smith gave a written and verbal presentation of the 2006 Municipal Budget. 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.

B. Resolution for 2006 Budget Amendment

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

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C. Resolution to Cancel Various Appropriation Reserves

**WHEREAS**, there exists a 2005 budget reserve for \$40,423.03, and

**WHEREAS**, the Governing Body desires to cancel this budget reserve amount to surplus.

**NOW, THEREFORE, BE IT RESOLVED** that the above reserve is hereby cancelled to surplus.

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

D. 2006 Salary Resolution Amendment

**BE IT RESOLVED** by the Hardyston Township Council that the annual salaries and wages effective January 1, 2006 shall be paid as follows:

Position	Hourly Salary
Road Supervisor	\$24.83
Assistant Road Supervisor	\$24.26
Water and Sewer Operator	\$27.88

Position	Annual Salary
Fire Official	\$10,734.00
Fire Prevention Inspector	\$ 7,154.00

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

E. Tax Collector Resolution

**RESOLUTION #01-06**

**WHEREAS**, the following parcels are to be refunded for overpayments due to Wells Fargo Mortgage Company over estimating 2006 taxes for new construction.

BLOCK	LOT	QUAL	ADDRESS	NAME	AMOUNT
16	1.041	C0102	4 Bramble Court	Jeanne Edmunds	\$ 3,523.59
67.18	31		16 Stonehill Road	Ethel & Wolf Sluzak	1,518.90

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Township of Hardyston that the Tax Collector be authorized to refund Wells Fargo Mortgage Co for payments made in error on the above real estate taxes.

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

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- F. Resolution Certifying to the Sussex County Board of Chosen Freeholders that the Township of Hardyston Recognizes and Approves the Hardyston First Aid Squad's Efforts to Seek Financial Assistance from the County of Sussex

WHEREAS, the County of Sussex has, for several years, provided financial assistance to Emergency Rescue and First Aid Squads serving the residents of the County; and

WHEREAS, on February 28, 2001 the Sussex County Board of Chosen Freeholders adopted a resolution requiring municipalities to certify that First Aid Squad's serving their community are approved to seek financial assistance from the County of Sussex; and

WHEREAS, the volunteers of the Hardyston Township First Aid Squad have for many years provided emergency medical and rescue services to Township residents, businesses and visitors.

NOW THEREFORE BE IT RESOLVED by the Hardyston Township Council that it hereby certifies its approval of the Hardyston Township First Aid Squad seeking financial assistance from the County of Sussex.

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

- G. Resolution authorizing the execution of the following contracts/ leases/ inter-local agreements/agreements:

1. HTMUA – Administrative Services
2. The Morville Agency – Risk Management Consultant
3. Commodity Resale Agreement – Hardyston Township Board of Ed
4. Commodity Resale Agreement – Walkkill Valley Regional High School

BE IT RESOLVED by the Township Council of the Township of Hardyston that the Township Manager is hereby authorized to execute the following contracts, leases and/or agreements:

1. HTMUA – Administrative Services
2. The Morville Agency – Risk Management Consultant
3. Commodity Resale Agreement – Hardyston Township Board of Ed
4. Commodity Resale Agreement – Walkkill Valley Regional High School

A motion was made by Lasinski to approve the resolution as presented, seconded by Kievit. All in favor with Kievit abstaining on #1 and Ross abstaining on all. Motion carried.

- H. Correspondence

1. Township of Green
2. Township of Sparta
3. Borough of Norwood
4. Township of Jefferson
5. Vernon Township
6. Town of Secaucus
7. Township of Wantage
8. Township of Wantage
9. Township of Green
10. Lafayette Township

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11. Township of Green
12. County of Sussex
13. County of Sussex
14. County of Sussex
15. County of Sussex
16. NJ State League of Municipalities
17. NJ State League of Municipalities
18. NJ State League of Municipalities
19. NJ State League of Municipalities
20. NJ State League of Municipalities
21. NJ State League of Municipalities
22. NJ Local Boards of Health Association
23. Conspectus Newsletter
24. NJ State League of Municipalities

A motion was made by Ross to approve the correspondence as presented with the exception of #13, seconded by Lasinski. All in favor. Motion carried. A motion was made by Ross to approve a resolution to be sent to the Freeholders regarding the County's resolution extending the moratorium on township roads, seconded by Lasinski. All in favor. Motion carried.

A motion was made by Kievit to approve a resolution authorizing the Township Manager to sign a mortgage subordination for Linda and John Luperti, 10 Oak Lane, seconded by Lasinski. All in favor with Ross abstaining. Motion carried.

**MANAGERS REPORT:** Township Manager Marianne Smith gave a written and verbal presentation on the following:

- Silver Grove Road Resurfacing
- 2006 Municipal Budget Adoption
- Municipal Building/Police Station Complex
- Bear-Resistant and Recycling Can Programs
- Fire Truck and Ambulance Purchases
- Planning Issues
- Digitization of Tax Maps
- Landfill Closure
- Future Meetings
- Programs in Progress

**BILLS TO BE PAID:** A motion was made by Ross to amend the bill list to include a payment to Joseph DeVita in the amount of \$100,000.00, seconded by Lasinski. All in favor with Kievit abstaining. Motion carried. A motion was made by Ross to approve the bill list as presented, seconded by Lasinski. All in favor with Kievit abstaining on payment to DeVita. 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:** WHEREAS, NJSA 10:4-12 allows for a Public body to go into closed session during a Public meeting, and

WHEREAS, the Township Council of the Township of Hardyston has deemed it necessary to go into closed session to discuss certain matters which are exempted from the Public.

WHEREAS the regular meeting of this council will reconvene.

NOW THEREFORE BE IT RESOLVED, that the Township Council of Hardyston

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Township will go into closed session for the following reason as outlined in NJSA 10:4-12:

X Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

X Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose right could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

Motion to adopt: Kievit  
Seconded by: Armstrong  
Discussion: None

<b>MOTION</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Ross	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Kievit	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Lasinski	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Hamilton	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Armstrong	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>

Motion carried.

Council reconvened the regular session and at this time a motion was made by Ross to accept a letter of retirement from Suzanne Cahill, Recreation Director and to grant her an exception to the three (3) month notice prior to retirement policy as stated in the Hardyston Township Policies and Procedures Manual, seconded by Kievit. All in favor. Motion carried.

**ADJOURNMENT:** A motion was made by Ross to adjourn, seconded by Lasinski. All in favor. Motion carried.

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Jane Bakalarczyk, RMC/CMC  
Municipal Clerk