

**HARDING TOWNSHIP COMMITTEE
JULY 9, 2008
REGULAR MEETING**

TABLE OF CONTENTS

ROLL CALL	2
REVIEW OF TENTATIVE AGENDAS FOR FUTURE MEETINGS.....	2
EXECUTIVE SESSION DETERMINATION.....	2
MINUTES.....	2
ORDINANCES/RESOLUTIONS	
Ordinances / Introduction	
Ordinance 14-08 – Determining Positions Eligible for the Defined Contribution Program	3
Ordinances / Public Hearing	
Ordinance 12-08 – Authorizing Roadway Dedication and Right of Way Easement on Blue Mill Road	7
Ordinance 13-08 – Authorizing Acquisition of an Interest of Property of Unimproved Land Known as Lot 4.05 in Block 7 and Authorizing the Acquisition of an Interest in the Development Rights to Lot 4.06 and a Portion of Lot 4 in Block 7	7
Resolutions	
Resolution TC 08-147 – Bill List.....	9
Resolution TC 08-148 – Authorizing Acquisition of Public Works Vehicles from County Co-Op	10
Resolution TC 08-149 – Authorizing Purchase of Work/Material for Resurfacing of Sand Spring Rd.	11
Resolution TC 08-150 – Approve Award and Authorize Contract for Municipal Parking Lot.....	9
ANNOUNCEMENTS/REPORTS/PRESENTATIONS	
Shade Tree Advisory Committee Tree Survey Discussion.....	12
Madison Borough Athletic Field	2
CORRESPONDENCE	13
HEARING PERSONS PRESENT	13
EXECUTIVE SESSION – Resolution TC ES – 08-151	14
ADJOURNMENT.....	15

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

Mr. Lanzerotti, Chairman, called the regular meeting of the Harding Township Committee to order at 7:30 P.M. and announced that adequate notice for this meeting had been given as required by law.

ROLL CALL: Present – Mr. Bartlett, Mr. Lanzerotti, Mr. Murray, Mr. Rybka and Mr. Ward
Absent – none
Also Present – Ms. McKane, Township Administrator; Ms. Nergaard, Township Attorney
Number of members of the public present: approx. 25

REVIEW OF TENTATIVE AGENDAS FOR FUTURE MEETINGS:

Ms. McKane reviewed the Tentative Agenda for future meetings. She pointed out the Township Committee will be having a Special Executive Session meeting on July 22, 2008, regarding Glen Alpin. Ms. McKane briefly reviewed the items on the agenda before the Committee this evening and pointed out that Ordinance 12-08, which is scheduled for public hearing tonight, will be reintroduced due to recent legislation.

EXECUTIVE SESSION DETERMINATION

Executive Session would be necessary to discuss matters regarding:

- Contract Negotiation – Eggert, von Zuben Acquisition, Possible Open Space Property Acquisition
- Litigation – Combe Fill South, COAH, Open Public Meeting Act
- Collective Bargaining Agreement – PBA
- Attorney Client Privilege

MINUTES

A motion was made by Mr. Murray and seconded by Mr. Bartlett to introduce the minutes of Agenda Meeting, June 1, 2008; and June 4, 2008; and June 17, 2008; and June 18, 2008; and June 23, 2008. There being no discussion, the minutes were approved by a vote of all ayes.

ANNOUNCEMENTS/REPORTS/PRESENTATIONS

Madison Borough Athletic Field

Mr. Lanzerotti welcomed Madison Borough Administrator, Ray Cody and Mayor Mary Ann Holden. Mr. Cody reviewed Madison Borough’s proposal and vision for the 53-acre regional field. He pointed out the Borough is requesting a letter of support from Harding Township’s for Madison Borough’s application for Morris County Open Space Trust funds. Mr. Cody reviewed the proposed site, costs and field details. He stated that Madison Borough is not requesting any financial commitment for the acquisition or construction of the land. Mr. Cody added that entities requesting the use of the field would pay a user fee; and as a result, the costs would not be passed on to tax payers. Mayor Holden reviewed the regional field details, traffic and the possibility of shared services. She stressed this project is a great opportunity and Madison Borough is very excited.

Mr. Lanzerotti pointed out that currently 300 Harding Township children, in addition to Harding Township children attending Madison High School, utilize Madison’s facilities. He questioned whether the current Madison High School field has turf and field lighting. Mayor Holden indicated the field does have turf, but no lighting. She added the Borough hopes to remove all lighting and sound systems from smaller fields throughout the Borough and consolidate it on the new athletic fields. Mr. Bartlett voiced his concerns pertaining to the possible comparison of the Madison Borough field proposal and the Morris Township proposed fields. He added that that the County may view Harding Township’s stance as inconsistent, however, the letter of endorsement will depict the differences in the two proposals.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

Mayor Holden added it is very important to have the support of Harding Township since our children share Madison fields. A discussion ensued among the Committee, Mayor Holden and Mr. Cody regarding the particulars of the proposed project and operating costs. Mr. Cody indicated that the operating cost budget has been estimated at approximately \$200,000 a year and the four participating municipalities would contribute \$50,000 and charge the users for the use of the fields. Mr. Lanzerotti assumed that the cost would be scaled by the use of the fields and Mr. Cody concurred. Mr. Murray pointed out that this is an appropriate effort and differs from Morris Township’s proposal in Harding Township. Mr. Lanzerotti asked Mayor Holden her opinion on how the Morris County Open Space Committee would respond to the Township’s position on this project and if they would view the Township as being hypercritical. Mayor Holden indicated that she does not believe the County will view it that way since Harding Township will be a user of the property, and the Township will be protecting their interests. Mr. Lanzerotti and Mayor Holden reviewed the endorsement of neighboring municipalities.

Judie Ward, resident of Tempe Wick Road, remarked that the project and presentation was well thought out and added there are no residents in close proximity to the proposed fields.

Mike Meade, resident of Millbrook Road, commented on Mr. Bartlett’s concerns and indicated that the project with Madison and Morris Township are completely different. He added that Harding Township is protecting their interests in endorsing Madison Borough’s application for funding.

The Committee reviewed the draft letter. After the discussion and corrections were made by the Committee regarding to the draft letter, the Committee unanimously agreed on the text. A motion was made by Mr. Murray and seconded by Mr. Ward to forward the letter of support as amended. Vote: All Ayes

Mr. Lanzerotti thanked Mayor Holden and Mr. Cody for their presentation and added the letter would be mailed out tomorrow by Ms. McKane.

ORDINANCES/RESOLUTIONS

Ordinances – Introduction

Ordinance 14-08 – Determining Positions Eligible for the Defined Contribution Retirement Program

Mr. Lanzerotti introduced Ordinance 14-08 and indicated the public hearing of this Ordinance is scheduled for August 6th. A motion was made by Mr. Murray and seconded by Mr. Bartlett to introduce Ordinance 14-08.

Ms. McKane and Ms. Nergaard reviewed the Ordinance and pointed out that this requirement is due to legislation passed in 2007. A discussion ensued among the Committee and Ms. Nergaard regarding the guidelines and the Defined Contribution Retirement program. Ms. Nergaard pointed out the State requires municipalities to define specific positions that would fall under the new pension system (Defined Contribution Retirement Program).

Roll Call Vote for Introduction of Ordinance: All Ayes

“AN ORDINANCE DETERMINING POSITIONS ELIGIBLE FOR THE
DEFINED CONTRIBUTION RETIREMENT PROGRAM”

WHEREAS, the State Legislature recently adopted Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) to create the Defined Contribution Retirement Program to provide retirement benefits to various county and municipal officials; and,

WHEREAS, N.J.S. 43:15C-2 requires the governing body of each county, municipality, and other local entity to adopt, as appropriate, either a resolution or ordinance to determine the positions that are substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State, pursuant to

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, and for which officials appointed to such positions shall be eligible for and shall participate in the Defined Contribution Retirement Program, subject to the provisions of law; and,

WHEREAS, the Township Committee of the Township of Harding has considered the guidelines issued by the Local Finance Board;

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Harding, County of Morris, State of New Jersey as follows:

1. Pursuant to N.J.S. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- Township Administrator
- Health Administrator
- Municipal Court Administrator
- Treasurer
- Municipal Prosecutor
- Municipal Court Judge

2. Individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S. 43:15C-2:

- Tax Collector
- Chief Financial Officer
- Construction Code Official
- Qualified Purchasing Agent
- Tax Assessor
- Registered Municipal Clerk
- Licensed Uniform Subcode Inspector
- Public Works Superintendent

3. This Ordinance shall be implemented, construed and subject to the aforesaid Chapter 92 of the laws of 2007 (N.J.S. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.

4. Should any part or parts of this Ordinance be held to be invalid by any competent court of law, such invalidity shall only affect the part or parts held to be invalid, and all other parts shall remain in effect.

5. A copy of this Ordinance shall be filed with the Director of the Division of Pensions and Benefits of the New Jersey Department of the Treasury.

6. This Ordinance shall take effect upon its passage and publication as required by law.

Ordinances – Public Hearing/Adoption

Ordinance 12-08 – Amending Chapter 71 (Development Fees):

Ms. Nergaard indicated it is necessary to modify the Ordinance due to recent legislation. She explained the amendment is changing the nonresidential development fee to 2-1/2%. Mr. Lanzerotti suggested the Township introduce the Ordinance in September once all the legislation has been worked out; however, Susan Kimball, Township Planner, suggested it be amended tonight. The Committee along with Ms. Nergaard and Ms. Kimball

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

discussed concerns regarding the commercial and residential fees. Ms. Kimball reviewed the recent legislation impacting the Ordinance.

A motion was made by Mr. Bartlett and seconded by Mr. Rybka to open the Ordinance for public hearing. Roll Call Vote: All Ayes

Seeing no further comments from the Township Committee or the public, a motion was made by Mr. Murray and seconded by Mr. Rybka to close the public hearing. Roll Call Vote: All Ayes.

A motion was made by Mr. Murray and seconded by Mr. Bartlett to amend Ordinance 12-08 as discussed by Ms. Nergaard and carry the public hearing to the August 6, 2008 committee meeting.

Mr. Ward, Ms. Kimball and Ms. McKane reviewed the current and future charges for development fees and Mr. Ward commented that it seems like a large increase. Ms. Kimball pointed out that the 2-½% nonresidential development fee is required by the State and is required to offset affordable housing costs.

Roll Call Vote for the amendment to Ordinance 12-08: All Ayes

"AN ORDINANCE AMENDING CHAPTER 71 (DEVELOPMENT FEES)
OF THE CODE OF THE TOWNSHIP OF HARDING"

WHEREAS, on May 6, 2008 the New Jersey Council on Affordable Housing (COAH) adopted revised "Third Round" rules including revised rules applicable to the collection of development fees; and

WHEREAS, Harding Township is under COAH's jurisdiction and has enacted a valid development fee ordinance approved by COAH; and

WHEREAS, the aforesaid revised Third Round rules permit an increase in the percentage of equalized assessed value upon which development fees are based, subject to COAH approval.

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING, IN THE COUNTY OF MORRIS AND THE STATE OF NEW JERSEY, AS FOLLOWS:

SECTION 1: Subsection C in section 71-4 (Development Fees) of the Harding Township Code shall be amended to read in its entirety as follows:

- C. Applicability. Except as stipulated in subsections (1) and (2) below and as listed under subsection D, all residential and nonresidential development requiring a construction permit that results in an increase in the equalized assessed value of the improvements shall be subject to development fees, including any structure that undergoes a change to a more intense use.
- (1) Fees in connection with new construction shall be based on the equalized assessed value of land and improvements. Fees that result from additions and alterations shall be based on the increase in equalized assessed value that results from the addition or alteration.
 - (2) If the nature of proposed improvements would not result in an increase in the value of the property, as determined by the Tax Assessor, then no development fee shall be charged.

SECTION 2: Subsection E(1) in section 71-4 of the Harding Township Code shall be amended to read in its entirety as follows:

- (1) Residential development fees shall be charged at the rate of one and one-half percent (1½%) of the equalized assessed value, provided no increased density was permitted in association with the development.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

SECTION 3: Subsection F(1) in section 71-4 of the Harding Township Code shall be amended to read in its entirety as follows:

- (1) Nonresidential development fees shall be charged at the rate of two and one-half percent (2½ %) of the equalized assessed value.

SECTION 4: Subsection G in section 71-4 of the Harding Township Code shall be amended to read in its entirety as follows:

- G. Collection of development fees. Development fees shall be based on the percentage that is in effect on the date that the construction permit is issued and shall be paid in accordance with the following procedures.
- (1) Upon application for a construction permit, the Tax Assessor shall estimate the amount of the fee to be charged based on the estimated value of the improvements and, if new construction, land value. Fifty percent (50%) of the estimated fee shall be paid prior to or in conjunction with the issuance of the building permit.
 - (2) Prior to the issuance of a certificate of occupancy, the Tax Assessor shall calculate the total fee to be paid. The difference between the total fee and the amount paid in conjunction with the building permit shall be paid prior to the issuance of the certificate of occupancy.

SECTION 5: Subsection K in section 71-4 of the Harding Township Code shall be amended to read in its entirety as follows:

- K. Penalties. In the event that any of the conditions set forth below occur, COAH shall be authorized, on behalf of the municipality, to direct the manner in which all development fees collected pursuant to this Chapter shall be expended. Should any such condition occur, such revenues shall immediately become available for expenditure at the direction of COAH upon notification by COAH to the Municipal Clerk and Chief Financial Officer that such a condition has occurred. In furtherance of the foregoing, the municipality shall, in establishing a bank account pursuant to this Chapter, ensure that the municipality has provided whatever express written authorization may be required by the bank to permit COAH to direct disbursement of such revenues from the account following the delivery to the bank of the aforementioned written notification provided by COAH to the municipality's Clerk and Chief Financial Officer. Occurrence of any of the following may result in COAH taking an action pursuant to these provisions:
- (1) Failure to meet deadlines for information required by COAH in its review of a Housing Element and Fair Share Plan, development fee ordinance or Spending Plan.
 - (2) Failure to address COAH's conditions for approval of a plan to spend funds within the deadlines imposed by COAH.
 - (3) Failure to address COAH's conditions for substantive certification within deadlines imposed by COAH.
 - (4) Failure to submit accurate annual monitoring reports pursuant to COAH rules within time limits established by COAH.
 - (5) Failure to implement the Spending Plan and expend funds within the time schedules specified therein and/or in accordance with COAH rules.
 - (6) Expenditure of funds on activities not permitted by COAH.
 - (7) Revocation of substantive certification.
 - (8) Other good cause demonstrating that the revenues are not being used for the approved purpose.

SECTION 6: If any section, subsection, paragraph, sentence or any part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

SECTION 7: All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8: This ordinance shall take effect after final passage and publication as prescribed by law.

Ordinance 13-08 – Authorizing Acquisition of an Interest in a Parcel of Unimproved Land Known and Designated as Lot 4.05 in Block 7 and Authorizing the Acquisition of an Interest in the Development Rights to Lot 4.06 and a Portion of Lot 4 in Block 7:

A motion was made by Mr. Murray and seconded by Mr. Bartlett to open the Ordinance for public hearing. Roll Call Vote: All Ayes

Mr. Murray commented that Peter Henry, Special Council, did an excellent job of addressing the concerns of the committee at the last meeting. Mr. Henry explained that the Committee will be contacting Green Acres to review what would be considered appropriate structures to be built on the property. Mr. Lanzerotti referenced the draft management plan that exists and an email of support received from the President of the Harding Land Trust.

Tina Bologna, Executive Director of the Harding Land Trust, commented that she has a fact sheet and photos available of the property for anyone that may be interested. Ms. Bologna thanked the Harding Township Open Space Committee, the Township Committee and Mr. Henry for their support and hard work. She added that this is an exciting project for Harding Township and the Harding Land Trust is proud to be a part of protecting this land.

Seeing no further comments from the Township Committee or the public, a motion was made by Mr. Murray and seconded by Mr. Bartlett to close the public hearing. Roll Call Vote: All Ayes.

A motion was made by Mr. Murray and seconded by Mr. Ward to adopt Ordinance 13-08. Roll Call Vote: All Ayes

**“AN ORDINANCE OF THE TOWNSHIP OF HARDING, MORRIS COUNTY, NEW JERSEY
AUTHORIZING THE ACQUISITION OF AN INTEREST IN A PARCEL OF UNIMPROVED LAND
KNOWN AND DESIGNATED AS LOT 4.05 IN BLOCK 7 AND AUTHORIZING THE ACQUISITION OF AN
INTEREST IN THE DEVELOPMENT RIGHTS TO LOT 4.06 AND A PORTION OF LOT 4 IN BLOCK 7”**

WHEREAS, the voters of Harding Township have expressed their support and commitment to the preservation of open space and passive recreation areas by adopting the Harding Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund (“Township Open Space Trust Fund”), as authorized by *N.J.S.A. 40:12-15.7, et seq.*; and

WHEREAS, the Local Lands and Buildings Law, at *N.J.S.A. 40A:12-5*, authorizes a municipality to acquire real property by ordinance; and

WHEREAS, the Harding Land Trust (“Land Trust”) has entered into an Agreement for Purchase of Property (“Agreement”) with the owners of Lots 4, 4.05 and 4.06 in Block 7 on the Harding Township Tax Map, by which Agreement the Land Trust will acquire fee simple title to Lot 4.05 (the “Fee Property”), and certain real property interests and rights to Lot 4.06 and a portion of Lot 4 (the “Easement Property”) as more specifically described on metes and bounds descriptions dated April 2, 2008 and prepared by Yannacone, Villa & Aldrich, LLC (the “Legal Descriptions”), which Legal Descriptions are annexed to and made a part of this Ordinance, such Easement Property to be restricted from future development by the terms of a Conservation Easement between the Land Trust and the owners of said property (the “Conservation Easement”); and

WHEREAS, pursuant to that Agreement, the Land Trust has the right to assign some or all of its rights to purchase the Fee Property and the Easement Property to Harding Township; and

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

WHEREAS, the Harding Township Committee has determined that it is in the best interests of the Township to acquire a one-half interest in the Fee Property and in the Easement Property for the preservation of open space and passive recreation areas; and

WHEREAS, this acquisition shall be funded by an appropriation from the Township's Open Space Trust Fund (non-Green Acres funds) in the amount of \$500,000.00, together with Harding Land Trust funds (Green Acres funds) in the amount of \$1,000,000.00, and a donation from the present owner of uncompensated value sufficient along with the Township Open Space Trust Fund monies to satisfy the Green Acres matching requirements

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Harding, in the County of Morris, State of New Jersey, as follows:

Section 1. The acquisition by the Township of a one-half interest in the fee title to Lot 4.05, Block 7 on the Tax Assessment Maps of the Township of Harding, and a one-half interest in the development rights to Lot 4.06 and a portion of Lot 4 in Block 7 on the Tax Assessment Maps of the Township of Harding, as more specifically described in the annexed Legal Descriptions, is hereby authorized and the Mayor and Township Clerk are authorized to take such actions and to execute such documents as may be necessary and desirable for the acquisition of same at a total purchase price not exceeding the sum of \$500,000.00, provided, however, that the following conditions are satisfied:

(a) The Easement Property shall be restricted from future development by the terms of a Conservation Easement in form and content acceptable to the Township's legal counsel;

(b) Clear and marketable title, satisfactory to the Township's legal counsel and insurable at regular rates, is obtained for the Fee Property to be conveyed in this transaction;

(c) An insurable easement, satisfactory to the Township's legal counsel, is obtained for the Easement Property to be transferred in this transaction;

(d) A co-tenants' agreement satisfactory to the Township's legal counsel is executed between the Township of Harding and the Harding Land Trust, prior to or incident to the closing on this acquisition;

(e) The Harding Land Trust assigns its purchase rights in part, such that the Harding Land Trust and the Township of Harding will be, upon closing, equal co-owners (as tenants-in-common) of the Fee Property and the Easement Property;

(f) The funds described herein are made available for closing and conveyance/transfer of title and easement rights.

Section 2. There is hereby appropriated the sum of \$500,000.00 from the Township's Open Space Trust Fund (non-Green Acres funds), upon payment of Harding Land Trust funds (Green Acres funds) in the amount of \$1,000,000.00, and a donation from the present owner of uncompensated value sufficient along with the Township Open Space Trust Fund monies to satisfy the Green Acres matching requirements.

Section 3. The expenditure from the Township Open Space Trust Fund in the amount of \$500,000.00 is authorized upon satisfactory compliance with the terms and conditions set forth herein.

Section 4. This ordinance shall take effect upon final passage and publication as required by law.

Resolutions

Mr. Murray stepped out of the room during the discussions of Resolution TC 08-147, TC 08-148, TC 08-149 and TC 08-150.

Resolution TC 08-150 – Approve Award and Authorize Contract for the Municipal Parking Lot:

A motion was made by Mr. Bartlett and seconded by Mr. Rybka to introduce the resolution. Ms. McKane reviewed the resolution, bid and contract.

Vern Condon, resident of Young’s Road, questioned when the contract would be awarded. Ms. McKane indicated that the contract would be awarded tonight if the Committee choose to do so and the project would begin in approximately a month; once all the appropriate documentation is received.

Michael Mead, resident of Millbrook Road, questioned whether Petillo Incorporated had done work in the municipality in the past, which ended up being problematic. Ms. Nergaard replied that she is unaware of any problematic work by the contractor and explained that it is irrelevant and is not a reason to not award the bid according to the Department of Community Affairs bidding regulations.

There being no further discussion, the roll was called. The Resolution TC 08-150 was approved by a Roll Call Vote of All Ayes.

WHEREAS, the following bids were received in response to public advertisement and opened on July 2, 2008, to provide for reconstruction of the Harding Township municipal driveway in accordance with the prescribed “Bid Specifications for the Harding Township Building Driveway Reconstruction” as prepared by Paul Ferriero, P.E. of Ferriero Engineering, Inc.:

<u>Contractor</u>	<u>Total Base Bid</u>	<u>Total Alternate No.1</u>
Petillo Incorporated 167 Flanders Netcong Rd. Flanders, NJ	\$399,995.00	\$44,250.00
Owl Contracting 36 Berkshire Valley Rd. Kenvil, NJ	\$470,775.00	\$45,425.00
Andy-Matt, Inc. 19 Scrub Oaks Road Mine Hill, NJ	\$753,574.94	\$59,997.10

WHEREAS, by letter dated July 7, 2008, Paul W. Ferriero of Ferriero Engineering, Inc., having reviewed the bids submitted, recommends the award of the contract to the lowest responsive and responsible bidder, Petillo Incorporated; and

WHEREAS, Paul Ferriero further recommends that the contract be awarded for the Total Base Bid in the amount of \$399,995.00, together with Total Alternate No. 1 Bid in the amount of \$44,250.00, for a total recommended award to Petillo Incorporated of \$444,245.00; and

WHEREAS, the Chief Financial Officer has filed a certification of availability of funds in the office of the Township Clerk., as required by the Local Budget Law.

MINUTES HARDING TOWNSHIP COMMITTEE
 REGULAR MEETING – July 9, 2008

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING, COUNTY OF MORRIS AND STATE OF NEW JERSEY, on this 9th Day of July, 2008 as follows:

1. The bid submitted by Petillo Incorporated in the total amount of \$444,245.00 to reconstruct the municipal driveway at the Harding Township Municipal Building in accordance with the prescribed “Bid Specifications for the Harding Township Building Driveway Reconstruction” as prepared by Paul Ferriero, P.E. of Ferriero Engineering, Inc is accepted.
2. The Mayor and Township Clerk are hereby authorized and directed to execute and deliver a contract for \$444,245.00 for reconstruction of the municipal driveway at the Harding Township Municipal Building between Petillo Incorporated and the Township of Harding.

Resolution TC 08-147 – Bill List:

A motion was made by Mr. Rybka and seconded by Mr. Ward to introduce the resolution.

There being no discussion, the roll was called. Resolution TC 08-147 was approved by a Roll Call Vote: All Ayes

RESOLVED, that the itemized claims listed on the attached Bill List, dated July 9, 2008 is hereby approved for payment.

Resolution TC 08-148 – Authorizing Acquisition of Public Works Vehicles from County Co-Op:

Ms. McKane reviewed the resolution. A motion was made by Mr. Bartlett and seconded by Mr. Rybka to introduce the resolution.

Mr. Meade questioned if the quote for the vehicles were the best prices available. Ms. McKane indicated that Tracy Toribio, Superintendent of Public Works, researched prices and the County Co-Op produced the lowest price.

There being no further discussion, the roll was called. Resolution TC 08-148 was approved by a Roll Call Vote: All Ayes

WHEREAS, there is a need to purchase vehicles for the Township of Harding, in the County of Morris, State of New Jersey; and

WHEREAS, the funds are available as evidenced by the Chief Finance Officer’s Certifications; and

WHEREAS, on public bids are not required when the purchase is made under a State contract or co-op in accordance with N.J.S.A. 40A11-12; and

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Committee of the Township of Harding in the County of Morris that the Administrator/Clerk is hereby authorized and directed to approve and forward the required purchase orders for the following vehicles:

Vendor	State Contract/ Morris County Cooperative #	Department	Quantity	Item	Price
Flemington Car & Truck	Co-Op Contract # 15-c: Utilities Vehicles	Public Works	1	Ford Ranger	\$ 14,480
			1	Ford F-250 HD	<u>\$ 32,492</u>
				TOTAL:	\$46,972

MINUTES HARDING TOWNSHIP COMMITTEE
 REGULAR MEETING – July 9, 2008

Resolution TC 08-149 – Authorizing Purchase of Work and Material for Resurfacing of Sand Spring Road:
 A motion was made by Mr. Ward and seconded by Mr. Bartlett to introduce the resolution. Ms. McKane reviewed the resolution and pointed out the project is being completed by grant funds. She noted that Paul Fox, Township Engineer, recommended the material be purchased from the County Co-Op. Ms. McKane added that the only charge to the Township would be engineering costs. Mr. Ward reviewed the work being completed.

There being no further discussion, the roll was called. Resolution TC 08-149 was approved by a Roll Call Vote:
 All Ayes

WHEREAS, the Harding Township Committee finds it to be in the best interest of the Township to purchase various items for the resurfacing of Sand Spring Road from Route I-287 to the municipal boundary through the Morris County Cooperative Pricing Council (MCCPC);

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND THE STATE OF NEW JERSEY, that the purchase of the following items through the MCCPC is hereby authorized and approved:

Contract #6, Category A – Superpave Hot Mix Asphalt

<u>Item</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Est. Cost</u>
Superpave Hot Mix Asphalt 2” thick, incl. tack	630 Tons	\$65.00	\$40,950.00

Contract #6, Category B – Bituminous Concrete In Place

<u>Item</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Est. Cost</u>
Bituminous Concrete – Stabilized Base	205 Tons	\$65.00	\$13,325.00

Contract #6, Category C – Milling In Place

<u>Item</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Est. Cost</u>
Bituminous Concrete Milling, 0 - 2” Depth	740 s.y.	\$ 1.95	\$1,443.00
Bituminous Concrete Milling, 8” Depth	545 s.y.	\$ 6.00	<u>\$3,270.00</u>

\$4,713.00

Contract #6, Category D – Resurfacing Preparations

<u>Item</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Est. Cost</u>
Raising of Manholes	6	\$325.00	\$1,950.00

Contract #14, Category A – Curb Catch Basins

<u>Item</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Est. Cost</u>
Catch Basin Riser, Type B	16 Each	\$ 78.00	\$1,248.00
Bicycle Safe Grate (Campbell 2618 or equiv.)	6 each	\$160.00	<u>\$ 960.00</u>
			\$2,208.00

Contract #36, Category A – Traffic Striping On Roadways

<u>Item</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Est. Cost</u>
4” Yellow Stripe	1,439 Lin. Ft.	\$0.062	\$ 89.22
Stop Line	35 Lin. Ft.	\$0.66	<u>\$ 23.10</u>
			\$ 112.32

Total Estimated Cost through MCCPC: **\$63,258.32**

Current estimated quantities and costs may be adjusted based on field conditions encountered during project. Anticipated total cost (multiple source vendors) not to exceed \$75,000 (total of grant received).

Mr. Murray reentered the room.

ANNOUNCEMENTS/REPORTS/PRESENTATIONS

Shade Tree Advisory Committee Tree Survey Discussion

Mr. Lanzerotti introduced Caron Menger, Chair of the Shade Tree Committee, and John Linson, Tree Conservation Officer. Ms. Menger provided a report in order to bring the Committee up-to-date. She requested the Committee provide the Shade Tree Committee with their thoughts on how they should proceed with the proposed tree survey. Ms. Menger pointed out that grant money is available.

Ms. Nergaard reviewed the legal issues of the Community Forestry Plan and pointed out that municipalities do not have an obligation to commit unlimited recourses to the many areas that municipalities have potential liability. She stated the question is whether adopting this Community Forestry Program recommended by the Shade Tree Committee would impose additional liability upon the property owner, and added she does not see it imposing additional liability on the Township. A discussion ensued among the Committee regarding the Windshield Tree Survey. Mr. Linson opined that the Community Forestry Act provided municipalities immunity for accessible lawsuits and enables the Township to be eligible for grant funds. Mr. Linson outlined the advantages to municipalities completing a Windshield Tree Survey. He added that completing the survey will allow Harding Township to do due diligence and protect its citizens. Mr. Linson indicated the State is offering to give the Township \$3,000 for this project and pointed out that over 200 municipalities in New Jersey have adopted a Community Forestry Management Plan. He reiterated that municipalities that have not adopted a forestry plan could now be more susceptible to future lawsuits because protection by the state is available. Ms. Nergaard commented that township has protection under our ordinance and under the Tort Claims Act, and reiterated the possible individual liability impacts on residents.

Mr. Bartlett stated that he is in favor of completing the Windshield Tree Survey. Mr. Murray and Ms. Nergaard reviewed the Township right-of-way and the liability of the Township. Mr. Murray pointed out that he would like to have a better understanding of the Township's right-of-way, and added that the Township has no business beyond that point. Mr. Murray stated that he would propose Mr. Linson complete a pilot study and come back before the township with his findings. Ms. Nergaard commented that she does not believe that Township is liable just because they do not complete the tree survey, and the Township is protected under tort law.

Mr. Rybka reviewed his concerns of possibly raising the liability of private homeowners, and asserted that this project does have a broad public benefit. He agreed with Mr. Murray and pointed out that perhaps we should survey Township property. Mr. Ward expressed concern about raising private homeowner's liability and the cost for tree removal. Mr. Ward voiced his opposition to the tree survey. Mr. Lanzerotti commented he is very concerned and does not completely understand the liability of the Township and residents. Mr. Bartlett pointed out that it is a good public service notifying the public of diseased trees.

Mr. Murray suggested Mr. Linson survey a section of a County road and forward a letter to the County regarding any dead trees. The Committee, along with Ms. Nergaard, reviewed their options regarding a tree survey. Mr. Lanzerotti commented that the municipality's liability is neither increased nor decreased under the Community Forestry Act. Mr. Rybka suggested a pilot be completed on County land. Mr. Linson pointed out that a pilot survey will not comply with the Community Forestry Act.

Loren Pfeiffer, resident of Red Gate Road, expressed his opposition to conducting a Windshield Tree Survey in Harding Township and maintained that it is not needed and is a waste of tax payer's money.

Ms. Ward agreed with Mr. Pfeiffer and added that the Township can never predict when a tree will come down.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

Mr. Meade questioned the length of time it has taken to make a determination in this matter. Mr. Lanzerotti replied that a decision will be made this evening.

Vern Condon, resident of Young's Road, and Mr. Lanzerotti reviewed property rights-of-way, and Mr. Lanzerotti pointed out that each property's right-of-way could be different.

Mr. Murray made a motion to apply the grant funds toward a limited study of potential hazardous trees on County roads and once completed the findings will be provided to the Committee for review, Mr. Bartlett seconded the motion.

Mr. Ward pointed out that Mr. Linson indicated the grant would not cover the survey of County roads. Mr. Linson confirmed that a pilot will not be covered under the grant and explained the Township can either follow the guidelines of the Community Forestry Management Plan and get reimbursed, or develop and fund their own plan. Mr. Murray and Mr. Linson reviewed the amount needed to pilot the plan.

Mr. Murray amended his motion and proposed to have the Township incur the debt of the pilot of a limited study of hazardous trees on County roads and once completed the findings will be provided to the Committee for review. Mr. Bartlett seconded Mr. Murray's motion.

Mr. Lanzerotti stated that he does not think this a good idea for Harding Township and more information is needed on the impact to the residents.

Roll Call Vote:

Ayes: Mr. Bartlett, Mr. Murray

Nays: Mr. Rybka, Mr. Ward, Mr. Lanzerotti

Mr. Bartlett excused himself and exited the room. He stated that he would return shortly.

CORRESPONDENCE

Ms. McKane reviewed various items of correspondence. She stated that the Black Bear flyer was sent out to Township residents this week by the Wildlife Management Committee. Ms. McKane noted the 2008 Canada Geese Project update has been provided to the Committee by Roberta Shields, Wildlife Management Committee member. Mr. Murray acknowledged that there are no geese on the church pond or Bayne Park pond, and he thanked Ms. Shields and volunteers for their work. Ms. Shields pointed out that it was at no cost to the community and reviewed the harassment efforts.

Ms. McKane commented on a letter from the PBA expressing their appreciation for the new radio system with the County. She also pointed out a preliminary commuter parking survey, and Mr. Bartlett added that he will continue to work on this issue. Lastly, she indicated a letter was received from the JIF's attorney, Senator Dorsey, pertaining to public intoxication. Ms. McKane explained that no one can be charged with the crime under local ordinance because of State legislation, and the Township will address the issue this fall.

HEARING PERSONS PRESENT

Mr. Meade questioned the benefits to the Township from the Ten Towns Committee. Mr. Lanzerotti and Ms. McKane reviewed the current status and projects of the Ten Towns Committee. Mr. Lanzerotti pointed out that next year the Committee will evaluate the Ten Towns Committee's mission. Ms. McKane stated Harding Township has made it clear that they will not be involved with the Ten Towns unless their mission is clear. A discussion ensued among the Committee regarding the Ten Towns Committee mission and the Township's involvement.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

Ms. Shields commented that she was disappointed about the bear education flyer that was forwarded to Harding Township residents and added that it was lacking a lot of important information. Mr. Lanzerotti stated that the information was received from the Wildlife Management Committee.

Mr. Bartlett reentered the room.

EXECUTIVE SESSION – Resolution TC ES – 08-151:

A motion was made by Mr. Rybka and seconded by Mr. Bartlett to introduce the resolution.

There being no discussion, the roll was called. Resolution TC 08-151 was approved by a vote of all ayes.

WHEREAS, N.J.S.A. 10:4-13 of the Open Public Meetings Act permits the exclusion of the public from a meeting under certain circumstances; and

WHEREAS, the Township Committee is of the opinion that such circumstances presently exist.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING, COUNTY OF MORRIS AND STATE OF NEW JERSEY on this 9th day of July, 2008 as follows:

1. The public shall be excluded from discussion of an action upon the specified subject matter.
2. The subject matters to be discussed are as follows:
 - Litigation –Combe Fill South
 - Personnel Matter -- Specify
 - Contract Negotiation – Eggert, von Zuben and Possible Property Acquisition
 - Attorney-Client Privilege – COAH, Open Public Meetings Act
 - Collective Bargaining Agreement -- PBA
 - Other – as authorized by N.J.S.A. 10:4-12 -- Specify
3. Minutes reflecting the actions taken, the vote of each member, and any other information required to be shown in the minutes by law, shall be promptly available to the public when the matters discussed are resolved, to the extent that making such matters public shall not be inconsistent with section N.J.S.A. 10:4-12.
4. The Township Committee may come back into open session and take further action.
5. This Resolution shall take effect immediately.

A motion was made by Mr. Murray and seconded by Mr. Rybka to reopen the meeting to the public. Vote: All Ayes

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – July 9, 2008

ADJOURNMENT:

There being no further business, a motion was made by Mr. Bartlett and seconded by Mr. Murray to adjourn the meeting at 11:30 p.m. Vote: All Ayes

Respectfully Submitted,

Christine Gatti
Harding Township Deputy Clerk