

**HARDING TOWNSHIP COMMITTEE MEETING
JUNE 18, 2008
REGULAR MEETING**

TABLE OF CONTENTS

ROLL CALL	2
EXECUTIVE SESSION DETERMINATION	2
REVIEW OF TENTATIVE AGENDAS FOR FUTURE MEETINGS.....	2
MINUTES	2
ORDINANCES/RESOLUTIONS	
Ordinances – Introduction	
Ordinance 12-08 – Amending Chapter 71 (Development Fees)	7
Resolutions – Consent	
Resolution TC 08-136– Release of Portion of Tree Preservation Escrow (Howarth).....	2
Resolution TC 08-137 – Release of Portion of Tree Preservation Escrow (Pine).....	3
Resolution TC 08-138 – Release of Plan Review Escrow (Spina)	3
Resolution TC 08-139 – Release of Grading Escrow (Spina).....	3
Resolution TC 08-140 – Release of Grading Escrow (Kencon Properties, LLC).....	4
Resolution – Non-Consent	
Resolution TC 08-141 – Bill List	4
Resolution TC 08-142 – Acceptance of Directed Donation.....	4
Resolution TC 08-143 – Waiving of Construction Fees for Harding Township Day Camp.....	4
Resolution TC 08-146 – Requesting Approval by COAH of a Development Fee Ordinance Amendment.....	9
ANNOUNCEMENTS/REPORTS/PRESENTATIONS	
Board of Adjustment Annual Update	5
Wildlife Management Committee Annual Report.....	5
Athletic Fields in Madison Borough.....	6
COAH Development Fees	7
CORRESPONDENCE.....	10
DEPARTMENT REPORTS.....	10
HEARING PERSONS PRESENT	10
EXECUTIVE SESSION – Resolution TC ES – 08-144.....	11
ADJOURNMENT	12

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 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 and Mr. Rybka
Absent – Mr. Murray and Mr. Ward
Also Present – Ms. McKane, Township Administrator, Ms. Nergaard, Township Attorney
Number of members of the public present: approx.15

EXECUTIVE SESSION DETERMINATION:

Executive Session would be necessary to discuss matters regarding:

- Contract Negotiation – Property Acquisition
- Personnel – Police
- Attorney-Client Privilege – Glen Alpin

REVIEW OF TENTATIVE AGENDAS FOR FUTURE MEETINGS:

Ms. McKane reviewed the Tentative Agenda for future meetings. She indicated there is the possibility a special meeting on June 23, 2008, will be needed regarding property acquisition. Ms. McKane added that if the Committee decides to introduce an Ordinance to acquire the property at the special meeting, the public hearing will be held on July 9, 2008. Also, on July 2nd, Ms. McKane advised the Township is accepting bids for the Harding Township parking lot and driveway with an anticipated contract award at the July 9th committee meeting. She stated a discussion is scheduled with the Shade Tree Advisory Committee at the next meeting regarding a tree survey. Also, based on tonight's discussion, Ms. McKane indicated that an Ordinance may be introduced at the next meeting regarding Developer Fees. Lastly, she pointed out that at the August 6th meeting, the Township anticipates awarding a contract for lighting replacement and occupancy sensors.

Mr. Lanzerotti pointed out that there will be an executive session discussion at the next meeting regarding COAH and Morris Township. Ms. McKane concurred.

MINUTES:

A motion was made by Mr. Bartlett and seconded by Mr. Rybka to introduce the minutes of Agenda Meeting, May 7, 2008; and Special Meeting, May 20, 2008; and Regular Meeting, May 21, 2008. There being no discussion, the minutes were approved by a vote of all ayes.

ORDINANCES/RESOLUTIONS

Resolutions – Consent Agenda:

Mr. Lanzerotti reviewed the composition of the Consent Agenda. A motion was made by Mr. Bartlett and seconded by Mr. Rybka to approve the Consent Agenda.

There being no discussion, the roll was called. The Consent Agenda was approved by a Roll Call Vote of All Ayes.

Resolution TC 08-136 – Release of Portion of Tree Preservation Escrow (Howarth):

WHEREAS, Paul Howarth requests the release of 75% of his tree preservation escrow in the amount of \$1,600.00 (original total) with the Township of Harding regarding installation of plant material within conservation easement for 85 Pleasantville Road; and

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

WHEREAS, pursuant to a memo from the Tree Conservation Officer dated May 27, 2008 has certified the completion of the installation of plant material and has recommend the release of 75% of the tree preservation escrow in the amount of \$1,200.00;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, that appropriate municipal officials be and are hereby authorized to release the said tree preservation escrow in the amount of \$1,200.00 as due per N.J.S.A. 40:55D-53.1 to Paul Howarth.

Resolution TC 08-137 – Release of Portion of Tree Preservation Escrow (Pine):

WHEREAS, Greg Pine requests the release of 75% of his tree preservation escrow in the amount of \$13,993.11 (original total) with the Township of Harding regarding installation of plant material within conservation easement for 36 Sheepfield Farms Drive; and

WHEREAS, pursuant to a memo from the Tree Conservation Officer dated May 25, 2008 has certified the completion of the installation of plant material and has recommend the release of 75% of the tree preservation escrow in the amount of \$10,494.83;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, that appropriate municipal officials be and are hereby authorized to release the said tree preservation escrow in the amount of \$10,494.83as due per N.J.S.A. 40:55D-53.1 to Greg Pine.

Resolution TC 08-138 – Release of Plan Review Escrow (Spina):

WHEREAS, William J. Spina requests the return of a plan review escrow in the amount of \$312.50 with the Township of Harding regarding a Planning Board application for Block 1, Lot 6, 42 Kitchell Road; and

WHEREAS, the Township Engineer, the Township Construction Official and the Township Health Administrator have certified that there are no outstanding invoices and have approved the release of this plan review escrow;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, that appropriate municipal officials be and are hereby authorized to return said plan review escrow in the amount of \$312.50 as due per N.J.S.A. 40:55D-53.1 to William J. Spina.

Resolution TC 08-139 – Release of Grading Escrow (Spina):

WHEREAS, William J. Spina requests the return of a grading escrow in the amount of \$2,178.90 with the Township of Harding regarding grading for Block: 1 Lot: 6, 42 Kitchell Road; and

WHEREAS, the Township Engineer, the Township Construction Official and the Township Health Administrator have certified that the construction work has been completed and have recommended the release of the grading escrow;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, that appropriate municipal officials be and are hereby authorized to return said grading escrow in the amount of \$2,178.90 as due per N.J.S.A. 40:55D-53.1 to William J. Spina.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

Resolution TC 08-140 – Release of Grading Escrow (Kencon Properties, LLC):

WHEREAS, Kencon Properties, LLC requests the return of a grading escrow in the amount of \$1,479.50 with the Township of Harding regarding grading for Block: 16 Lot: 13.01, 75 Village Road; and

WHEREAS, the Township Engineer, the Township Construction Official and the Township Health Administrator have certified that the construction work has been completed and have recommended the release of the grading escrow;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, that appropriate municipal officials be and are hereby authorized to return said grading escrow in the amount of \$1,479.50 as due per N.J.S.A. 40:55D-53.1 to Kencon Properties, LLC.

Resolutions – Non-Consent Agenda:

Resolution TC 08-141 – Bill List:

Mr. Lanzerotti reviewed the resolution. A motion was made by Mr. Bartlett and seconded by Mr. Rybka to introduce Resolution TC 08-141.

Mr. Lanzerotti questioned if the technical review fee that was paid for Primrose Preserve to the Township Planner was paid out of their escrow, and Ms. McKane indicated that it was.

There being no further discussion, the roll was called. Resolution TC 08-141 was approved by a Roll Call Vote of All Ayes.

RESOLVED, that the itemized claims listed on the attached Bill List, dated June 18th is hereby approved for payment.

Resolution TC 08-142 – Acceptance of Directed Donation

Mr. Lanzerotti reviewed the resolution. A motion was made by Mr. Bartlett and seconded by Mr. Rybka to introduce Resolution TC 08-142. Ms. McKane explained an individual has made a donation specifically for the purchase of winter leather jackets for the Harding Township Police Officers.

There being no further discussion, the roll was called. Resolution TC 08-142 was approved by a Roll Call Vote of All Ayes.

WHEREAS, a donor who has requested to remain anonymous has presented a donation in the amount of \$6,150 to the Township of Harding; and

WHEREAS, the donor has generously offered a donation to the Township as a directed donation for the purpose of purchasing leather jackets for Harding Township Police Officers; and

WHEREAS, the Local Fiscal Affairs Law, N.J.S.A. 40A:5-29 authorizes a municipality to accept gifts and to utilize them in the manner set forth in the conditions of the gift; and

WHEREAS, the Township Committee of the Township of Harding has determined that it is in the best interests of the Township and its residents to accept the directed donation.

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

The Township accepts with gratitude the directed donation in the amount of \$6,150 to be utilized in the purchase of leather jackets for the Harding Township Police Officers.

Resolution TC 08-143 – Waiving of Construction Fees for Harding Township Day Camp

Mr. Lanzerotti reviewed the resolution. A motion was made by Mr. Bartlett and seconded by Mr. Rybka to introduce Resolution TC 08-143. Ms. McKane indicated that it has been the Township's practice in the past to waive the fees for the Day Camp.

There being no further discussion, the roll was called. Resolution TC 08-143 was approved by a Roll Call Vote of All Ayes.

BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY that the local construction and associated sub code fees are hereby waived for inspections required as a result of the use of the Egea pool at 32 Welsh Lane (Block 49, Lot 39) by the Summer Day Camp sponsored by the Harding Township Recreation Association.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Harding Township Construction Official.

ANNOUNCEMENTS/REPORTS/PRESENTATIONS

Board of Adjustment Annual Update

Mr. Lanzerotti referenced the annual report adopted by the Board of Adjustment (BOA) on March 20, 2008, had been received by the Committee. He introduced Bill Keefauver, Chair and Phillip Rosenbach, Vice Chair of the BOA. Mr. Keefauver summarized the BOA Annual Report, and commented the preceding year was fairly normal and routine. A discussion ensued between the Committee, Mr. Keefauver and Mr. Rosenbach regarding BOA recommendations. Mr. Bartlett commented that he would inform the Planning Board of relevant recommendations. Mr. Lanzerotti thanked Mr. Keefauver for his presentation and asked him to pass along to the BOA the Township Committee's appreciation for their hard work.

Wildlife Management Committee Annual Report

Karl Meister, Chair of the Wildlife Management Committee, reviewed the Annual Report 2007/2008, including deer management, Canada Geese, bears and the Wildlife Management Committee dates, members and budget. He asserted because of a lack of a deer management program, Jockey Hollow Park is an environmental disaster, which has also resulted in an increase in deer/motor vehicle accidents in the vicinity. Mr. Meister opined that it is a Harding Township issue, and it is our duty to protect the environment. Mr. Lanzerotti thanked Ms. McKane and Roberta Shields, Wildlife Management Committee member, for working with the state to have the deer crossing signs installed. The Committee, along with Mr. Meister, reviewed the Wildlife Management Committee's report and recommendations.

Mr. Meister indicated that as in prior years, approval is requested to open certain properties to hunting or driving of deer. Ms. McKane added that it has been done in previous years by resolution, and she will place it on the August 6th agenda for consideration. The Committee and Mr. Meister reviewed the deer issues at Jockey Hollow Park. Mr. Meister indicated that he would draft a letter outlining the Township's concerns and the need for a deer management program at Jockey Hollow Park.

Mr. Meister advised the geese harassment program has been outstandingly effective and reviewed the current situation with bears in the area. He stated that six sightings of bears occurred in the spring of 2008 and recommended a mass mailing notifying residents of the bear sightings be forwarded as soon as possible. Hal Scaff, Wildlife Committee member, reviewed the instances with bear sightings in the area and agreed with Mr. Meister's recommendation. Mr. Meister thanked the Committee for their continued support.

Judie Ward, resident of Tempe Wick Road, suggested the information on bears be forwarded to the public with their recycling mailer. Ms. Shields commented residents require education on how to prevent bears in their backyards and suggested that it be emphasized that residents should not be feeding animals. Mr. Lanzerotti asked the Wildlife Management Committee to draft the letter regarding bears and then forward it to Ms. McKane.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

Ms. Shields stated that she is leery when reviewing deer statistics because there are many factors that affect the statistics. She added that the deer management objective needs to be outlined clearly. Mr. Meister commented that Ms. Shields' thoughts are not those of the Wildlife Management Committee. Ms. Ward remarked that she has seen the deer population diminish in her area.

COAH Regulations

Mr. Lanzerotti advised the General Assembly has passed Bill A-500, which changes COAH mechanisms and Affordable Housing compliance. He stated the bill will now go before the Senate, and the League of Municipalities has asked municipalities to contact our Senator to voice our concerns and opposition. Mr. Lanzerotti explained the bill eliminates the regional contribution agreement (RCA), which the Township has used in the past. Additionally, he pointed out the bill establishes a new state governmental entity which will have more oversight over housing and that the bill will also establish a commercial development fee. Mr. Lanzerotti stressed the regulations have complex ramifications. The Committee along with Ms. Nergaard discussed the option of drafting a letter to Senator Kean. Ms. Nergaard alerted the Committee that the bill could affect the Developer Fees Ordinance that is in front of them tonight, but recommended not making any changes until the bill has been signed.

Mr. Lanzerotti asserted the state is making it difficult for Harding Township to keep its taxes down. He suggested that Ms. McKane and Ms. Nergaard draft a letter. Ms. McKane suggested it be sent out right away. Mr. Bartlett agreed that the letter be sent out and added that this is a very serious development. Mr. Lanzerotti pointed out that our Assemblymen voiced their opposition to this regulation.

Alice Condon, resident of Young's Road, questioned whether residents should email our Senator voicing opposition; and Mr. Lanzerotti agreed that would be a good idea. Ms. Nergaard pointed out that it is unclear how this legislation will impact development fees imposed at the municipal level. Mr. Lanzerotti indicated the Township requires good verifiable data regarding our COAH obligation, which will be researched next year.

Mr. Scaff stated he is happy to hear the Township will contact our state representatives and recommended that the residents contact do the same because regulation will affect everyone. Mr. Lanzerotti agreed.

Athletic Fields in Madison Borough

Mr. Lanzerotti reported that Madison Borough has asked the Township to support their efforts for proposed athletic fields. He explained Madison anticipates purchasing and annexing 53 acres in Florham Park. Mr. Lanzerotti noted Madison Borough is applying for 6 million dollars in Morris County Open Space Funding, and at this time the Borough has not finalized plans for the fields. Mr. Lanzerotti indicated that Madison has stated that Harding Township currently has about 300 students involved in Madison Recreation, a number that does not include high school students who attend Madison High School. He reiterated that Madison Borough has asked Harding Township to endorse their purchase of the 53 acres with the county. Mr. Lanzerotti reviewed a draft letter and asked for comments.

Mr. Bartlett pointed out that this is similar to Morris Township's proposal for recreation fields, and perhaps it could be viewed as a contradiction. Mr. Rybka supports the idea of the Township supporting Madison Borough's application for the use of the Open Space Trust Funds, but believes it to be inappropriate to get involved with the details of the project. He added that it differs from the Morris Township situation because of the shared recreational programs. Mr. Lanzerotti agreed that it differs from the Morris Township situation because it involves Harding Township children. He added that a determination as to whether to send such a letter will not be made until all Committee members are present for the discussion.

Barbara Brannan, resident of Sand Spring Road, indicated that it could also be different because the location of the 53 acres might not affect residents. Mr. Lanzerotti added that affected residents are currently adjacent to Madison High School's current stadium and fields.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

Peter McGratty, resident of Blackwell Avenue, agreed with Mr. Rybka's points and pointed out that it is a different situation with Morris Township. Louis Allesandrino, resident of Blackwell Avenue, questioned whether Morris Township was invited to participate in this project. Mr. Lanzerotti indicated he was not aware that Morris Township would be involved in this project.

Vern Condon, resident of Young's Road, questioned whether the high school would be using these fields. Mr. Lanzerotti and Ms. McKane stated that they assume the high school would also be utilizing the fields.

A short discussion ensued concerning the current activity level and viability of the Harding Township Recreation Association. Mr. Lanzerotti indicated that Harding Township is participating much more with Madison Borough and, therefore, are receiving a much broader and wider spectrum of activities. Mr. Rybka reminded the public that the Harding Township Recreation Association is a separate entity and is not controlled by the Township.

Kevin Dietsch, resident of Blackwell Avenue, stated that he attended a Morris County Open Space Meeting, and they indicated that Morris Township was the only municipality that did not respond to Madison regarding their proposal for athletic fields.

Ms. Shields, resident of Birch Lane, remarked that the Committee made a great decision regarding the Mt. Kimble Recreation Project. She suggested that the Committee take the same position with Madison Borough as they had with Morris Township and indicate that it is not consistent with Harding Township. Mr. Lanzerotti pointed out that the statement indicated that it was the nature of the athletic fields that was not consistent.

Steve Balog, resident Van Beuren Road, commented that Madison Borough has similar fields in their municipality as what they are proposing; therefore, it is consistent.

Mr. Dietsch and the Committee reviewed the open space funding and whether Madison Borough is putting any funds towards the project. Ms. McKane she would try to determine Madison Borough's funding arrangement at the next meeting. Mr. Lanzerotti stated that the Committee will review the final draft at the July 9th meeting. Mr. Bartlett recommended that a paragraph be put in the letter indicating the fields are consistent with existing facilities in Madison Borough, and pointed out that it is a completely different case than Morris Township's proposal. Mr. Bartlett stated that he would draft the paragraph.

Ms. Ward asked why we were endorsing the project. Mr. Scaff noted Township children are participants in Madison Recreation; therefore, it is important.

COAH Development Fees

Ms. McKane stated a draft Ordinance had been distributed to the Committee regarding development fees. Ms. Nergaard reviewed the history of development fees and COAH regulations. She recommended increasing the development fees because the burden on the tax payer is escalating due to affordable housing regulations. Ms. Nergaard pointed out the resolution that is also before the Committee requests approval from COAH to increase the fees. A discussion ensued among the Committee and Ms. Nergaard regarding the draft Ordinance and resolution. The Committee agreed to vote on the Ordinance and resolution tonight in order to move the process along.

Ordinances – Introduction

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

Mr. Lanzerotti indicated that the public hearing of this Ordinance is scheduled for July 9th.

A motion was made by Mr. Bartlett and seconded by Mr. Rybka to introduce Ordinance 12-08. Roll Call Vote: All Ayes

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

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

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.

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 three percent (3%) 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

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

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.

Resolutions

Resolution TC 08-146 – Requesting Approval by COAH of a Development Fee Ordinance Amendment

A motion was made by Mr. Bartlett and seconded by Mr. Rybka to introduce Resolution TC 08-146.

There being no discussion, the roll was called. Resolution TC 08-146 was approved by a Roll Call Vote of All Ayes.

WHEREAS, The New Jersey Supreme Court, in Holmdel Builders vs. Holmdel Township, 121 N.J. 550 (1990), determined that mandatory development fees are both statutorily and constitutionally permissible; and

WHEREAS, the New Jersey Council on Affordable Housing (COAH) has adopted rules and regulations governing the enactment of municipal development fee ordinances, which must be approved by COAH; and

WHEREAS, on May 4, 2005 COAH approved the Township's request to enact an ordinance imposing development fees on residential and nonresidential improvements in the township; and

WHEREAS, Ordinances 2-05, 9-05 and 12-06 (collectively referred to as the "Development Fee Ordinance") were duly enacted by the Township, consistent with COAH's approval and requirements; and

WHEREAS, on December 15, 2005 the Township filed a Third Round Housing Element & Fair Share Plan, thereby remaining under COAH's jurisdiction and continuing the effectiveness of the Development Fee Ordinance; and

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

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

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

WHEREAS, the Township of Harding is desirous of obtaining COAH's approval of an amendment to its Development Fee Ordinance to increase the percentage of equalized assessed value upon which the fee is based and other miscellaneous changes, consistent with COAH's adopted revised Third Round rules, as embodied in the attached ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Committee as follows:

1. The Township Committee hereby requests COAH approval of proposed revisions to its Development Fee Ordinance as embodied in the attached ordinance.
2. The Township Clerk is directed to forward this Resolution and a copy of the draft Ordinance amendment to COAH requesting its approval.

CORRESPONDENCE

Ms. McKane reviewed various items of correspondence, and noted that a memo was received from Chief Gaffney advising the Police Department's radio communication has improved dramatically and thanked Township Committee members for their support. Chief Gaffney also indicated that radio coverage is near 100%. Ms. McKane commented that Ann Morgan, Harding Township Poll Worker, commended in a letter Officers Downs and Pirrello for checking in during the primary election. Ms. McKane reviewed COAH Third Round Rules meeting sessions.

DEPARTMENT REPORTS

Mr. Lanzerotti briefly reviewed the department reports. Mr. Lanzerotti noted information received regarding the mandating of municipalities employing a Qualified Purchasing Agent. Ms. McKane pointed out that she is a Qualified Purchasing Agent. The Committee along with Ms. Nergaard reviewed the proposed regulation.

HEARING PERSONS PRESENT

Mr. Allesandrine commented that he has spoke in opposition to the Morris Township Recreation Complex, and it has come to his attention that Harding Township Committee Member(s) have had private meetings with Mayor Nace from Morris Township. He questioned the outcome of the meeting and whether the closed meetings should be open to the public. Ms. Nergaard reviewed the Open Public Meetings Act. Mr. Allesandrine asked when the minutes of the May 21st Executive Session meeting concerning Morris Township would be available for public review.

Mr. Lanzerotti pointed out that the Committee issued a statement following the meeting, which was the essence of what occurred during the executive session on May 21st. Mr. Lanzerotti indicated that Mr. Murray did meet with Mayor Nace and discussed interpretation of the statement issued by the Harding Township Committee. Mr. Murray suggested that there be a discussion on July 9th regarding Mr. Murray's meeting with Mayor Nace. A discussion ensued among Mr. Allesandrine and the Committee regarding the Mt. Kemble Recreation Complex. Mr. Allesandrine questioned when the Township would stop talking about this issue with Morris Township and asked when the issue would be over. Mr. Meade questioned whether it is customary for a member of the Committee to have a meeting without the rest of the Committee knowing. Mr. Rybka pointed out that it was an informal meeting and added that Morris Township is our neighbor, and we have to keep the doors of communication open. Mr. Bartlett agreed and reiterated that Mayor Nace requested clarification on Harding Township's statement.

Ms. Brennan questioned the need for a discussion regarding Morris Township at the July 9th meeting, and Mr. Lanzerotti indicated that Mr. Murray will be updating the Committee on his conversation with Mayor Nace. Ms. Brennan and Ms. Nergaard reviewed executive session regulations and the Open Public Meetings Act. Mr. Rybka pointed out that our attorney advises the Committee on what is appropriate to be in executive session. Mr. Balog noted the Committee was not unanimous regarding the Morris Township Recreation Complex proposal, and he questioned the Committee's vote. Ms. Nergaard pointed out there was only a consensus, and all formal action is taken in public. Ms. McKane added that matters are not released in executive session minutes until they have deemed to be concluded.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

Mr. Lanzerotti and Mr. Bartlett indicated that the statement released regarding the Committee's decision on the Mt. Kemble Recreation Complex was unanimous. Mr. Allesandrino, Ms. Nergaard and Mr. Lanzerotti reviewed the executive session minute regulation and process. Ms. Shields pointed out that there seems to be some discomfort from the public regarding the technicalities of executive session minutes being available for public review. Mr. Meade asserted that Mr. Murray should not have met with Mayor Nace by himself. Mr. McGratty and Mr. Bartlett discussed the adjoining property and the need for the deed restriction. Mr. Bartlett pointed out that Harding Township is doing all they can to see that the deed be recorded, and Morris Township has indicated that the deed will be recorded. Mr. McGratty questioned the process if Morris Township does not follow through. Ms. Nergaard added that Harding Township would need to research what legal alternatives are available to Harding Township to enforce this requirement. Ms. Brennan voiced her concerns regarding the deed restricted land and Morris Township seeking out more land for their proposed recreation complex. Mr. Bartlett added the Committee would do their best to resolve this issue and have Morris Township record the deed voluntarily.

Mr. Meade questioned the current status on the Glen Alpin House. Mr. Lanzerotti replied a Glen Alpin Executive Session meeting was held on June 17th and progress is being made. He pointed out that there will be another meeting scheduled in about a month, and added the financial aspect of the project is being worked out by the Township Auditor.

RESOLUTION TC ES-08-144:

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

There being no discussion, the roll was called. Resolution TC-ES 08-144 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 18th day of June, 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 --
 - Personnel Matter -- Personnel
 - Contract Negotiation – Property Acquisition
 - Attorney-Client Privilege – Glen Alpin
 - Collective Bargaining Agreement -- Specify
 - 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.

MINUTES HARDING TOWNSHIP COMMITTEE
REGULAR MEETING – June 18, 2008

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. Bartlett and seconded by Mr. Rybka to reopen the meeting to the public. Vote: All Ayes

ADJOURNMENT:

There being no further business, a motion was made and seconded to adjourn the meeting at 10:30 p.m. Vote: All Ayes

Respectfully Submitted,

Christine A. Gatti
Harding Township Deputy Clerk