

TOWNSHIP OF HAMILTON  
6101 THIRTEENTH STREET  
MAYS LANDING, NJ  
TUESDAY, NOVEMBER 13, 2012

The regular meeting of the Township Committee of the Township of Hamilton, Atlantic County, New Jersey was held on the above date with Mayor Roger Silva presiding. Members present were Charles Cain Jr., Aline Dix, Amy Gatto and Dr. Harvey Kesselman. Also present were Michael S. Jacobs, Township Administrator, Joan I. Anderson, Township Clerk, Robert S. Sandman, Township Solicitor, and Robert J. Smith III, Township Engineer.

The meeting opened with the flag salute followed by the Township Clerk certifying compliance with the New Jersey Open Public Meetings Act by posting a notice of the meeting on the bulletin board in the municipal building and by e-mailing a copy of said notice along with the agenda for this meeting to the Press of Atlantic City, Atlantic County Record, Record Journal and Current newspapers stating that this meeting would take place at 6:30 PM on Tuesday, November 13, 2012 in the municipal building, Mays Landing, New Jersey.

Mayor Silva read and presented the following proclamation to Connie Capone.

WHEREAS, Connie Capone is a resident of Hamilton Township and a Senior at Oakcrest High School; and

WHEREAS, Ms. Capone has been preparing and training for many years to become an accomplished tennis player and a member of the Oakcrest High School Tennis Team; and

WHEREAS, Connie Capone won the Cape-Atlantic League Individual Tennis Tournament final on October 25, 2012;

THEREFORE, WE, the Township Committee of the Township of Hamilton, County of Atlantic, State of New Jersey, on this day, November 13, 2012, hereby honor and recognize Connie Capone for her remarkable accomplishment. Ms. Capone has demonstrated that individuals who pursue their dreams with devotion and diligence can achieve extraordinary things. She has set a sterling example for young people of our community as well as for all residents of the Township of Hamilton, and we extend our best wishes to her in all future endeavors.

Hearing/Testimony re: Hamilton Commons retention basin issues:  
Start time: 6:36:17 on recorder.  
End time: 7:14:14 on the recorder.

Township Solicitor: Robert S. Sandman, Esq.  
Township Engineer: Robert J. Smith III.

**Sandman:** raise your right hand please. Do you swear the testimony you are about to give will be the truth, the whole truth and nothing but the truth so help you God?

**Smith:** I do.

**Sandman:** state your name for the record. Please.

**Smith:** Robert Smith, Remington Vernick and Walberg Engineers.

**Sandman:** are you currently the municipal engineer for the Township?

**Smith:** I am.

**Sandman:** and for what years were you a municipal engineer for the Township?

**Smith:** from the years 1999 through 2007 and 2010 to the present.

**Sandman:** for purposes of his testimony you may take judicial notice of his qualifications. I won't go through them. He is qualified to render opinion testimony as an expert engineer. Do you understand the concept of giving opinions to a reasonable degree of engineering certainty?

**Smith:** yes.

**Sandman:** can we agree that all of your conclusions and opinions here tonight will be to that level?

**Smith:** yes.

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**Sandman:** are you familiar with the approvals that were gotten with respect to the property commonly known as Hamilton Commons?

**Smith:** yes

**Sandman:** can you explain and describe the phases of that development?

**Smith:** the original phase of the project is known as Wrangleboro Consumer Square. That is the development that includes BJ's, Target, along Wrangleboro Road. That section of the project was completed in the late 1990's. The next phase of the development is known as Consumer Square II or more commonly known as Hamilton Commons which is the section of the project that's located along Route 322 west of McKee Avenue. The section of the development referred to as Hamilton Commons consisted of the main retail building where the Sports Authority is, the pad site consisting of Sakura, the other pad site consisting of Famous Dave's, the movie theater, and the building right at the intersection of McKee Avenue and Route 322 which is known as the Lazy L building.

**Sandman:** now in your capacity as municipal engineer over the years have you had opportunities to the property?

**Smith:** yes.

**Sandman:** and in fact you and I inspected it today.

**Smith:** that's correct.

**Sandman:** and during those many inspections over many years I take it that you've made observations with respect to the functionability of the basins.

**Smith:** yes.

**Sandman:** generally what is your opinion?

**Smith:** currently the majority of the basins on site are not draining, they're not functioning properly.

**Sandman:** now I have pre-marked as Exhibit A1 on today's date a bond issued by the American Motorist Insurance Company. That is a restoration bond is it not?

**Smith:** yes, I believe it is.

**Sandman:** and the amount of that bond is 200 thou, 201,700 dollars?

**Smith:** I believe that's correct.

**Sandman:** and according to the bond itself it's dated February 22<sup>nd</sup> 2000. Agreed?

**Smith:** Agreed.

**Sandman:** attached as Exhibit A-2 is a portion of the Township Committee meeting from February 8<sup>th</sup> 2009 where the developer asked that that bond be released and it was not released according the Exhibit A2. Agreed?

**Smith:** agreed.

**Sandman:** did you render an opinion with respect to releasing that bond?

**Smith:** yes, I believe we did.

**Sandman:** in fact A2 references your letters of July 16<sup>th</sup> and July 22<sup>nd</sup> 2009 respectively and they're attached.

**Smith:** yes, they are.

**Sandman:** without going line by line, tell us generally why you recommended they deny the release of that bond.

**Smith:** there were several outstanding punch list items that needed to be addressed with regard to damaged curbing, sidewalk, non-functioning of the basins. Basically what we did was we did a walk of the entire site and prepared a list of deficiencies. I believe the first punch list was issued in August of 2006 which had 74 items and then the punch list was updated July of 2009 and it had 89 items.

**Sandman:** well, speaking about the 2006 time, take a look at what's been marked for identification as A3 and you'll recognize that to be a portion of the minutes of the Township Committee meeting from August 21 of 2006.

**Smith:** okay.

**Sandman:** you see the circled portion?

**Smith:** yes.

**Sandman:** once again, this was a previous attempt to have that bond released and it was denied was it not?

**Smith:** that's correct.

**Sandman:** and did you recommend denial at that time as well?

**Smith:** yes we did.

**Sandman:** now there's a second bond, excuse me, A4, is that your recommendation to the Township Committee back in August of 2006?

**Smith:** yes it is.

**Sandman:** now there's a second bond issued by Arch Insurance Company that had an original amount of 1,169,854 dollars and 20 cents. It is marked as Exhibit A5. Do you recognize it?

**Smith:** well, it is the bond for Phase 3 of Hamilton Commons.

**Sandman:** and what was Phase 3 again?

**Smith:** Phase 3 consisted of, at the time, I believe it was originally Johnny Carino's restaurant and then a retail building to the east of the restaurant. That retail building consists of Moe's and 5 Below and some other stores.

**Sandman:** and the restaurant, what is it now called?

**Smith:** it's now Red Robin.

**Sandman:** at some point in time, you did an inspection and made a recommendation with respect to that bond and take a look what's been marked A6 for identification.

**Smith:** yes.

**Sandman:** what did you recommend?

**Smith:** we had recommended, I don't have a copy of that letter, but we had recommended release of that performance guarantee for Phase 3 contingent upon the applicant posting two maintenance bonds, one in the 4-year term for the stormwater management system and in the 2-year term for all other site improvements.

**Sandman:** I think you're getting a little bit ahead of me Bob. Take a look at A6. That is a recommendation for the performance bond to be reduced.

**Smith:** correct that is, I guess that is the substitute bond that was posted after the original bond was reduced to 30%.

**Sandman:** okay, so now take a look at A7 for identification. Did the Township Committee reduce the amount of that bond?

**Smith:** it was, I believe, reduced to 350,000 and change.

**Sandman:** okay, and subsequently, they were requesting that it be released in its entirety.

**Smith:** correct.

**Sandman:** and you did an inspection?

**Smith:** we did.

**Sandman:** and you did a report

**Smith:** we did.

**Sandman:** and what did you require and what did you recommend?

**Smith:** um, as I just stated previously, we had recommended that two maintenance bonds be posted, one in a four-year for the stormwater management system and one in a two-year term for all other site improvements.

**Sandman:** has that been done?

**Smith:** to my knowledge those substitute maintenance bonds have not been posted.

**Sandman:** take a look at what's been marked for identification as A8. Can you tell us what that is?

**Smith:** it's a Declaration of Covenants and Restrictions for drainage structures dated November 15<sup>th</sup> 1999.

**Sandman:** and, on the bottom of it, you see where it says book number and CFN number?

**Smith:** I do.

**Sandman:** it's been represented to me that this has been recorded at the County Clerk's Office.

**Smith:** I believe that's correct.

**Sandman:** I don't expect you to give them the Law on this but generally what does that require to your understanding as an engineer?

**Smith:** Basically it requires the applicant to maintain all of the drainage facilities on the site in accordance with a maintenance schedule that is typically attached to the Covenants and Restrictions.

**Sandman:** Is there a maintenance schedule attached?

**Smith:** There is, as Schedule A.

**Sandman:** And you're familiar with this document, are you not?

**Smith:** I am.

**Sandman:** By its terms, it's a ten year bond?

**Smith:** This, in fact, is a ten year.

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**Sandman:** And when does that ten-year period begin according to this document?

**Smith:** I'll read you exactly what it says "said ten year period shall commence at the time of release of the performance guarantee of the project by the Township".

**Sandman:** So at least with respect to Phase 3 the performance guarantee has not been released

**Smith:** That is correct.

**Sandman:** and the other bond has been referred to as a site restoration bond.

**Smith:** Correct.

**Sandman:** which is different

**Smith:** It is

**Sandman:** than a performance bond,

**Smith:** which has also not been released.

**Sandman:** now, if you would with respect to what I've marked as Exhibit A9 which is your Exhibit, yeah, your site plan.

**Smith:** Yes.

**Sandman:** Can you identify that and tell the Committee what it is?

**Smith:** Basically, what this is, is an overall site plan for the Hamilton Commons development. (Mr. Smith took the hand held microphone and continued speaking after being told the video recorder wasn't picking up his voice). I apologize this is an overall site plan for the Hamilton Commons facility on Route 322.

**Sandman:** Was this approved by the Planning Board?

**Smith:** This project was approved by the Planning Board, actually I believe it was approved by the Zoning Board.

**Sandman:** But this represents the approval.

**Smith:** Correct.

**Sandman:** What are the areas you have shaded in blue?

**Smith:** The areas that are shaded in blue are the stormwater management basins that are holding water as of today when we met on site.

**Sandman:** Do some of these basins interlock with one another?

**Smith:** They do.

**Sandman:** Would you explain that to the Committee please.

**Smith:** Basically this basin and this basin in the rear of the site have a connector pipe and they function essentially as one basin and they have an emergency spillway on the back side of the site that when they fill up and overflow they are designed to overflow into that wetland area. This basin is a stand-alone basin however it too has an emergency spillway which allows it to overflow during a significant storm event into the adjacent wetland area and these basins along the front and the basin to the west side of the westerly driveway also are interconnected and they essentially function as one and they is an overflow structure as well as an emergency spillway along the westerly side of this basin.

**Sandman:** Let's start with the basin that is parallel to the Black Horse Pike, uh, that interlocks with the one to the west, agreed.

**Smith:** Agreed. That is correct.

**Sandman:** Now, what did you observe today when you looked at this?

**Smith:** The, the basin which is basically in front of the Sakura restaurant and Yankee Candle was holding a significant amount of water, I would say probably within a foot-and-a-half or two feet of the sidewalk elevation that runs along 322.

**Sandman:** As designed, how is that basin supposed to operate?

**Smith:** It's designed essentially to be an infiltration basin. It's supposed to infiltrate the stormwater into the ground.

**Sandman:** So it should percolate down and it should not stand.

**Smith:** Correct.

**Sandman:** On how many occasions have you been there in the last several years and saw that empty?

**Smith:** To be honest I don't recollect the last time I saw it empty.

**Sandman:** Have you ever observed it overflowing?

**Smith:** The combination basin overflowed several years ago.

**Sandman:** And when it did, did it overflow into the White Horse, ah, Black Horse Pike?

**Smith:** It did.

**Sandman:** In your professional opinion, and again to a reasonable degree of engineering certainty, would you consider that a dangerous condition?

**Smith:** Standing stormwater on the roadway would be considered an unsafe condition in the depth it was observed at that time because it creates a hazard for motorists travelling through the area. My recollection was that they actually had to close one of the lanes of the Black Horse Pike and I know that there are photos around. I tried to find those photos today. I could not locate those photos. Photos were taken at that time.

**Sandman:** Now, there's also sidewalk between that basin and the Pike, is there not?

**Smith:** That is correct.

**Sandman:** For pedestrian use?

**Smith:** Yes.

**Sandman:** And would you consider overflowing of that potentially a dangerous situation for pedestrians?

**Smith:** Certainly. If stormwater overflows on the sidewalk, that does create an unsafe condition.

**Sandman:** Now, with respect to the basins in the back, the two, I guess there's three that interconnect, don't they?

**Smith:** There's actually two that are connected. The large one behind the movie theater and then the one behind the main retail building are connected.

**Sandman:** What did you observe there today?

**Smith:** They were both holding a considerable amount of water also.

**Sandman:** What, did you make any observations of vegetation in that area?

**Smith:** There was a significant amount of vegetation around the perimeter. There was also a lot of trash and debris in the basin.

**Sandman:** Does the same standard apply to that basin as the other with respect to penetration and percolation?

**Smith:** Yes. I believe all the basins on the site are intended to infiltrate.

**Sandman:** When was the last time you saw that basin dry?

**Smith:** I, I can't recollect.

**Sandman:** Has that ever overflowed to your knowledge?

**Smith:** I have never seen it overflow so I am sorry I cannot speak directly to that.

**Sandman:** How about the next basin going from right to left?

**Smith:** Yes, the small basin behind Chuckie Cheese.

**Sandman:** Full?

**Smith:** It had a considerable amount of water in it also.

**Sandman:** Ever see it dry?

**Smith:** I do not recollect seeing it dry.

**Sandman:** And how about the one all the way to the west?

**Smith:** This one? I have seen that dry. That actually did function at one time. I looked at the punch list we had prepared in August of 2006 and the basin on the eastern side of the western entrance was holding water, which would be this basin. At that time of the 2006 punch list, I'm assuming that that basin was still functioning and then when I looked at the 2009 punch it indicated the basins on both sides of that western entrance were holding water so at that time in 2009 both of these basins were holding water and just to point out, the, the, both punch lists also included an item that said that the rear basins are holding water. That was the same on both the 2006 and the 2009 punch list.

**Sandman:** So this condition has existed at least since 2006 with respect to all of the basins.

**Smith:** All the basins with the exception of this one. At the 2006 observation this one was still, appeared to be functioning.

**Sandman:** The conditions that you observed today and over the years on this property, are they inconsistent with the approvals?

**Smith:** They're inconsistent in the fact that the basins are not designed to hold water and they are in fact holding water.

**Sandman:** Have you ever seen a situation at any of those basins where the owner put a pump to remove water out of a basin?

**Smith:** Yes.

**Sandman:** On more than one occasion?

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**Smith:** Yes.

**Sandman:** Can you estimate the number of occasions?

**Smith:** I'm gonna estimate 3 or 4 times.

**Sandman:** And were any of them in the year of 2012.

**Smith:** There may have been 1 or 2 instances early on in 2012.

**Sandman:** The design did not, does not, ah, include the use of pumps does it?

**Smith:** It does not.

**Sandman:** So do you feel, again to a reasonable degree of engineering certainty, that these basins are failing?

**Smith:** Yes. They are, they are not operating as intended.

**Sandman:** And do you have an opinion as to what causes that, what has caused that?

**Smith:** DDR who owns the facility has hired, actually they hired an engineer several years ago who did a significant amount of investigation, he retired, they retained another engineer Langan Engineering and they've done a significant amount of soil exploration in the basins and their conclusion was that there's a significant amount of silt, sediment and some unsuitable material in the basin bottom area and they've come up with a plan to remove all the unsuitable material and replace it with a K4 sand to hopefully assure proper drainage of the basins.

**Sandman:** So essentially, they admit that this is a problem.

**Smith:** Well, I don't, I don't think anyone is, is disagreeing that there's issues with the basins.

**Sandman:** And the, the silt and material that's clogging it up, is that due to a lack of maintenance?

**Smith:** Any accumulated silt and sediment that sits in the basin bottom is a result of lack of maintenance but I don't think it, it's just limited to that, it's also limited to some unsuitable soils in the basin bottom area.

**Sandman:** Have you ever either verbally or in writing advised the owner or the previous owner that the Township Committee was concerned about this issue?

**Smith:** Yes.

**Sandman:** And is it a fact they have not taken any action to date?

**Smith:** With regard to the Hamilton Commons basins no however they are starting some work on the basins in front of Books-a-Million.

**Sandman:** Different project altogether.

**Smith:** It's, it's a different phase of the project, correct. It has, it's not contained within the Hamilton Commons project.

**Sandman:** Do you have anything else that you would like to add by way of testimony?

**Smith:** Ah, no, I do not believe that I have anything else to add. The only thing that I will say is in extended periods of dry weather this will drain out eventually. That's the basin behind the movie theater.

**Sandman:** But not within 72 hours?

**Smith:** Oh, certainly not, no.

**Sandman:** Mayor, Members of the Township Committee, that's all the questions I have of this witness. You're each entitled to ask any questions you'd like.

**Gatto:** I just have one follow up in terms of the question Solicitor that you asked of notifying the owner of the issues on behalf of Township Committee. Bob, can you just state for the record that that was on numerous occasions or on one occasion?

**Smith:** No, it's, it's been on numerous occasions. I mean, I've been in contact with Paul Danszczak from DDR on many occasions. I actually met him out on the site. I met Ms. Rovinsky out on the site to review some of the issues, ah, so no it's, it's basically been an on-going dialog discussing the issues and expressing Township Committee's concerns over the functioning of the basins.

**Gatto:** Okay. Thank you.

**Dix:** I don't have any questions.

**Silva:** I'm alright.

**Kesselman:** Fine.

**Sandman:** Alright. At this point I would ask that you, I'm gonna move into evidence A1 through and including A9 and Mr. Mayor I would ask that you accept them as part of the record.

**Gatto:** Do you need a motion?

**Sandman:** No it's the Chair's prerogative.

**Gatto:** Okay.

**Silva:** Repeat the questions.

**Sandman:** I'm moving, I'm formally moving into evidence the Exhibits which have been marked A1 through A9 and I'm asking that the Chair accept those.

**Silva:** I accept these.

**Smith:** Is the, is the overall site map A0.

**Sandman:** Yes. It's marked on the front. Alright, so the record is now complete you may accept the representations of our engineer, ah, you may accept his opinions and conclusions. Ah, certainly the Exhibits that have marked, I represent to you are true and accurate. Ah, it has been represented to me that the Restrictive Covenant Deed which is marked A8 has in fact been recorded in the County Clerk's Office. It's a legal document, it has legal import. Ah, I'm not comfortable telling you that here, that's certainly Attorney-Client Privileged. If you feel that the proofs warrant it, I would ask you to consider the following relief. Although I'm not an engineer, I do not believe that the amount of the bonds is adequate to remedy the situation in its entirety but I still think to get this thing moving you should authorize me to notify the bonding company that you, if you do in fact declare them in default, that I notify them promptly, give them an opportunity to meet with the principal or the new owner DDR and invite them to come here and tell what they're gonna do but at the same time I proceed doing that which you authorize me to do, take action against both bonds. Because of the uniqueness of the one bond, it's not the same as we have done in the past, it's a restoration, site restoration bond and not a performance bond and the performance bond that remains relates only to a portion of problem but it's a start. The second thing I would ask you to consider is to authorize me, after some period of dialog with the owners and the bonding company, to proceed with a lawsuit, to file a suit to compel the owner to do that which he has an obligation to do and if that doesn't work you should consider authorizing your Zoning Officer, ah, as well as any other Township Department to cite them for violations of the general ordinances, the International Property Code, and the Zoning Ordinance. They are the three remedies that you have available to force compliance. We cannot lose sight of the fact that this is a major taxpayer and a major property in our community and that's why I presume you all have allowed this to go on as long as it has. But while we, if you do this, are being aggressive, we don't have to do it in a way that's gonna you a lot of money yet because in the past experiences we've had this has been a wake-up call and performance has been gotten. So, they are my suggestions. The record is closed. Do you have any questions of me?

**Dix:** Do you think the first step is to authorize you to notify the bond companies, is that our first move?

**Sandman:** No. But, see what happens now is, under these circumstances you act essentially as a jury. You can believe the facts of the evidence that you want to believe. Ah, if you determine that there is sufficient amount of evidence then you would declare the developer to be in default and that would be your first move.

**Kesselman:** So moved.

**Cain & Gatto:** Second.

Dr. Kesselman moved, seconded by Mr. Cain and by Ms. Gatto, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that based on sworn testimony and evidence presented to it tonight, the Developer of Consumer Square II, commonly referred to as Hamilton Commons be and is hereby declared to be in default of its performance guarantee obligations.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

**Sandman:** Now having made that determination I now will take remedies of notification under the bonds and then there's time periods for them to respond so I will do that promptly, ah each bond is different, the

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shortest notice period is 30 days the longest is 60. In that period of time I think we should reach out to DDR and invite them in to come talk to us before we spend money.

**Silva:** I agree.

**Sandman:** Now the other thing that you can consider, and this does not need to be done today, is to authorize me as your solicitor to file the lawsuit to compel. I would recommend waiting a little bit for that because that does cost you money but it is your prerogative. It depends on how aggressive you want to be.

**Silva:** Bob, you're in contact with the engineer.

**Smith:** Yes.

**Silva:** And has he indicated that he didn't want to come before Committee and explain to us ah, what steps he would take to try to remedy the situation with the basins?

**Smith:** Yes. I actually spoke to Paul Danszczak and he did express a desire to come in and speak to Committee regarding the issue.

**Silva:** From your discussions and you may have had several with him, is there an indication of which basin they would attack first or was it the plan to do all simultaneously?

**Smith:** The, the first Plan as I had indicated the two basins in front of Books-a-Million, the next phase would be the basin on the west side of the westerly driveway and the one in front of Sakura.

**Silva:** Okay.

**Smith:** So those two basins that are the, are the biggest issue.

**Silva:** Okay.

**Smith:** That's where they plan to start from in Hamilton Commons.

**Silva:** At what point they did, what was it, a couple of years ago they did some work to the basins far up toward the, ah, Moe's and obviously those basins seem, are they dry?

**Smith:** Yeah they seem to be functioning.

**Kesselman:** Bob why didn't he appear tonight?

**Smith:** Ah, he just returned from being out of town and he was not able to make it here. He's in Cleveland.

**Silva:** Bob would there be any problem if Ms. Rovinsky wanted to say anything?

**Sandman:** Nope.

**Silva:** Do you have anything? I know, I know you took time to come here. Why don't you come up to the mike?

**Rovinsky:** I just wanted to say, um

**Kesselman:** Can you identify yourself?

**Gatto:** Yeah for the record.

**Rovinsky:** My name is Cynthia Rovinsky. I'm the Property Manager for both the Wrangleboro Consumer Square site and the Hamilton Commons site. Um, I've been the Property Manager there since February 7, 2010 so I don't have the whole history that Paul Danszczak has or the previous engineer, all the different engineers that have been involved through the time. I can just say from the time that I've been here, ah, whether you, I know that you're not seeing it but there's been constant correspondence between DDR and Bob Smith from the whole time that I've been here. Another thing I want to point out is we were never given a priority number for what basin you would like us to tackle first after we've already spent money trying to do the soil samples behind Wrangleboro Consumer Square the work that is now, is completed in front of Books-a-Million there was two basins there that were completed. The money that we spent in Hamilton Commons insuring that those basins we didn't wind up in a pickle down the road we wanted to spend the money to maintain the ones that were working first. Um, you know, if we had known Hamilton Commons was one of the biggest issues ones we would have focused all of our efforts to make the town happy. We emptied Wrangleboro Consumer Square so that soil samples could be done, ah, it wasn't done last summer, it was the summer before. I think it was

**Smith:** It was, it was either the summer before or the summer before that.

**Rovinsky:** Well, I came in 2010 so there's only a certain period of time that it could of happened. Ah, we completely pumped out that pond. It was dry. We took soil samples at that time so there was, you know, a lotta talks involved in that. Then within the next, before the soil samples could even come back, it was recommended that we didn't

do anything. I mean we were ready to do something at that point. We were told to wait until the soil samples come back to see what our next step would be. We had a, and we can go back and get the historic information, we had a tremendous amount of rain and the rain continued throughout that summer but the pond was back to square one, okay, so that was the Wrangleboro pond. Then, our next approach was okay what other basins can we at least start on to, to show that we're, we're making a good faith effort and again I think if you really saw all the correspondence since I've even been here between the different engineers that we've had. We can't help that our engineer over the years decided to retire, we didn't know that, we wouldn't probably have hired him when we started this thing but as time goes on he retired. We had to bring in different engineer that had to come up to speed on the property and everything else. We spent tens of thousands of dollars, um, working to an end to resolve this so it's not like and it's not like we're not trying and, and another thing is with the bonds in themselves besides the retention basins are one issue on these bonds from my understanding and again I'm just the Property Manager, Paul Danszczak isn't here tonight. We just got notification, we were both on vacation last week. When we came back there were voice mails from Bob Smith yesterday so there was no way that Paul could make it here, he actually came back from vacation today so I showed up. I live in Delran, New Jersey. I came an hour and a half, not because DDR was forcing me to but I take pride in my center and we've made a lot of other improvements on those punch lists. I spent \$145,000 this year on paving, um, we've done a lot of concrete work, I've done a lot of patching. I mean the center overall is well maintained, um, you never see signs down, you never see anything and there's costs involved in that. I think that if you saw all the costs in this correspondence that have, that has happened, I think you'd see everything in a little different light. So I just wanted to

**Silva:** Your, your comments are well taken, I mean, but as a Property Manager part of your responsibility is risk assessment and I remember the other engineer and we met with him out there on several occasions and he full well knew that our concern was that basin right there in front of Chuckie Cheese or Sakura's. It's so obvious. I mean, look with all due respect, I can't tell you, it's not a question of making us happy, it's a question of dealing with a potential safety hazard that could create great liability for your center and for everyone in the area and the way that water spills over on to the highway is a great, in fact, even at one point if you read all the correspondence and I didn't, they even wanted to pump the water underneath the roadway there to push it across into another subdivision which would probably flood them out and we had to, go ahead

**Cain:** For the record Mr. Mayor that is the, that is the relief they get from that basin. When they deploy that pump they are pumping that under 322 into the Gravelly Run Watershed, um, and you know it's, it's

**Dix:** Back to Eaglesmere.

**Cain:** Yes and one of our biggest fears is that we're gonna create a problem back there now for residents that live back there and that's just not fair.

**Silva:** No one is criticizing the center in terms of how it's presented and it always looks well, I mean all the shoppings do. Take for example your neighbor on the other side, they didn't just attack one basin, they're doing every basin at the mall and I understand cost is a big factor.

**Rovinsky:** And they have just got approval for an expansion which is going to give them money to do that sort of thing.

**Silva:** Well, but, but again, they understand there was a great liability on Leipzig Avenue but that basin would potentially and on occasion had spilled over and is undermining the roadway there. Again,

**Rovinsky:** I would, I would just hope

**Silva:** No, no you are right and I don't think anyone is here to, to tell anyone that you can't go on with what you're doing. The idea is to show us that they're doing something to remediate, abate, whatever they have to do to correct that situation and we've been at

**Rovinsky:** We know that. If we were given

**Silva:** We've been at this, look I've been on Committee since 2008. Committeewoman Gatto and I sat and came on at the same time along with

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another Committee Person and the three of us set as one of our major priorities was dealing with the basins because of all the concern that we have for the public safety. And again, you know how heavily that roadway is travelled and, I mean look your neighbor on the other side. There's even been accusations that your drainage basins may be flooding her property. I don't know that to be true. Wear that a lot, okay. The idea is to put it to bed, to deal with the problem, and correct it. That's all we're asking for and, look, I appreciate your coming down, I know that's a long

**Rovinsky:** With all the correspondence that's been going back and forth, it's not that an effort hasn't been made.

**Gatto:** But we see it. We get reports from him every other week.

**Rovinsky:** But you're not seeing our correspondence.

**Gatto:** We see everything. We get copies of everything. We see plenty of paper the problem is we're not seeing any action.

**Cain:** The frustration level is what's got us to this point. Ah, I mean, the fact that we have seen so much, we've seen so much and correspondence is one thing, action is another and we're coming up on another season now when it's going to freeze. What if they miss deploying that pump which isn't a fix pumping it into the Gravelly Run Watershed, but what if they miss and we ice over that Pike? That's an issue and it shouldn't take this Township Committee to tell you as a Property Manager which basin should have been attacked first. I mean when you have one flowing onto a, a State Highway, to me that would make sense that that would be the one I would attack first and, and make sure that that was eliminated, that unsafe condition was eliminated.

**Silva:** You are welcome at the next meeting along with the engineer.

**Dix:** December 3<sup>rd</sup>.

**Silva:** December 3<sup>rd</sup> to come before Committee and explain while we're dealing with all these other issues that we're dealing with. Ah, we need to see progress with the issue and it's an open, it's a open cry to you. Please, Please.

**Rovinsky:** If we had gotten notice sooner than yesterday, there is only so much time to accommodate, so

**Gatto:** Let me just ask Bob. If we discussed this at the last meeting three weeks ago

**Smith:** Correct

**Gatto:** had you reach out at that time?

**Smith:** I talked to Mr. Sandman Wednesday or Thursday last week and he made the recommendation that we reach out to someone that we were going to actually take testimony and I left messages last Thursday. Unfortunately they were both out of town and didn't get the message until Monday.

**Sandman:** I also mistakenly believed that Stephen Nehmad was the attorney for the property and I sent him notice. In response to that he called me and said no he no longer represented that developer.

**Gatto:** Okay.

**Silva:** We appreciate your coming this evening and I realize your position so we look forward to seeing you at the next meeting with the engineer. Thank you.

**Dix:** Thank you.

**Gatto:** Thank you.

**Kesselman:** Thank you very much.

**Silva:** Anything else Counselor?

**Sandman:** No.

This ended the testimony and discussion at 7:14:14 on the recorder.

Mrs. Dix moved, seconded by Ms. Gatto, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the following items be added to the agenda for consideration and action to be taken thereon tonight:

10.A Insert names of businesses:

- (1) Permanent Cosmetics by Amy - cosmetic/massage/aromatherapy services, retail skin care product & jewelry sales 800 Cape May Avenue (Route 50).
- (2) Kirkland's #687 - home interior retail sales in Consumer Sq.
- (3) Dougherty's Auto & Towing - auto repair, towing & roadside service business located at 6709 Harding Highway.

10.M Accept \$9,180.00 Bank of America Check #2597500 as performance guarantee for Boakes Funeral Home Phase 2 (Bl. 742/Lot 13) site work & landscaping.

10.N Authorize reduction of Western Surety Company bond #70539092 the guarantee performance guarantee for Boakes Funeral Home Phase 1 site work & landscaping (Block 742/Lots 13 & 14). **from** \$25,000.00 **to** \$7,633.50 as recommended by Robert J. Smith III, Township Engineer, November 9, 2012.

10.O Authorize release of Travelers Casualty & Surety Co. of America bond #105713889 performance guarantee for Capital Telecom cell tower on Vienna Avenue (Block 1093/Lot 12) contingent upon Capital Telecom posting a 4-year stormwater management system Maintenance guarantee in the amount of \$7,059.78 and a 2-year maintenance bond in the amount of \$14,554.53 for all other site improvements as recommended by Robert J. Smith III, Township Engineer, Nov. 9, 2012.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Early public comment on agenda items not listed for public hearing:

Mayor Silva congratulated Mr. Guishard and his running mate on their recent election to Township Committee. Mr. Guishard said he and Judy consider it an honor and privilege and look forward to working with the Members and doing great things.

Rodney Guishard asked if the Road Program list is accessible on the Township website. Ms. Gatto said it's all in the minutes and Mr. Smith's report. Mayor Silva said he would see that Mr. Guishard got a copy. Mr. Guishard said he would hold his comments on the Shared Services Agreement and No Net Loss Reforestation Grant items until they came up for discussion by the Committee. Mr. Guishard commented on money spent to develop fire truck specifications and asked if it was being used for the specifications upgrades item. Mr. Jacobs explained there were a couple of minor items that exceed the minimum standards under NFPA and it needs Committee approval. He said the specs are about done and ready to go out to bid. Mr. Jacobs explained one is a light upgrade because (the fire company) want a little better light for their purposes and the other is a camera so they can see. Mr. Guishard asked if the last specification developed was used for this truck. Mr. Jacobs explained the last specification was for a different type of truck and these are for the pumper they are working on now. Ms. Gatto said the ESAB Board has spent a tremendous amount of time coming together for specs for certain types of trucks that the Township has to buy in a cyclical nature and the intent going forward is that as a standard set of specs are written they would be used for the next round of trucks. Mr. Guishard asked if the snow plowing contracts were in the event the current staff can't handle the snow and if the company with the lower rate would be the preferred. Mr. Jacobs explained the Township has a lot less people to plow snow now; the cheaper one would be called first; and the contract doesn't guarantee them any work at all.

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2013 Road Program:

Mr. Jacobs read the proposed list for the 2013 program and said the Committee already approved improvements for the Grand Avenue/West Jersey Avenue/Reega Avenue intersection and for the Park Road/Tunney Avenue intersection drainage project. He explained the total cost using current estimates with the project most recently awarded is \$1.46 million; the Township has \$1.5 million; and if the list and the engineer's proposal for doing the work are approved tonight a couple of the streets may have to be bumped into the following year. Mr. Jacobs explained they tried to come up with a list that spends the money knowing that Pinelands may force one or two of the streets to be bumped into the next year or two. Mayor Silva said it also depends on the bids that come in. Mr. Jacobs said they don't want to go out to bid for more than the Township can award. He said it is an aggressive program and is equivalent to the size of the two done this year.

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the 2013 Road Improvement Program as listed below be and is hereby approved:

Third Avenue from McCall Avenue to the Northerly dead end.  
Belmont Avenue from Malaga Road to Drake Avenue.  
Belmont Avenue from Malaga Road to McCall Avenue.  
Sheppard Avenue from Mizpah Road to the Northerly dead end.  
Annapolis Avenue from Fulton Avenue to Melvin Newton Boulevard.  
Fir Lane from Pinehurst Drive to Gerard Drive.  
Cedarcroft Drive from Elmhurst Drive to Berry Drive.  
Cedarcroft Drive from Berry Drive to Old Egg Harbor Road.  
Alleghany Avenue from Route 40 to the Southerly dead end.  
Pittsburgh Avenue from Route 40 to the Southerly dead end.  
Palmer Avenue from Monmouth Drive to Rose Boulevard.  
Reading Avenue from Sears Avenue to Cove Avenue.  
Rose Boulevard from Lance Avenue to Liberty Avenue.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Remington & Vernick proposal for services re: 2013 Road Program:

Mr. Jacobs requested the fees be worded "not to exceed" as opposed to a fixed amount because some projects could be killed by a Pinelands requirement. Mr. Smith explained all of the design work would be completed regardless of whether or not the funds were available; if (streets) had to be bumped they would already be designed and ready to go to construction in a subsequent Road Program; and if a road is eliminated he and Mr. Jacobs could get together and come to an agreement on what the inspection fee would be for it and reduce the contract by that amount. Mr. Jacobs said there has never been a problem with Remington Vernick but the Township is trying to be consistent. Mayor Silva asked if Mr. Smith saw any possible difficulties going before any of the approval agencies that would delay it. Mr. Smith said he didn't because Pinelands only needs notification according to the Memorandum of Understanding if the streets aren't being widened. He said the West Jersey/Reega/Grand Avenues intersection will require a full Pinelands application because drainage improvements etc. are being done. Mr. Smith said the concept plan for the Park Road/Tunney Avenue drainage was already approved; they are only going to do the required surveying and engineering for that; and he doesn't anticipate any issues. In response to Mrs. Dix question on temporary paving if certain work was going to be done Mr. Smith said they would like to coordinate their work with the MUA improvements but they have to wait to see what the MUA schedule is and whether or not they do them in the spring. He said it gives the trenches a chance to settle if the drainage improvements are done now and the roadway isn't reconstructed for a couple of years. He said he

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and Mr. Jacobs work together to get the road programs established as soon as they can to give the utility companies as much notice as they can so they can do any upgrades required prior to the paving being done. He said the Gas Company periodically requests a list of roadways under moratorium or proposed for reconstruction and the 2013 spring road program will probably be sent to all the utility companies suggesting they schedule any upgrades they need now so they won't face any issues when the Township goes to construction. The Mayor said the motion would be for a contract not to exceed \$152,600.00.

Mr. Cain moved, seconded by Ms. Gatto, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the Remington & Vernick Engineer's proposal dated November 5, 2012 for the following services be and is hereby accepted and approved:

- 1) Preparation of plans, engineering, inspection and contract administration services for the 2013 Road Program for a fee not to exceed \$139,000.00.
- 2) Completion of additional survey work along Tanglewood Drive; surveying, engineering, inspection and contract administration services required for drainage improvements for Park Road and Tunney Avenue intersection for a fee not to exceed \$9,100.00.
- 3) Inspection and contract administration services for the Grand Avenue/Reega Avenue/West Jersey Avenue intersection roadway and drainage improvements for a fee not to exceed \$4,500.00 once Pinelands approval is received.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Shared Services Agreement with HTMUA for Equipment & Vehicles:

Mr. Jacobs explained the Agreement is for vehicle maintenance; the Township has a contract with the Vendor who uses the Township garage to do maintenance on Township vehicles; and there is an hourly rate in the contract for doing additional work outside the contract. He said this is a tri-party agreement with the MUA, Township and the Vendor. Ms. Gatto said this will be in addition to the Shared Service Agreement the Township already has with the MUA.

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the Shared Services Agreement between the Township of Hamilton and the Hamilton Township Municipalities Authority set forth below be and is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor and Township Clerk are hereby authorized to execute same on behalf of the Township.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

**SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF HAMILTON AND THE HAMILTON TOWNSHIP MUNICIPALITIES AUTHORITY**

**THIS SHARED SERVICES AGREEMENT** by and between **THE TOWNSHIP OF HAMILTON**, (hereinafter "Township") a body politic, organized and existing under the laws of the State of New Jersey, with offices at 6101 Thirteenth Street, Mays Landing, NJ 08330; and **THE HAMILTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY** (hereinafter "MUA"), a body politic, organized and existing under the laws of the State of New Jersey, with offices at 6024 Ken Scull Avenue, Mays Landing, NJ 08330.

## RECITALS

**WHEREAS**, the Township and the MUA agree that the residents can be better served with a reduced expenditure of tax dollars and rate dollars, while providing a greater level of government services through shared services agreements; and

**WHEREAS**, the Uniform Shared Services and Consolidation Act (hereinafter "Act"), N.J.S.A. 40A: 65-1 et. seq., permits local units to enter into shared services agreements with the intention of saving costs to the residents through the reduction of local expenses; and

**WHEREAS**, pursuant to the provisions of the Act any local unit has the ability to enter into a shared services agreement with another local unit to provide or receive any service that each local unit provides or receives on its own; and

**WHEREAS**, the Township and the MUA as "local units" defined by the Act are empowered to enter into shared services agreements; and

**WHEREAS**, the Township and the MUA hereby desire to enter into this Agreement in order to establish and create a bond by sharing services; and

**WHEREAS**, the MUA wishes to have the MUA's equipment and vehicles repaired by under the Township's contract with G4S Integrated Fleet Services (hereinafter "G4S");

**WHEREAS**, the sharing of these services will benefit both the Township and the MUA by increasing efficiency and decreasing the costs of those services; and

**WHEREAS**, although said services are intertwined, the Township and the MUA wish to enter into separate agreements for each of the services for ease of future review; and

**WHEREAS**, both parties have authorized this Agreement with the adoption of the appropriate resolution; and

**WHEREAS**, this Agreement shall take effect upon the adoption of said resolutions and the execution of this Agreement by both parties.

**NOW THEREFORE**, the parties agree as follows:

### **EQUIPMENT & VEHICLE MAINTENANCE SERVICES**

#### **1. Scope of Services**

A. The Township and its Contractor, G4S Integrated Fleet Services (G4S), agree to provide equipment and vehicle maintenance services for the MUA as specified in the "Non-Target" section of the Township's contract with G4S.

B. G4S will continue to be a contractor of the Township and the Township will be solely responsible for managing the contract with G4S.

C. G4S will bill the MUA directly for work performed on the MUA's behalf under the terms of the "Non-Target" section of the Township's contract with G4S. In turn, the MUA will directly reimburse G4S for the services performed under this shared services agreement with the Township

D. It will be the responsibility of G4S and the MUA to schedule the work to be performed under this agreement. It is understood by all parties that Township work takes precedence over MUA work.

#### **2. Term**

A. The term of this Agreement shall commence on November 15, 2012 and continue until December 31, 2013.

B. Notwithstanding the above noted term, either entity (Township, MUA, & G4S) may terminate this agreement upon ninety (90) days written notice to the other entity. Any additional costs related to said termination shall be borne by the terminating party.

### **3. Consideration**

A. As a result of this shared service, G4S shall bill the MUA directly and the MUA shall directly reimburse G4S for the services it performs as outlined in Paragraph 1.C above. There are no monetary payments between the Township and the MUA under this Agreement.

### **4. Additional Terms**

A. All "Taxpayer" requests, requirements, and complaints shall be handled through the Township.

B. All "Ratepayer" requests, requirements, and complaints shall be handled through the MUA.

C. The Township Administrator and the MUA Executive Director shall be designated to coordinate, implement, monitor, and communicate issues that arise out of the terms of this agreement. All complaints and concerns from "Elected Officials", "Board Members" and/or "staff", in reference to the conduct of this Agreement shall be forwarded to the Township Administrator or the MUA Executive Director "as appropriate" for resolution and/or action.

D. It is anticipated that additional cost-sharing ideas will be identified as the terms of this Agreement are implemented. Any additional agreements or modifications to this Agreement must be reduced to writing, executed by both parties and approved in accordance with the statutory requirements to become binding.

E. The Township Administrator and the MUA Executive Director, or their respective designee, shall meet periodically and prepare a written recommendation for the Township and MUA setting forth the savings achieved as a result of each shared service agreement and their proposal to increase the savings and scope of shared services for each agreement annually. In addition, the written recommendation will cover mutual problems and needs, objectives, methodology for all objectives and criteria to properly evaluate the accomplishments of the each agreement.

### **5. Insurance**

The Township shall maintain adequate property liability, auto liability and workers' compensation coverage related to its employees and their participation in this agreement; and the Township shall name the MUA as an Additional Insured for all activities that occur and are directly related to the responsibilities under the terms of this Agreement. The MUA shall maintain adequate property liability, auto liability and workers' compensation coverage, related to its employee(s) and participation in this agreement.

### **6. Indemnification**

The Township shall not be liable for any acts or omissions related to the vehicle/equipment maintenance services undertaken on behalf of the MUA; provided such acts are not intentional, wanton or negligent. The MUA shall indemnify, defend and hold the Township harmless from all losses, claims, liabilities, injuries or damage related to the dispatch services provided to the MUA. Such indemnification shall include payment of reasonable attorneys' fees and costs in defense of any claim. The MUA is not obligated to indemnify the Township if the acts or omissions are exclusively that of the Township. To the extent any damages are covered by applicable insurance, the Township and MUA waive all rights against each other.

### **7. Dispute Resolution**

In the event a dispute arises concerning the terms and conditions of this Agreement the parties shall attempt to mutually agree upon a third party to arbitrate any such dispute which arises under this Agreement. Any decision by the arbitrator shall be binding on the parties. In

the event the parties are unable to mutually agree on the selection of a single arbitrator, each party shall appoint an attorney licensed to practice in the State of New Jersey to serve as arbitrators.

Such appointment shall be made within fifteen (15) days after written notice by either party of the election to proceed with arbitration by a panel of arbitrators. The two attorneys appointed by the parties (one by each party) shall appoint a third attorney, and the three attorneys shall constitute the entire panel of arbitrators. Any decision by a majority vote of the three attorneys shall be binding on the parties. The costs and expenses of the arbitrator(s) and fees charged by such arbitrator(s) shall be shared equally by the parties; however, each party shall be solely responsible for their own attorney fees and expenses related to retention of their own experts and witnesses.

## **8. Choice of Law**

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

## **9. Entire Agreement**

This Agreement sets forth the entire understanding of the parties hereto with respect to the services contemplated herein. No change or modification of this Agreement shall be valid unless the same shall be in writing and signed by all parties hereto.

## **10. Severability**

If any part of this Agreement shall be held to be unenforceable, the remainder of this Agreement shall remain in full force and effect.

No Net Loss Reforestation Grant (NJDEP) - \$500,352.00:

Mr. Jacobs said the State has to put up enough money to plant new trees to put back what they took out when they widen the Expressway and Parkway. He explained this is an offer to municipalities that are impacted; the Township's share will be up to \$500,000; the Township will probably be required to adopt a Tree Ordinance, appoint a Shade Tree type of Committee, and adopt a tree plan; and he believes they give the Township certain immunities for fallen trees once they do a plan. He said he knows Shade Tree Committees can sometimes be controversial but he didn't see any reason not to proceed until the Committee finds they don't want to do it. Mr. Jacobs said he doesn't know that the Township could ever plant \$500,000 worth of trees. He said there would be time involved but no dollar match is required that he was aware of. Mayor Silva said it allows up to \$3,000 to hire a Landscape Architect. Mrs. Dix asked if the Landscape Architect the Township already hired could be used. She commented on the Township having had a Shade Tree Commission that planted all the trees along Route 50 that are old now, falling down ripping out wires and landing in people's yards as they do. She asked if the trees would be planted on public property not underneath wires. Mr. Jacobs said there are certain trees you would plant under wires and certain ones you wouldn't. He said the Township Committee would have to approve the plan. Mr. Sartorio explained they can be planted on any public property and not necessarily along the streets. He said Galloway Township spent over \$400,000 through this a few years ago using street ends along the Parkway, enhancing the buffer at Tartaglia Field along Duerer Street, and being in line for more money now. Mr. Sartorio said the oversight can be by a Shade Tree Commission or the Environmental Commission can be designated to do it but a Township entity has to handle it. Mr. Cain asked if a wind-break at Liepe Field would be an appropriate use. Mr. Sartorio said it could be and if the Township got every dollar it would be almost 1700 trees. He said the Industrial Park buffer needs to be revegetated and the Township could partner with the schools and MUA if some of their properties needed vegetation. Mrs. Dix said she is willing to proceed but would be concerned about where the trees could be planted before she agreed to do it.

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Mrs. Dix moved, seconded by Ms. Gatto, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that submission of a letter of interest in a No Net Loss Reforestation Grant in the amount of \$500,352.00 be and is hereby authorized.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Fire truck specifications upgrades:

Mr. Jacobs explained this is ready to go to bid and he felt it prudent to bring to the Committee's attention that certain things are better than the required minimum standards; they are insignificant and he recommends the Committee approve them. Ms. Gatto said the impact as far as dollars is minimal but it is important to the Fire Company. Mayor Silva commented on it being for a new, demo or slightly used truck. Mr. Jacobs said the Township will probably work from this standard spec but the Fire Companies have unique requirements; some are more rural than others and some don't have public water. He said he thinks the Township has a good spec now and he thanked Chief Elkner and the Finance Department for a lot of work that went into it. Dr. Kesselman said it is only a camera and an emergency light.

Mrs. Dix moved, seconded by Ms. Gatto, that the recommended upgrades to the Fire Truck Specifications for a camera and an emergency light that exceed the NFPA minimum standards be and are hereby approved.

MOTION CARRIED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

RFQ's for Professional Services:

Mr. Jacobs said it is the same set of specs as last year; each professional will give a fee proposal for 2013; and he is recommending changes to the fee area. Mr. Jacobs said the current Solicitor's fee is \$135 per hour and recommended that be the cap for all attorneys. He commented on comparing the Municipal Prosecutor fee to other towns and recommended it be capped at \$60,000 a year and that the Municipal Public Defender at be capped \$30,000 a year. Mrs. Dix commented on court time being reduced. Mr. Jacobs said the case load is down from 25,000 to 15,000 or 14,000, about half what it was 5 or 6 years ago. Mr. Jacobs recommended that the Township not accept proposals for professionals that increase the rates from the 2012 level, but they can be less. He commented on a number of projects started at Liepe that didn't get done because of ground water and things like that and recommended no fixed rate contracts be awarded; that they be "not to exceed" rates. He recommended that language be inserted into the specs and the staff be authorized to solicit the proposals with rest of the specs remaining the same. Mayor Silva asked if the solicitation would also be for applicants to be considered for appointments to Boards. Mr. Jacobs explained there is a law that anyone who wants to serve on a Township Committee, Board or Commission has to fill out an application; the application has been updated and is on the website; it asks your name, what Boards you are interested in serving on and if you have been convicted of a crime that would impinge your ability to do the job. Mayor Silva said if someone has an appointment for three years, they don't have to reapply until their term is up. Mr. Jacobs said he thought everyone has to have one if the Township doesn't have one on them, even if they are in the middle of a term. Ms. Gatto said the Township went through that process and got everybody. The Mayor asked what the deadline for those applications will be. Mr. Jacobs said he would think that for anyone that is going to be appointed, it would have to be before they are appointed. Mrs. Dix suggested the date be December 10<sup>th</sup> to give time to get the word out that you can't be appointed without the application and said that

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tells the Committee who is interested. She asked what the deadline will be for the Professional RFQ's. She commented on past practice being two hard copies and six disks and said she asked for a hard copy because she doesn't have anything to read a disk with. Mr. Jacobs said there is language in the RFQ for some of each and a hard copy can be made from the disk if there aren't enough because the newly elected Members may want hard copies. Mr. Cain said this does not affect the Professionals for the Planning Board or the Zoning Board. Mr. Jacobs explained that under the law they pick their own professionals; set their own rates; and he thought their advertisement is already out. He said most of their billings are to escrow and the Township gets very little of them. Ms. Gatto said this enables the Committee to understand where they are going to be from a budgeting perspective and she thinks that it is important to maintaining the progress they have made on the budget and budget gap.

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the Administrator's recommendations for Professional RFQ changes are hereby accepted and approved and authorization given to advertise for said RFQ's to be received on December 10, 2012.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Public hearing/adoption - Ordinance #1731-2012:

Mr. Sartorio explained this Ordinance is for the two minor modifications Pinelands required for full certification of Ordinance #1722-2012 and that if it is adopted, the Pinelands Commission will give it an expedited review and issue a letter of full certification for Ordinance #1722-2012.

There being no questions or comments on the Ordinance, Mr. Cain moved, seconded by Ms. Gatto, that the public hearing be closed.

MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN"

Ms. Gatto moved, seconded by Dr. Kesselman, that the following resolution be adopted.

WHEREAS, Ordinance #1731-2012 was introduced and passed first reading on October 15, 2012 and was duly advertised in the October 17, 2012 issue of the Atlantic County Record for a public hearing to be held on Tuesday, November 13, 2012; and

WHEREAS, the public hearing has been held as advertised and closed,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton that Ordinance #1731-2012 be and is hereby adopted.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

TOWNSHIP OF HAMILTON  
ORDINANCE NO. 1731 - 2012

AN ORDINANCE AMENDING CHAPTER 203, KNOWN AS THE LAND USE AND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF HAMILTON, AND ORDINANCE 1722-2012 TO ADOPT AMENDED STANDARDS FOR WETLANDS MANAGEMENT AMEND THE DENSITY BONUS PROVISIONS STANDARDS FOR RESIDENTIAL CLUSTER DEVELOPMENTS IN THE PINELANDS FOREST AND RURAL DEVELOPMENT AREAS.

WHEREAS, on June 18, 2012 Township Committee adopted Ordinance #1722-2012 amending Chapter 203 of the Township Code (Land Use and Development) to incorporate amendments to the Pinelands Comprehensive Management Plan creating or amending standards for cluster development in Forest and Rural Development Areas, wetlands management and forestry; and,

WHEREAS, on October 12, 2012 the Pinelands Commission conditionally certified Ordinance 1722 -2012. as being consistent with the Pinelands Comprehensive Management Plan; and,

WHEREAS, in order to receive unconditional certification it is necessary to adopt amendments relating to wetlands management and cluster development in Forest and Rural Development Areas.

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

SECTION 1. Chapter 203, Land Use and Development, of the Code of the Township of Hamilton is hereby amended as follows:

- A. Amend Article XV, Special Regulations, §203-183, Wetlands development by replacing §203-183A (5) with the following:

- (5) Fish and wildlife activities and wetlands management in accordance with NJAC 7:50-6.10.

- B. Amend Article XV, Special Regulations, §203-196.1, Residential Cluster Development in the Forest Area and Rural Development Districts, by amending §203-196.1B(3)(a) to read as follows:

- (3) Bonus Density:

- (a) A density bonus may be applied to the cluster development and shall be calculated on the basis of the area of the parcel of land and the density permitted in subsection A(1) above. All area must be contiguous and no outparcels shall be permitted. The density bonus shall be applied in accordance with the following table.

| Upland Area Size   | RD-2.5 District | RD-4 District | RD-5 District | FA-10 and RD-20 Districts | FA-25 and FA-70 Districts |
|--------------------|-----------------|---------------|---------------|---------------------------|---------------------------|
| < 50 acres         | 0               | 0             | 0             | 0                         | 0                         |
| 50 – 99.99 acres   | 0               | 10%           | 15%           | 20%                       | 25%                       |
| 100 – 149.99 acres | 0               | 15%           | 20%           | 25%                       | 30%                       |
| ≥ 150 acres        | 0               | 20%           | 25%           | 30%                       | 40%                       |

SECTION 2. Repealer. All Ordinances and parts of Ordinances of Hamilton Township heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. Severability. If the provisions of any section, subsection, paragraph, subdivision or clause of this Ordinance, or other ordinance enacted together with this Ordinance shall be judged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of same and, to this end, the provisions of each section,

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subsection, paragraph, subdivision or clause of this Ordinance, and of the ordinances reenacted together with this Ordinance, are hereby declared to be severable.

SECTION 4. This Ordinance shall take effect upon final passage, adoption and publication in manner prescribed by law.

ATTEST:

TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF HAMILTON,  
ATLANTIC COUNTY, NJ

\_\_\_\_\_  
JOAN I. ANDERSON, R.M.C.  
TOWNSHIP CLERK

\_\_\_\_\_  
ROGER SILVA, MAYOR

ROLL CALL: CAIN "YES"  
DIX "YES"  
GATTO "YES"  
KESSELMAN "YES"  
SILVA "YES"

ORDINANCE NO. 1731-2012 INTRODUCED AND PASSED FIRST READING ON OCTOBER 15, 2012.  
ORDINANCE NO. 1731-2012 ADOPTED NOVEMBER 13, 2012.

Introduction Ordinance #1732-2012:

Mr. Jacobs explained the alley goes through the 4-B's building; the Attorney's opinion is that by approving the building the Township actually vacated it but that doesn't come up when a search is done; and the owners asked that the Committee see it through.

Ms. Gatto moved, seconded by Mrs. Dix, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Ordinance #1732-2012 be and is hereby introduced and passed on first reading and the Township Clerk is authorized to advertise same in the November 21, 2012 issue of the Atlantic County Record for a public hearing to be held on December 3, 2012 at 6:30 PM in the municipal building, Mays Landing, NJ.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

**TOWNSHIP OF HAMILTON  
ORDINANCE # 1732 - 2012**

**AN ORDINANCE TO VACATE AN UNOPENED TEN FOOT  
WIDE ALLEY SITUATED IN THE TOWNSHIP OF HAMILTON,  
COUNTY OF ATLANTIC AND STATE OF NEW JERSEY AND TO  
RELEASE AND RELINQUISH THE PUBLIC RIGHTS THEREIN, THE  
UNOPENED TEN FOOT WIDE ALLEY IS SITUATED IN BLOCK 748 BETWEEN  
LOTS 5 AND 6, AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED,  
THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH**

**WHEREAS**, a request has been made to vacate an unopened ten foot wide alley situated between Lots 5 and 6 on Block 748 on the Official Tax Map for the Township of Hamilton, which is presently unimproved and unaccepted as a municipal alley way; and

**WHEREAS**, the Township Committee for the Township of Hamilton has determined that the public interest will be better served by releasing the affected lands from any and all public rights therein and thereto pursuant to N.J.S.A. 40:67-19, et. seq.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee for the Township of Hamilton, County of Atlantic and State of New Jersey, that:

**SECTION 1.**

The following herein-described alley shall be and is hereby vacated subject to any existing easements:

All that land, tract or parcel situated in the Township of Hamilton, County of Atlantic and State of New Jersey and being further described and bound as follows:

The unopened ten foot wide alley between Lots 5 and 6 on Block 748, beginning at a point where the aforesaid alley touches Main Street and traversing in a generally Southerly direction to a point where the aforesaid alley touches Lot 8, in Block 748, as shown on Sheet 30.03 of the Official Tax Map for the Township of Hamilton.

The said tract beginning at its intersection with Main Street traversing 55 ±, 25 ± and 45 ± feet for a total of 125 ± to where the aforesaid alley intersects with Lot 8.

**SECTION 2.**

That the public rights arising from any dedication, actual or implied, of the alley way mentioned above, and indicated on copies of maps filed in the offices of the Township Clerk, as aforesaid, be and the same are hereby released and extinguished.

**SECTION 3.**

The Township Clerk shall immediately after final passage and publication of this Ordinance make and file in the Office of the Clerk of Atlantic County a copy of this Ordinance together with a copy of the Proof of Publication hereof duly certified by her, under the corporate seal of the Township of Hamilton for record, as required by law.

**SECTION 4. Severability and Effectiveness Clause.**

- (a) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.
- (b) Any Ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

**SECTION 5. Effective Date.**

This Ordinance shall take effect upon its final passage and publication as provided by law.

ATTEST:

TOWNSHIP COMMITTEE OF  
THE TOWNSHIP OF HAMILTON  
COUNTY OF ATLANTIC AND  
STATE OF NEW JERSEY

\_\_\_\_\_  
JOAN I. ANDERSON, R.M.C.  
TOWNSHIP CLERK

\_\_\_\_\_  
ROGER SILVA, MAYOR

|            |           |       |
|------------|-----------|-------|
| ROLL CALL: | CAIN      | "YES" |
|            | DIX       | "YES" |
|            | GATTO     | "YES" |
|            | KESSELMAN | "YES" |
|            | SILVA     | "YES" |

ORDINANCE #1732-2012 INTRODUCED AND PASSED FIRST READING NOVEMBER 1, 2012.

November 13, 2012

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the contract with Tri-County Animal Control for Animal Control Services be and is hereby extended for one year effective January 1, 2013 through December 31, 2013 in the amount of \$24,000.00 per year in accordance with the existing bid terms and conditions (Bid #2011-06).

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Ms. Gatto moved, seconded by Dr. Kesselman, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the contract with Warriners Construction for Skilled Carpentry Services be and is hereby extended for one year effective January 1, 2013 through December 31, 2013 in the amount of \$95.83 per hour for Carpenter and \$73.64 per hour for Apprentice in accordance with the existing bid terms and conditions (Bid #2011-07).

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Mr. Cain moved, seconded by Ms. Gatto, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the contract with GE Mechanical for Licensed Plumber Services be and is hereby extended for one year effective January 1, 2013 through December 31, 2013 in the amount of \$108.52 per hour for Licensed Plumber and \$108.52 per hour for Apprentice in accordance with the existing bid terms and conditions (Bid #2011-09).

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Janitorial Services contract extension:

Mrs. Dix asked why it was only for six months. Mr. Jacobs explained that the Township was going to do it in house when the last contract ended but one of the maintenance men was assigned to the carpet detail and the contract was awarded for only six months because they thought the carpet detail would be done by then but it is probably going to take more than another six months because it is being done in phases. Mrs. Dix asked if you can extend a contract that was bid for one year for less than a year. Mr. Jacobs said it was bid for six months. He commented on the carpet detail saving ten times cost of the contract.

Ms. Gatto moved, seconded by Mrs. Dix, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the contract with Action Janitorial for Janitorial Services be and is hereby extended for the period January 1, 2013 through June 30, 2013 in the amount of \$16,890.00 for a six month period in accordance with the existing bid terms and conditions (Bid #2011-13).

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

November 13, 2012

Dr. Kesselman moved, seconded by Ms. Gatto, that the following resolution be adopted.

WHEREAS, sealed bid proposals for Snow Plowing Services (Bid #2012-14) were received from Perna Construction LLC, Hammonton, NJ, and from Warriners Construction, Egg Harbor Township, NJ on November 8, 2012; and

WHEREAS, Perna Construction LLC bid on Item #1 only and their bid has been reviewed by the Deputy CFO/QPA and Director of Public Works and found to be responsive,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton that the bid of Perna Construction LLC, Hammonton, NJ be and is hereby accepted and a contract for Snow Plowing Services Item #1 be awarded to them in the amount of \$150.00 per hour as recommended by the Deputy CFO/QPA.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

WHEREAS, sealed bid proposals for Snow Plowing Services (Bid #2012-14) were received from Perna Construction LLC, Hammonton, NJ, and from Warriners Construction, Egg Harbor Township, NJ on November 8, 2012; and

WHEREAS, Warriners Construction bid on all items #1 through #4 inclusive and their bid has been reviewed by the Deputy CFO/QPA and Director of Public Works and found to be responsive,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton that that the bid of Warriners Construction, Egg Harbor Township, NJ be and is hereby accepted and a contract for Snow Plowing Services Items #1 @ \$180.00 per hour, Item #2 @ \$210.00 per hour, Item #3 @ \$245.00 per hour and Item #4 @ \$235.00 per hour be awarded to them as recommended by the Deputy CFO/QPA:

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the following Business Registration Licenses are hereby approved:

- (1) Permanent Cosmetics by Amy - cosmetic/massage/aromatherapy services, retail skin care product & jewelry sales at 800 Cape May Avenue (Route 50).
- (2) Kirkland's #687 - home interior retail sales in Consumer Square.
- (3) Dougherty's Auto & Towing - auto repair, towing & roadside service service business located at 6709 Harding Highway.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

November 13, 2012

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

TOWNSHIIP OF HAMILTON  
ATLANTIC COUNTY, NJ

RESOLUTION SUPPORTING THE DRIVE SOBER OR GET PULLED OVER  
2012 YEAR END STATEWIDE CRACKDOWN

WHEREAS, someone is killed by impaired drivers on our nation's roads every 30 minutes, 50 people per day, and almost 18,000 people each year; and

WHEREAS, 25% of motor vehicle fatalities in New Jersey are alcohol related; and

WHEREAS, a statewide enforcement crackdown is planned to combat impaired driving; and  
November 13, 2012

WHEREAS, law enforcement agencies throughout the state have been asked by the State of New Jersey, Division of Highway Traffic Safety, to participate in the *DRIVE SOBER OR GET PULLED OVER 2012 YEAR END STATEWIDE CRACKDOWN*; and

WHEREAS, the project will involve increased impaired driving enforcement from December 7, 2012 through January 2, 2013; and

WHEREAS, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways,

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Hamilton, Atlantic County, does hereby declare it's support for the *DRIVE SOBER OR GET PULLED OVER 2012 STATEWIDE CRACKDOWN* from December 7, 2012 through January 2, 2013 and pledges to increase awareness of the dangers of drinking and driving.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the following item of revenue with off-setting appropriations be inserted into the 2012 Municipal Budget pursuant to N.J.S.A. 40A:4-87:

|   |            |
|---|------------|
| Revenue Title: Drive Sober or Get Pulled Over Crackdown       | \$4,400.00 |
| Appropriation title: Drive Sober or Get Pulled Over Crackdown | \$4,400.00 |

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the following item of revenue with off-setting appropriations be inserted into the 2012 Municipal Budget pursuant to N.J.S.A. 40A:4-87:

|   |            |
|---|------------|
| Revenue Title: Bulletproof Vest Partnership       | \$2,957.50 |
| Appropriation title: Bulletproof Vest partnership | \$2,957.50 |

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

November 13, 2012

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the sum of \$434.00 is hereby authorized to be paid to Biel, Zlotnick & Feinberg from the Special Accounts established pursuant to an Escrow Agreement between Dayco Holding Corp., the Township of Hamilton and Susquehanna Bank (formerly Minotola Bank) dated November 23, 2005 for professional legal services rendered during May, July, August and September 2012 related to Misty Pines Estates Phases 3 & 4.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT resolved by the Township Committee of the Township of Hamilton that the sum of \$517.50 is hereby authorized to be paid to Schaeffer Nassar Scheidegg from the Special Accounts established pursuant to an Escrow Agreement between Dayco Holding Corp., the Township of Hamilton and Susquehanna Bank (formerly Minotola Bank) dated November 23, 2005 for construction management and concrete & pavement restoration inspection services rendered September 2011 through September 2012 in Misty Pines Estates Phases 3 & 4.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT resolved by the Township Committee of the Township of Hamilton that the sum of \$245.00 is hereby authorized to be paid to Remington & Vernick Engineers from the Special Accounts established pursuant to an Escrow Agreement between Dayco Holding Corp., the Township of Hamilton and Susquehanna Bank (formerly Minotola Bank) dated November 23, 2005 for site improvements inspection services rendered during September 2012 in Misty Pines Estates Phases 3 & 4.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of Hamilton that the performance guarantee held in escrow for the Restored Israel of Yahweh extension of Smith Avenue (Block 25, Lots 5 & 8 minor subdivision) is hereby authorized to be reduced **from** \$24,590.00 **to** \$7,377.00 as recommended by Robert J. Smith, III, Township Engineer October 12, 2012; and

BE IT FURTHER RESOLVED that the CFO is hereby authorized to release the sum of \$17,213.00 to the Restored Israel of Yahweh from the aforesaid performance guarantee escrow.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

WHEREAS, the roadside drainage areas along the 979 linear foot extension of Maryland Avenue are located predominantly in the Township right-of-way; and

November 13, 2012

WHEREAS, the Township of Hamilton agreed to assume responsibility for the maintenance of said drainage areas at the end of the initial four (4) year maintenance period provided by the developer Quality Modular Homes, LLC/Michael P. Kelly; and

WHEREAS, on October 1, 2012 release of the \$3,190.50 being held in escrow for aforesaid initial four (4) year maintenance guarantee period was authorized to be released as recommended by the Township Engineer September 24, 2012 subject to receipt of a letter from the Director of Public Works indicating that the Township will maintain the drainage areas; and

WHEREAS, the Director of Public Works issued official correspondence on October 22, 2012 stating that the Public Works Department inspected the roadside drainage areas and found them to be acceptable and that the Township officially accepts responsibility for the maintenance thereof,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton that the CFO is hereby authorized and directed to release the roadside drainage maintenance escrow funds to Quality Modular Homes, LLC/Michael P. Kelly.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

WHEREAS, on October 15, 2012 the Township Committee of the Township of Hamilton accepted a cashiers check in the amount of \$4,690.00 to be held in escrow as the performance guarantee for site improvements by John and Debra Pucci on Block 1305, Lots 9.01 and 9.05; and

WHEREAS, on November 2, 2012, Robert J. Smith III, Township Engineer, recommended release of aforesaid performance guarantee contingent upon them posting of a 2-year maintenance guarantee in the amount of \$703.50; and

WHEREAS, John and Debra Pucci have authorized the sum of \$703.50 to be retained in escrow for two (2) years as the required maintenance guarantee,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton that the Chief Financial Officer is hereby authorized to release the sum of \$3,986.50 from the performance guarantee escrow of John and Debra Pucci and to retain the balance of \$703.50 as a 2-year maintenance guarantee.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

**RESOLUTION**

**RESOLUTION OF THE TOWNSHIP OF HAMILTON,  
COUNTY OF ATLANTIC, STATE OF NEW JERSEY,  
TO CANCEL 2012 TAXES**

**WHEREAS, fourth quarter taxes on Block 1132.13 Lot 88 must be cancelled due to the owner receiving a tax exemption of surviving spouse of a disabled veteran, and;**

**WHEREAS**, fourth quarter 2012 taxes on this Block and Lot must be cancelled due to this exempt status, and;

**WHEREAS**, the amount that must be cancelled is \$1,124.21 which represents the fourth quarter of 2012.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Committee of the Township of Hamilton, County of Atlantic, State of New Jersey, that the fourth quarter 2012 taxes on Block 1132.13 Lot 88 be cancelled in the amount of \$1,124.21 as this property is now tax exempt.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that purchase of one (1) Ford Interceptor Explorer from Winner Ford, Cherry Hill, NJ under State Contract #A78761 at a cost of \$27,802.00 is hereby authorized; and

BE IT FURTHER RESOLVED that purchase of one (1) light package from Winner Ford, Cherry Hill, NJ under State Contract #A74939 at a cost of \$7,123.12 is hereby authorized: and

BE IT FURTHER RESOLVED that funding for the aforesaid purchases shall be appropriated from the NJ Highway Safe Corridors Grant.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Raffle License 22-2012 be and is hereby approved for the Oakcrest High School Falcon Crew Booster Club calendar raffle with the drawing to be held April 22, 2013.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Raffle License 23-2012 be and is hereby approved for the Mays Landing Athletic Association, Inc. for a calendar raffle with drawings to be held January 16, 2013 and February 13, 2013.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Fox Chase Bank letter of credit #2012-050, in the amount of \$330,912.93 be and is hereby accepted as a performance guarantee for Glen Eyre at Hamilton-Palette I, Block 1132.01 Lots 41.02 and 41.03.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

November 13, 2012

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the Administrator is hereby authorized to refund the Tenant Registration Fees of \$25.00 each that were collected under the first draft of the Housing Ordinance.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by , that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that Bank of America Check #2597500 in the amount of \$9,180.00 be and is hereby accepted as a performance guarantee for Boakes Funeral Home Phase 2 site work and landscaping.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that reduction of Western Surety Company bond #70539092, the guarantee performance guarantee for Boakes Funeral Home Phase 1 site work & landscaping (Block 742/Lots 13 & 14) from \$25,000.00 to \$7,633.50 as recommended by Robert J. Smith III, Township Engineer, November 9, 2012.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mr. Cain, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that release of Travelers Casualty & Surety Company of America bond #105713889, the performance guarantee for Capital Telecom cell tower on Vienna Avenue (Block 1093/Lot 12), is hereby authorized contingent upon Capital Telecom posting a 4-year stormwater management system maintenance guarantee in the amount of \$7,059.78 and a 2-year maintenance guarantee in the amount of \$14,554.53 for all other site improvements as recommended by Robert J. Smith III, Township Engineer, November 9, 2012.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Gatto moved, seconded by Mrs. Dix, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that the minutes of the October 15, 2012 regular meeting and October 15, 2012 executive session be and are hereby approved and adopted as published.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

November 13, 2012

Dr. Kesselman moved, seconded by Ms. Gatto, that the following resolution be adopted.

BE IT RESOLVED by the Township Committee of the Township of Hamilton that all properly executed and approved payrolls and bills are ordered to be paid, the bill list totaling \$4,554,193.70.

RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "YES", NO "NO", NO "ABSTAIN" ON ROLL CALL VOTE.

Reports:

Mr. Jacobs commented on previously reporting that the Township had spent about \$750,000 for the Derecho storm of which the Township is eligible for 75% reimbursement and reported receipt of \$24,000.00, the first reimbursement from the Federal Government through the State and hopefully the goal of full reimbursement by the end of the year Mrs. Dix asked if all the bills had been filed with FEMA and explained she wanted to add something. Mr. Jacobs said some work is still being done but the numbers he gave at the last meeting incorporated some work that wasn't quite done. He explained it may be gotten in and said the Township has expenses from Hurricane Sandy; they are nowhere the magnitude of the Derecho storm; for the Derecho storm the Township is only eligible for reimbursement of overtime; for hurricane Sandy are reimbursing 100% for straight time and overtime. Mrs. Dix said the item to be added is on the \$231.00 on the bill list for replacement of shrubs in the Industrial Park and she thinks it is from the June 30<sup>th</sup> storm. Mr. Jacobs said it will be put in if it is eligible.

Mrs. Dix reported plans for the 200<sup>th</sup> anniversary next year are underway. She commented on the number of street lights that are out and said they need to be identified and call the pole number and address in to the Electric Company because the Township pays for them whether or not they are on. Mrs. Dix referred to a memo from Trenton regarding recycling grant money and the Township not getting any. She commented on the need to get recycles out of the trash and increase the tonnage so the Township can get more grants.

Ms. Gatto commended the Veterans' Advisory Board on the Veterans' Day Ceremony and for remembering Bob Gasko. She commended the Merchants' Association, Rotary Club, Police and Public Works, volunteers, Township Administration and everyone involved in getting Halloween back on track and the Parade in particular. Ms. Gatto thanked the first responders and volunteers who responded during Hurricane Sandy working together with Emergency Management. She also thanked the businesses and residents who stepped up to help others in and out of town that needed it. Ms. Gatto commented on people from Oakcrest being present and explained Oakcrest is competing in the Under Armor Undeniable contest. Ms. Gatto commented on the need for volunteers for the Township's Boards and Commissions. She congratulated Rodney Guishard and Judy Link on their election and said the Committee looks forward to having them on the dais next year. Ms. Gatto wished everybody a happy Thanksgiving and invited the public to attend the Tree Lighting Ceremony on the Saturday after Thanksgiving.

Mayor Silva thanked Cub Scout Pack 127 and their parents for volunteering to clean up the Pinehurst Avenue Park on Make A Difference Day. He reported the Resco Task Force mutual aid volunteers from town who did door to door house searches in Ventnor, Atlantic City and Ocean County. The Mayor thanked Ms. Gatto for volunteering to man the EOC every time there is a situation.

Public Comment:

Jim Kerrigan asked if FEMA will pay to replace the welcome sign in the Historic District. Mr. Jacobs will look into it. Mr. Kerrigan asked when the applications will be on the website. Ms. Gatto said it is always there and that the Committee already has his.

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Alison Hays asked for an explanation of why Hamilton Knights can't use fields that aren't being used for practice. Mayor Silva asked Jay Torres, Vice President of the MLAA to come forward. Mr. Jacobs explained the Township has an agreement with the MLAA for use of the fields; when the Township went out for an RFP on use of the fields the MLAA was the only one that applied; they were given Lead Agency Status in the agreement; they control the permitting of the field; and he couldn't approve the Knights request because the MLAA told him the fields weren't available. He said the HYAA (Knights) are using the playing fields to play their games on Saturday. Mr. Jacobs said that even though both organizations are in post season, MLAA doesn't have home field advantage and HYAA does. He said MLAA agreed to keep the field open for however long the playoffs last but when asked about the practice area they declined. Mayor Silva asked Mrs. Hays and Mr. Torres when their games are and both said they are on Saturday. He asked if they practice their every day. Mr. Torres said they do. The Mayor asked Mrs. Hays if they have practice fields that aren't lighted. Mr. Torres asked why HYAA can't use the soccer fields which are lighted. Mrs. Hays said they were able to use the soccer fields 2 nights and that they have three nights left to practice. She said the fire company had provided lights and (HYAA) has rented lights but that is expensive. In response to Mayor Silva's question Mr. Blankenship said the MUA has a set of lights and he will make arrangements to loan them to HYAA. Mayor Silva commended Mrs. Hays for her organizations success this year and said the Administrator has put in a lot of time in getting the field at Liepe Tract ready for them next year so there should not be this problem next year. Mrs. Dix asked Mrs. Hays if she wanted the lights at Knight Avenue Park tomorrow. Mr. Blankenship said arrangements will be made. Timothy Bloh said he has been dealing with Allison on this for more than a year about this and that as a resident of the Township he is curious as to why two teams can practice on one field in Underhill (Park) on every other practice night and now when the Mays Landing has two teams left they (MLAA) can't provide a fit field to the Knights. He said he appreciated the accommodation people are trying to be made but he still sees a disparity and what the Knights had to go through for months without getting any responses or information. The Mayor said Mr. Bloh was doing what people should always do, come here and talk to the Committee. Mr. Bloh said he wished the administration would talk to them so it wasn't necessary to come to the Council. Ms. Gatto asked who was being contacted that isn't responding. Mr. Bloh said it was Mr. Jacobs. When asked Mr. Jacobs said he didn't respond to Mr. Bloh and that he would go into it publicly if the Committee wants to but he doesn't know if that is appropriate. Mayor Silva said Mr. Bloh's points were well taken. He commented on Mr. Bloh trying, as an attorney to resolve things by some sort of agreement and said he thinks they can get over this hurdle. In response to the Mayor's comment on the Knights winning the championship, Mr. Bloh said if the Knights win next week and the Lakers don't they will have to practice and will face the same issue. Mayor Silva said he appreciated Mr. Torres offer to loan the Knights lights and that it was a step in the right direction. Mr. Bloh said they shouldn't have had to come Council to get it seemed to be unnecessary. Ms. Gatto asked if Mr. Bloh asked Mr. Torres for lighting outside of Council. Mr. Bloh said never spoke to Mr. Torres, he spoke to Mr. Jacobs. In response to a comment by Jeremy Taylor the Mayor referred to what has been done at the Knight Avenue Park; getting goal posts for the Knights last year; reasonable accommodations being made; and it will be better next year when the new field is finished. Mr. Cain commented on getting involved a little over a year ago and being very close to working out a deal for another field for the Knights; working with the County on it; and having to start all over again when that was pulled out from under the Township. He said the Township wants them to have a home and he believes that if they win on Saturday the lights will stay out there so they can practice next week. Mrs. Dix commended the Knights for what they do for kids that can't fit into the Lakers program and all kids needing a chance to play.

Robert J. Campbell, Sr., congratulated the people of the Township for turnout on election day. He commented on recently being elected President of the United States Coast Reserve for Cape May and Atlantic County and his appreciation for what the members of the United States Military do for the country. In response to Mr. Campbell's question on the amount of State Aid, Mr. Smith explained the Township reapplied for the next phase of Malaga Road; Phase 1 is under construction now; Phase 2 is under design now; the Township has applied for Phase 3 a couple of weeks ago and he doesn't anticipate hearing on it until April or Mr. Campbell said he was happy to see what the Committee is doing with regard to the drainage basins. May. Mayor Silva commented on the Township being able to put more into road projects as it pays down its debt and is able to pay as it goes. He referred to the 2013 and 2014 road programs and said he hopes that when the newly elected Township Committee Members come on board they will be able to put partisan politics aside and do the work of the people because that is how progress is made in the Township and it took a cooperative effort in a bipartisan way to make what has happened with the basins happen. Mr. Campbell congratulated the business people on the Halloween Parade.

Rodney Guishard questioned the amount of money and requirements for the Road Program. Mayor Silva said the 2013 program is about \$1½ million. Mr. Jacobs said 2012 was about \$1½ million done in two different phases. The Mayor commented on the amount of time it takes to ride around checking all the roads and said Mr. Guishard will be part of that next year. Ms. Gatto commented on it no longer being a matter of what the Committee wants, it is a matter of what the Township can afford. Mrs. Dix commented on the programs being down to \$500,000 in the mid-90's and this is almost triple that. She commented on the condition of Melvin Newton Boulevard and the proposal to pave one-half mile and said maybe next year the can do the additional quarter mile. Mayor Silva said even the County now does roads in sections because money is tight. He said many challenges are coming to the Township and appeals on assessments will probably be one of the biggest ones that could impact the tax rate a penny or two. Mrs. Dix commented on reading that new appeals can be filed by people who had storm damage so the Township could lose more ratables. Mr. Sandman explained the statute that allows those appeal. Mr. Guishard asked questions about the effect of a cap on the Public Defender. Mrs. Dix explained they need to apply to the County for a public defender if they aren't coming to the Township municipal court. Mr. Cain said it is a contract amount no matter how many cases they have. Dr. Kesselman commented on the importance of checking the validity of the source of the information before moving on an issue. Mr. Jacobs said the Township's court case load is down from 25,000 five years ago to about 14,000 a year; the workload was cut in half; staff was reduced; and this places it back into comparable towns' salaries. Mr. Guishard questioned the Township not getting the recycling grant. Ms. Gatto said you need 35% of recyclable tonnage and the Township hasn't met that yet. Mr. Jacobs said it wasn't that the Township wasn't eligible; the Township didn't get its paperwork in on time. Mr. Guishard asked if the Township had a grant specialist. Mrs. Dix said they don't. Mayor Silva referred to the presentation made recently by the grants person from Remington Vernick and offered to show Mr. Guishard the folder on it. He commented on Mr. Guishard seeing the Committee turn down grants because the matching funds or third and fourth year money requirement was more than could be handled in the budget. Mr. Jacobs said the Township has different people in different departments that are assigned to do the routine ones that the Township gets every year; (the recycling) was one of those but the person who would normally have done it routinely was laid off; the supervisor didn't catch the fact that wasn't submitted; and he is dealing with that. He said the Township got over \$1 million in grant money. Dr. Kesselman said that is about 4%-5% of the operating budget; he doesn't think anyone county wide is close to that except a lower socioeconomic county that would be entitled to more grants; and he suggested Mr. Guishard research it and it might be an area he wants to specialize in when he comes on Committee.

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There being no further questions or comments from the public, Ms. Gatto moved, seconded by Mr. Cain, that the public comment portion be closed.

MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

There being no further business to be discussed, Dr. Kesselman moved, seconded by Ms. Gatto, that this meeting be adjourned.

MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

ATTEST:

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JOAN I. ANDERSON, R.M.C.      TOWNSHIP CLERK