

**TOWNSHIP OF HARDING  
ORDINANCE NO. 04-15**

**ORDINANCE AUTHORIZING PURCHASE AND APPROPRIATION OF FUNDS  
FOR OPEN SPACE ACQUISITION**

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**BACKGROUND**

WHEREAS, the Harding Land Trust has entered into a contract with the Estate of Thelma Tipson Dear for the purchase of approximately 10.6 acres of open space land consisting of a portion of Block 9, Lot 2, on the Tax Map of the Township of Harding, said parcel located at 174 Blue Mill Road, including the stream corridor and riparian lands of Pine Brook along a portion of such parcels, for a purchase price of \$2,700,000 (hereinafter the "Land"); and

WHEREAS, on December 15, 2014 the Harding Township Planning Board adopted a Resolution to approve a Minor Subdivision of Block 9, Lot 2 of the Property into three lots for the purposes of acquiring two of said lots (proposed Lot 2.01 and 2.02, which are hereinafter collectively referred to as the "Property") for open space acquisition; and

WHEREAS, the actions authorized by this Ordinance will be contingent upon Harding Land Trust completing all conditions associated with the minor subdivision approval and completing the other stated conditions set forth herein; and

WHEREAS, the Minor Subdivision will not take effect until Lots 2.01 and 2.02 are acquired for the purposes of open space preservation which is scheduled to occur on or about June 15, 2015; and

WHEREAS, the Township of Harding has determined that it is in the public interest for the Township to provide funding and otherwise participate with Harding Land Trust in the acquisition of the Property for recreation and open space purposes; and

WHEREAS, the Harding Land Trust has procured Morris County Open Space funding for \$1,000,000 of the \$2,700,000 purchase price for the Property to be used solely for the acquisition of this property; and

WHEREAS, the Harding Open Space Trust Committee has recommended to the Township Committee the allocation of \$1,025,000 from the Township's open space trust fund towards the purchase price for the acquisition of the Property; and

WHEREAS, Harding Township has requested \$550,000 in grant funds from the New Jersey Green Acres Program for this acquisition, which request is awaiting approval and appropriation; and

WHEREAS, Harding Land Trust has requested \$125,000 in grant funds from New Jersey Green Acres Program for this acquisition, which request is also awaiting approval and appropriation; and

WHEREAS, it appears that the said pending Green Acres grant requests will not be acted upon and the funds received before the date on which the closing must take place; and

WHEREAS, Harding Land Trust is willing to obtain monies, totaling \$675,000.00 from a third party to enable it to advance at closing the \$550,000 in anticipated Green Acres grant funds, on behalf of the Township pending state action on the Township's reimbursement request; provided, however, that the Township agrees to pay such Green Acres reimbursement funds over to Harding Land Trust on account of such advance if the said Green Acres reimbursement request is finally approved and funded; and further

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provided that in the event the grant is denied, the Township will have no further obligation to repay Harding Land Trust the amount so advanced and, if the grant is denied in part, the Township will have no obligation to repay Harding Land Trust any portion of the grant request that is denied; and

WHEREAS, Harding Township will initially take an undivided partial ownership interest in the property in common with Harding Land Trust that is commensurate with both the funds the Township is hereby allocating to the acquisition and the anticipated Green Acres reimbursement amount, i.e., a total value of \$1,575,000, which represents a 58.333% interest, with the Land Trust taking a 41.667% interest; and

WHEREAS, the Township wishes to authorize acceptance of a greater, or the entire, interest in the Property after the pending Green Acres reimbursement requests have either been approved and funded or denied; and

WHEREAS, one of the conditions of the subdivision approval is that future uses of the property be restricted by a conservation easement to open space preservation, conservation uses, and passive recreational activities, which will be satisfied by the creation of a conservation easement in favor of Harding Land Trust and, if Green Acres funding is provided, a separate conservation easement in favor of the New Jersey Department of Environmental Protection in its required form; and

WHEREAS, an agreement concerning the foregoing funding arrangements and property interests among the Township and Harding Land Trust has been prepared or is being prepared (the "Transfer Agreement"), which shall include a provision regarding the Township's accepting the entire interest in the Property; and

WHEREAS, the Harding Land Trust is in the process of finalizing the subdivision of the Land and the purchase prices are consistent with the value fixed by the appraisals.

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

1. The Background section stated above is hereby incorporated by reference and made a part hereof as if more fully set forth herein at length.
2. Subject to the satisfaction of the contingencies set forth in the Background, the Township hereby authorizes the purchase of Block 9, proposed lots 2.01 and 2.02 and the sum of \$1,025,000 be and is hereby appropriated from the Harding Township Open Space Trust Fund.
3. If and to the extent that the Township receives the requested Green Acres funds for this acquisition then said Green Acres funds are likewise appropriated up to, but not to exceed, \$550,000, for the acquisition of an undivided 58.333% ownership interest (or greater, including 100% interest in said real property in the sole determination by the Township Committee ) in proposed new Lots 2.01 and 2.02, Block 9, subject to appropriate conservation, drainage and other easements and restrictions, as required by the subdivision resolution, the terms of the Morris County open space grant, and the Green Acres Program, in form and substance satisfactory to the Township Committee and to Counsel for the Township Committee.

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4. The Mayor and Clerk of the Township are hereby authorized to execute necessary agreements, deeds, easements, and other documents, including without limitation the Transfer Agreement, in form and substance acceptable to the Township Committee and Township Counsel, in its sole discretion, and as may be required to complete the transactions authorized hereby.
5. The Township's authorization to acquire the Block 9, proposed Lots 2.01 and 2.02 and agreement to appropriate the funds hereunder are specifically subject to and conditioned upon the Township successfully negotiating and executing the Transfer Agreement and other agreements required by this Ordinance.

**SECTION II**

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

**SECTION III**

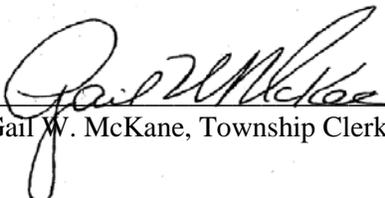
If any article, section, subsection, paragraphs, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

**SECTION IV**

This Ordinance shall take effect immediately upon final publication as provided by law.

DATED: June 8, 2015

I, Gail W. McKane, Township Clerk of the Township of Harding, County of Morris, State of New Jersey, do hereby certify the foregoing ordinance to be a true and correct copy of the ordinance adopted by the Township Committee at the meeting held on June 8, 2015.

  
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Gail W. McKane, Township Clerk