

HARDING TOWNSHIP COMMITTEE JUNE 12, 2023 IN-PERSON EXECUTIVE SESSION at 6:00 PM REGULAR MEETING AGENDA at 7:00 PM Kirby Hall, Blue Mill Road, New Vernon, New Jersey

CALL MEETING TO ORDER – Mayor

ADEQUATE NOTICE of this June 12, 2023, meeting of the Harding Township Committee was sent to the Observer Tribune on January 6, 2023, and published in the Observer Tribune on January 12, 2023.

ROLL CALL – Municipal Clerk

Ms. Chipperson, Dr. Lacz, Mr. Platt, Mr. Yates, Mr. Jones

RESOLUTION TO RECESS INTO EXECUTIVE SESSION

Resolution TC 23-117– Resolution to Recess into Executive Session

BE IT RESOLVED, by the Harding Township Committee that it shall adjourn into executive session to discuss the following subject matter(s) without the presence of the public in accordance with the provisions of R.S. 10:4-12b; and

BE IT FURTHER RESOLVED, the matter(s) discussed will be made known to the public at such time as appropriate action is taken on said matter(s), and when disclosure will not result in unwarranted invasion of individual privacy or prejudice to the best interests of the Township of Harding provided such disclosures will not violate Federal, State or local statutes and does not fall within the attorney-client privilege. The Township Committee will return to public session after this Executive Session.

Contracts:

- 1. Hurstmont R. Goldsmith
- 2. Glen Alpin R. Goldsmith
- 3. Shared Services T. Jones
- 4. Community Development Program R. Falzarano

Litigation:

1. Verizon – W. Olson

Vote on Resolution:

	MOTION	FOR APPROVAL	AGAINST APPROVAL	ABSTAIN	ABSENT
Ms. Chipperson Dr. Lacz Mr. Platt Mr. Yates Mr. Jones					

RECONVENE INTO PUBLIC SESSION – Mayor

ROLL CALL – Municipal Clerk

Ms. Chipperson, Dr. Lacz, Mr. Platt, Mr. Yates, Mr. Jones

PLEDGE OF ALLEGIANCE – Mayor

ADEQUATE NOTICE of this meeting of the Harding Township Committee was given as follows: Notice was sent to the *DAILY RECORD* and the *OBSERVER TRIBUNE* on March 14, 2023, and published in the OBSERVER TRIBUNE on March 16, 2023; Notice was posted on the Bulletin Board in the Township Municipal Building on Blue Mill Road in Harding, NJ on March 16, 2023, and Notice was filed with the Municipal Clerk on March 16, 2023.

RESOLUTIONS – (NON-CONSENT – REQUIRING SEPARATE ACTION):

Mayor Jones asks Township Committee Member ______ to proceed with Resolution TC 23-118 listed on the Non-Consent agenda.

Resolution TC 23-118 - Resolution to Appoint Justin Armstrong to the Harding Township Police Department

WHEREAS, the Township Committee, Township Administrator, Robert Falzarano, and Chief Michael Gromek have determined there exists the need to hire a replacement Police Officer in the Harding Township Police Department; and

WHEREAS, Chief Michael Gromek has conducted a detailed evaluation process and background check; and

WHEREAS, Justin Armstrong has a Bachelor's Degree in Criminal Justice with concentrations in Sociology and Disaster Preparedness from Rowan University and attended the Cape May County Police Academy to complete the mandatory New Jersey Police Training Commission Courses; and

WHEREAS, Chief Michael Gromek has recommended that Justin Armstrong be appointed as a fulltime Police Officer, commencing with a one-year probationary period with the Harding Township Police Department that is effective on June 12, 2023.

Q 06-13-2023

BE IT RESOLVED, by the Township Committee of the Township of Harding in the County of Morris and State of New Jersey that the recommendation of Chief Michael Gromek be approved and hereby appoint Justin Armstrong as a full-time Police Officer of the Harding Township Police Department at the annual salary of \$48,340.00.

NON-CONSENT AGENDA VOTE:

Township Committee Member _____: I would like to make a motion to approve the resolution placed on this evening's Non-Consent Agenda by consent of the Township Committee.

Seconded by Township Committee Member _____.

Mayor Jones asks the Municipal Clerk for a Roll Call:

Vote on Resolution:

	MOTION	FOR	AGAINST	ABSTAIN	ABSENT
		APPROVAL	APPROVAL		
Ms. Chipperson					
Dr. Lacz					
Mr. Platt					
Mr. Yates					
Mr. Jones					

RESOLUTION TC 23-119 -- RESOLUTION TO ACCEPT TOWNSHIP COMMITTEE MEETING MINUTES

Mayor Jones asks Township Committee Member ______ to proceed with Resolution TC 23-103.

BE IT RESOLVED, by the Township Committee of the Township of Harding that the minute(s) from the following meeting(s) are approved as prepared and shall be filed as a permanent record in the Municipal Clerk's office: **May 15, 2023; and**

BE IT FURTHER RESOLVED, by the Township Committee of the Township of Harding that the minutes from the following Executive Session meeting(s) are approved as prepared and shall be filed as a permanent record in the Municipal Clerk's office: **May 15, 2023.**

Mayor Jones asks for a motion to accept the Township Committee meeting minutes.

Seconded by Township Committee Member ______.

Mayor Jones asks the Municipal Clerk for a Roll Call:

Vote on Resolution:

	MOTION	FOR APPROVAL	AGAINST APPROVAL	ABSTAIN	ABSENT
Ms. Chipperson Dr. Lacz Mr. Platt Mr. Yates Mr. Jones					

ANNOUNCEMENTS/PRESENTATIONS/REPORTS/CORRESPONDENCE – Mayor Jones

1. Margetts Parking

DISCUSSION ITEMS:

1. Kemmerer Library – M. Ticknor

MEETING OPEN TO THE PUBLIC

NOTICE OF PUBLIC COMMENT TIME LIMIT

Hearing of citizens during the Public Comment section of the Agenda is an opportunity for any member of the public to be heard about issues which are/are not topics scheduled for Public Hearing tonight.

To help facilitate an orderly meeting, and to permit all to be heard, speakers are asked to limit their comments to a reasonable length of time.

ORDINANCES FOR SECOND READING:

Mayor Jones asks Township Committee Member Lacz to read Ordinance TC #06-2023.

Township Committee Member Lacz reads Ordinance TC #06-2023 by title as follows:

HARDING TOWNSHIP

ORDINANCE 06-2023 "ORDINANCE OF THE TOWNSHIP OF HARDING, COUNTY OF MORRIS, STATE OF NEW JERSEY, REVISING CONSTRUCTION FEES, CHAPTER 171, SECTION 4 THROUGH CHAPTER 171, SECTION 6"

Which said Ordinance was reintroduced and passed on first reading at a regular Township Committee Meeting held on May 15, 2023.

Mayor Jones asks the Municipal Clerk to give a summary of the legal notice.

The Municipal Clerk States: A legal notice was sent for publication on May 15, 2023, to the Observer Tribune indicating that Ordinance #06-2023 was reintroduced and passed on first reading at the May 15, 2023 meeting and indicated that the second reading and public hearing were to be held on June 12, 2023 at 7:00 pm on or at any time thereafter for consideration of final adoption. Copies of this Ordinance were made available to the general public, posted on the Township website, and posted in accordance with the law.

Mayor Jones: The meeting is now open for public hearing on the Ordinance and any member of the public may be heard.

Mayor Jones: closes the public hearing.

Township Committee Member Yates: I offer Ordinance #06-2023 and move its adoption.

Township Committee Member______ seconds the motion.

Mayor Jones asks the Municipal Clerk for a Roll Call:

Vote on Adoption:

	MOTION	FOR	AGAINST	ABSTAIN	ABSENT
		APPROVAL	APPROVAL		
Ms. Chipperson					
Dr. Lacz					
Mr. Platt					
Mr. Yates					
Mr. Jones					

ADD-ON RESOLUTIONS:

Mayor Jones asks Township Committee Member ______ to proceed with Resolution TC 23-127 as an Add-On resolution to this evenings agenda.

Resolution TC 23-127 – Resolution to Amend the BMW Financial Services NA, LLC Performance Bond

WHEREAS, pursuant to a Subdivision Development Agreement dated August 26, 2004 and recorded with the Morris County Clerk on October 1, 2004 in Deed Book 6167, Page 45 et seq. (the "Developer's Agreement") by and between Donald Ploetner and Madeline Ploetner (collectively, "Ploetner"), as the Developer therein, and the Township of Harding (the "Township"), with respect to the development of certain parcels designated as Block 26, Lots 11.01,11.02 and 11.03 on the tax maps of the Township of Harding, Morris County, State of New Jersey (collectively, the "Property"), Ploetner was required to furnish to the Township a performance guarantee in the amount of \$317,965.59 to guarantee the installation of certain improvements required by the Development Agreement in connection with the development of the Property; and

WHEREAS, BMW Financial Services NA, LLC ("BMWFS"), became the owner of (i) Block 26, Lot 11.01 and 11.02 pursuant to a foreclosure action and (ii) Block 26, Lot 11.03 pursuant to that certain 0 06-13-2023

Negotiated Settlement Agreement and General Release fully executed as of January 18, 2019 and entered into by and among Ploetner, the Township and BMWFS in connection with the matter entitled <u>Ploetner v. Township of Harding vs. BMW Financial Services, NA, LLC, and Ally Bank</u>, bearing Docket Number MRS-L-1881-17 (the "Settlement Agreement"); and

WHEREAS, pursuant to Paragraph 4.c. of the Settlement Agreement, BMWFS furnished to the Township a Performance Surety Bond in favor of the Township as obligee in the amount of \$317,965.59 and dated April 10, 2019, a copy of which is attached hereto and made a part hereof as **Exhibit "A"** (the "Existing Bond") in order to secure the performance guarantee of the installation of certain improvements required by the Development Agreement; and

WHEREAS, pursuant to the Settlement Agreement, the Existing Bond is to be maintained by BMWFS for the lesser of (i) a five (5) year period commencing upon the date of issuance of the Existing Bond or (ii) until BMWFS sells the Property to a third party purchaser who posts a replacement performance bond in favor of the Township for the remainder of the five (5) year period; and

WHEREAS, BMWFS has entered into an Agreement for Sale of Real Estate dated as of April 24, 2023 with Scandic Builders, Inc. or its permitted assignee, as the buyer thereunder (the "Buyer"), pursuant to which (i) BMWFS, as seller, has agreed to sell the Property to Buyer and Buyer has agreed to purchase the Property from BMWFS and (ii) BMWFS has agreed to assign to Buyer at closing any and all of the obligations of the Developer under the Development Agreement and Buyer has agreed to assume such obligations upon the transfer of ownership of the Property to Buyer at closing; and

WHEREAS, Buyer and/or its affiliate, Coach and Four LLC ("Buyer's Affiliate"), have caused the issuance of a replacement performance bond in favor of the Township as the beneficiary, a copy of which is attached hereto and made a part hereof as **Exhibit "B"** (the "Buyer Replacement Bond"); and

WHEREAS, pursuant to Paragraph 4.c. of the Settlement Agreement, the sum of \$8,322.00 is currently being held in escrow by the Township (the "Retained Escrow"), which Retained Escrow is to be paid to Madeline Ploetner, in her individual capacity and as administrator to the Estate of Donald Ploetner, through her counsel LaGrotta Law, LLC, when BMWFS sells the Property to third-party purchaser who posts a replacement performance bond acceptable to the Township; and

WHEREAS, the Township wishes to effectuate the replacement of the Existing Bond with the Buyer Replacement Bond, the release of the Existing Bond and the release of the Retained Escrow in accordance with the terms of the Development Agreement; and

BE IT RESOLVED, by the Township Committee of the Township of Harding (the "<u>Committee</u>"):

- 1. The Committee hereby approves and accepts the Buyer Replacement Bond.
- 2. The Committee hereby agrees to and approves the release of the Existing Bond and directs the Municipal Clerk for the Township to immediately release and return the original Existing Bond to BMWFS, or as BMWFS or its counsel may direct in writing to the Township.

- **3.** Effective upon the closing of the transfer of title to the Property to Buyer or Buyer's Affiliate, BMWFS shall be held harmless by the Township from any and all actions, claims, damages or liability in connection with the Property, the Development Agreement and/or the Settlement Agreement.
- **4.** Effective upon the closing of the transfer of title to the Property to Buyer or Buyer's Affiliate, the Township releases BMWFS from any and all duties and/or obligations related or arising from the Property, the Settlement Agreement and/or the Development Agreement.
- **5.** Upon the closing of the transfer of title to the Property to Buyer or Buyer's Affiliate, the Retained Escrow shall be paid Madeline Ploetner, in her individual capacity and as administrator to the Estate of Donald Ploetner, through her counsel LaGrotta Law, LLC.

Township Committee Member _____: I would like to make a motion to approve the resolutions placed on this evening's Consent Agenda by consent of the Township Committee.

Seconded by Township Committee Member _____

Mayor Jones asks the Municipal Clerk for a Roll Call:

Vote on Resolution:

	MOTION	FOR	AGAINST	ABSTAIN	ABSENT
		APPROVAL	APPROVAL		
Ms. Chipperson					
Dr. Lacz					
Mr. Platt					
Mr. Yates					
Mr. Jones					

RESOLUTIONS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION AND VOTE

CONSENT AGENDA

The following items are considered to be routine by the Harding Township Committee and will be enacted by one motion. There will be no separate discussion of these items unless a Township Committee Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

RESOLUTIONS TC 23-120 THROUGH RESOLUTION TC 23-126 HAVE BEEN PLACED ON THE CONSENT AGENDA

CONSENT AGENDA VOTE:

Mayor Jones asks Township Committee Member ______ to proceed with the Resolutions listed on the Consent agenda. Resolutions TC 23-120 through TC 23-126.

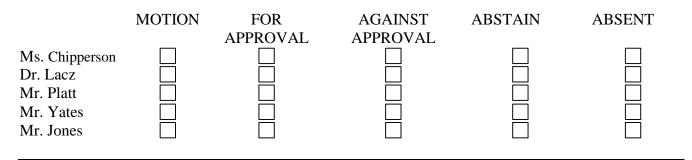
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Township Committee Member _____: I would like to make a motion to approve the resolutions placed on this evening's Consent Agenda by consent of the Township Committee.

Seconded by Township Committee Member _____.

Mayor Jones asks the Municipal Clerk for a Roll Call:

Vote on Resolution:



APPOINTMENTS:

Resolution TC 23-120 – Resolution to Appoint Richard Bell as a Part-Time Employee with the Department of Public Works

WHEREAS, there is a need for a part-time employee at Department of Public Works; and

WHEREAS, Mr. Tracy Toribio, DPW Superintendent, has recommended Mr. Richard Bell for this position at an hourly rate of \$25.00 an hour for a maximum of 20 hours per week to commence on June 13, 2023.

BE IT RESOLVED, that the Township Committee of the Township of Harding, County of Morris, State of New Jersey, hereby appoints Richard Bell as a part-time employee with the Department of Public Works to commence on June 13, 2023.

CONTRACTS:

Resolution TC 23-121 – Resolution to Amend the Professional Services Agreement for Surenian, Edwards, Buzak & Nolan LLC and the Township of Harding

BE IT RESOLVED, that the Township Committee of the Township of Harding, County of Morris, State of New Jersey hereby amend the Professional Services Contract for Surenian, Edwards, Buzak & Nolan LLC as follows:

- **1.** This amendment (the "Amendment") is made by Surenian, Edwards, Buzak & Nolan LLC and the Township of Harding, parties to the Professional Service Agreement dated January 17, 2023 (the "Agreement").
- **2.** The Agreement is amended as follows:

- a) Any Police matters, Share Services or Contracted Services assigned to the Firm shall fall under the Special Counsel Rate schedule and shall be billed under those hourly rates.
- b) Special Counsel Services may also include other legal services assigned by the Township Administrator which will be billed under those hourly rates.
- **3.** Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this amendment and the Agreement or any earlier amendment, the terms of this amendment will prevail.

BE IT FURTHER RESOLVED, the Township has caused these presents to be executed by its duly authorized representatives, and the Contractor has set his or her hand and seal hereunder on the day and year first above written.

FINANCE:

Resolution TC 23-122 – Resolution to Cancel Certain Capital Ordinance Balances

WHEREAS, certain General Capital Ordinance balances remain dedicated to projects now completed; and

WHEREAS, it is necessary to formally cancel said balances so that the unexpended funded balances may be returned to the Capital Improvement Fund or credited to Capital Surplus, and unfunded debt authorizations may be cancelled; and

WHEREAS, Capital Ordinances with balances to be cancelled are as follows:

Capital Ordinance	Description	Balance
07-2021	Acquisition of Public Works Equipment – Air Compressor	\$ 20,000.00
	Total	\$ 20,000.00

BE IT RESOLVED, by the Township Committee of the Township of Harding, in the County of Morris and State of New Jersey that the unexpended and dedicated Capital Ordinance balances listed above be cancelled and funded balances returned to the Capital Improvement Fund or credited to Capital Surplus and unfunded debt authorizations cancelled.

Resolution TC 23-123 – Bill List

WHEREAS, vouchers for payment have been submitted to the Township Committee by various municipal departments.

BE IT RESOLVED, by the Township Committee of the Township of Harding that all vouchers approved by the Finance Chairman be paid subject to the certification of the availability of funds by the Chief Financial Officer.

Resolution TC 23-124 - Resolution to Amend the Construction Department Fees of the Township of Harding for 2023 in Accordance with §171, Section 4 through §171, Section 6 of the Code of the Township of Harding

WHEREAS, the Township Committee of the Township of Harding, County of Morris, State of New Jersey sets the fees of the Township by resolution; and

WHEREAS, the fees for the Construction Department (Appendix A attached) have been reviewed and increased in accordance with §§171-1 through 171-6 of the Code of the Township of Harding.

BE IT RESOLVED, by the Township Committee of the Township of Harding that it does hereby approve of the amended fees for the Township for 2023 as reflected on Appendix A attached hereto shall become effective on June 13, 2023; and

BE IT FURTHER RESOLVED, that said fees shall become effective as of June 13, 2023.

MISCELLANEOUS:

Resolution TC 23-125 – Liquor License Renewal for 2023-2024 Application Year

WHEREAS, the applicants for Alcoholic Beverage Control License set forth below has been duly investigated; and

WHEREAS, the Harding Township Committee is satisfied that all the rules and regulations of the Alcoholic Beverage Law, Title 33, Chapter 1 of the Revised Statutes of New Jersey, 1937, as amended and supplemented, including P.L. 1970, Ch. 77, have been duly complied with.

BE IT RESOLVED, by the Township Committee of the Township of Harding in the County of Morris and State of New Jersey, that the Harding Township Committee hereby agrees to issue to the following applicants, the following permanent license under the aforesaid State Statutes for the following annual fee, said license to commence *July 1, 2023*, and to expire at midnight on *June 30, 2024* upon clearance of the fee to the Harding Township Treasurer's Account.

CLUB LICENSES:

APPLICANTS:

ADDRESS:

FEE:

Q 06-13-2023

New Vernon Volunteer Fire Department Club License No. 1413-31-004-001	22 Village Road New Vernon, NJ	\$75.00				
Mt. Kemble Lake Country Club Club License No. 1413-31-003-001	3 Trails End Morristown, NJ	\$75.00				
PLENARY RETAIL CONSUMPTION / DISTRIBUTION LICENSE:						
APPLICANT:	ADDRESS:	FEE:				
MMBBQ LLC DBA Minuteman Smokehouse Plenary Retail Consumption License No. 1413-33-001-011	990 Mt. Kemble Avenue Morristown, NJ	\$2,500.00				
APPLICANT:	ADDRESS:	FEE:				
4G HOSPITALITY LLC T/A The Country Store Plenary Retail Distribution License	1098 Mt. Kemble Avenue Morristown, NJ	\$2,500.00				

BE IT FURTHER RESOLVED, that the Municipal Clerk is hereby authorized to issue the aforesaid license in the form approved by the Department of Alcoholic Beverage of the State of New Jersey to the aforesaid applicants.

Resolution TC 23-126 – Resolution to Accept the Resignation of N.D.

BE IT RESOLVED, that the Township Committee of the Township of Harding, County of Morris, State of New Jersey hereby accepts the resignation of N.D. effective June 4, 2023, from the Harding Township Police Department.

ORDINANCES FOR FIRST READING:

Mayor Jones asks Township Committee Member ______ to introduce Ordinance #07-2023.

Township Committee Member ______ introduces Ordinance TC #07-2023 by title as follows:

HARDING TOWNSHIP ORDINANCE #07-2023

No. 1413-44-002-006

"ORDINANCE OF THE TOWNSHIP OF HARDING, COUNTY OF MORRIS, STATE OF NEW JERSEY, CREATING CHAPTER 7, SECTION 31.1, "HARDING TOWNSHIP POLICE DEPARTMENT PROMOTION PROCESS""

Township Committee Member ______ explains the purpose of the Ordinance and moves for introduction on first reading.

Township Committee Member _____ reads:

WHEREAS, the above ordinance was introduced and read by title at this Township Committee meeting held on June 12, 2023.

BE IT RESOLVED, that at the Township Committee meeting to be held on July 10, 2023 at 7:00 p.m. prevailing time, at the Kirby Municipal Building, the Township Committee will further consider this ordinance for a second reading, public hearing, and final passage; and

BE IT FURTHER RESOLVED, that the Municipal Clerk is hereby requested to publish the proper notice thereof, including this ordinance, post the ordinance, and make copies available to members of the general public.

Township Committee Member _____: I offer Ordinance #07-2023 and move its introduction.

Township Committee Member______ seconds the motion.

Mayor Jones asks the Municipal Clerk for a Roll Call:

Vote on Introduction:

	MOTION	FOR APPROVAL	AGAINST APPROVAL	ABSTAIN	ABSENT
	_	APPROVAL	APPROVAL	_	_
Ms. Chipperson					
Dr. Lacz					
Mr. Platt					
Mr. Yates					
Mr. Jones					

ORDINANCES FOR FIRST READING:

Mayor Jones asks Township Committee Member ______ to introduce Ordinance #08-2023.

Township Committee Member ______ introduces Ordinance TC #08-2023 by title as follows:

HARDING TOWNSHIP ORDINANCE #08-2023

"CAPITAL ORDINANCE OF THE TOWNSHIP OF HARDING, COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND ACQUISITIONS IN, BY AND FOR THE TOWNSHIP AND APPROPRIATING THEREFORE THE SUM OF \$126,000"

Township Committee Member ______ explains the purpose of the Ordinance and moves for introduction on first reading.

Township Committee Member _____ reads:

WHEREAS, the above ordinance was introduced and read by title at this Township Committee meeting held on June 12, 2023.

BE IT RESOLVED, that at the Township Committee meeting to be held on July 10, 2023, at 7:00 p.m. prevailing time, at the Kirby Municipal Building, the Township Committee will further consider this ordinance for a second reading, public hearing, and final passage; and

BE IT FURTHER RESOLVED, that the Municipal Clerk is hereby requested to publish the proper notice thereof, including this ordinance, post the ordinance, and make copies available to members of the general public.

Township Committee Member _____: I offer Ordinance #08-2023 and move its introduction.

Township Committee Member______ seconds the motion.

Mayor Jones asks the Municipal Clerk for a Roll Call:

Vote on Introduction:

	MOTION	FOR	AGAINST	ABSTAIN	ABSENT
		APPROVAL	APPROVAL	_	
Ms. Chipperson					
Dr. Lacz					
Mr. Platt					
Mr. Yates					
Mr. Jones					

ADJOURNMENT – Mr. Jones