

TOWNSHIP COMMITTEE REGULAR MEETING
October 26, 2020

The Township Committee Regular Meeting of the Township of Cranbury was held at 7:00 pm. by remote access videoconferencing in response to COVID-19 and the updated Open Public Meeting Act guidelines. Answering present to roll call were Township Committee members: Michael Ferrante, Barbara Rogers, Evelyn Spann, Jay Taylor and Mayor Matthew Scott. Also present were Denise Marabello, Township Administrator/CFO; Steven Goodell, Township Attorney; Ashley Buono, Township Attorney; and Debra Rubin, Municipal Clerk. Mayor Scott called the meeting to order and Ms. Rubin read the following Open Public Meetings Act statement:

In accordance with Section 5 of the Open Public Meetings Act, it is hereby announced and shall be entered into the minutes of this meeting that adequate notice of this meeting has been provided:

Posted on the Bulletin Board of the Municipal Office at 23-A North Main Street, Cranbury, New Jersey and remains posted at that location.

Communicated to the Cranbury Press, Home News Tribune and Trenton Times on January 10, 2020 and remote access information added on April 24, 2020, updated on June 18, 2020.

Filed on January 10, 2020 at the Cranbury Municipal Office, 23-A North Main Street, Cranbury, New Jersey, posted on the Township's web site and remains on file for public inspection. Township website was updated with remote access information on April 24, 2020, updated June 18, 2020.

Sent to those individuals who have requested personal notice.

--Township Committee Regular Meeting Minutes of October 12, 2020

The Township Committee Regular Meeting Minutes of October 12, 2020 were presented on a motion by Mr. Ferrante, seconded by Dr. Rogers. On a roll call vote of the members of the Township Committee;

Ayes: (Ferrante
 (Rogers
 (Spann
 (Taylor
 (SCott
 Abstain: None
 Absent: (None

Nays: (None

the Township Committee Regular Meeting Minutes of October 12, 2020 were adopted.

Reports and Communications

- Mr. Ferrante – Mr. Ferrante began by alerting residents to the Girl Scouts decorating and placing “Kindness Rocks” around town for others to find. He added that the FLAG Jr. organization was preparing gift bags in thanks to the Police Department. Mr. Ferrante attended the recent Environmental Commission meeting. He also reported that Andrew Harrison provided that 121 homes have subscriptions to the Cranbury Press, but assured all homes are covered by electronic means. He also wanted to assure the residents that the Cranbury Press does still exist and covers news in Cranbury.
- Dr. Rogers – Dr. Rogers attended in the October Parks Commission meeting and recently updated the interactive map to show open businesses.
- Mrs. Spann – Mrs. Spann attended the Historic Preservation Commission, Municipal Alliance and Zoning Committee.

TOWNSHIP COMMITTEE REGULAR MEETING
October 26, 2020

- Mr. Taylor – Mr. Taylor announced the upcoming drive in Movie Night held at the 1st Presbyterian Church. He thanked Chief Owens for carrying on the tradition of attending meetings just as his predecessors.
- Mayor Scott – Mayor Scott recently met with the Economic Development Advisory Council. He announced the Public Library executed a lease with Odd Fellows and is working in conjunction with the Historic Preservation Commission towards their opening. Mayor Scott and Chief Owens participated in their recent “Coffee with the Mayor and Chief” at Teddy’s Restaurant. Mayor Scott thanked the Fire Department, First Aid Squad members and Police Department for their collaborative efforts on Halloween.

Subcommittees –

Resident Communication Subcommittee-

Mr. Ferrante reported on the recent letter sent to residents regarding the current state of the Lake Dredging project. The Subcommittee continues to work with the Economic Development Advisory Council.

Department Head –

Chief Owens was present and gave the department’s September report. He reported on the total calls for the month, along with year to date stats. He discussed monthly crash reports and the increase in new firearm permits for the Detective Bureau to process.

Follow up Items –

- Publication Numbers – Cranbury Press – M. Ferrante - Complete.

Agenda Additions/Changes - None

Boards and Commission – Vacancies:

Ms. Rubin announced the current vacancies as;

- Municipal Alliance – 2nd Alternate
- Board of Recreation Commissioners – 2nd Alternate

Ordinances –

First Reading - None

Second Reading – None

Resolutions – Consent

Mayor Scott asked the Township Committee if there were any questions or comments on the Consent Agenda items. Hearing none, Mayor Scott requested a motion to adopt the existing Resolutions. On a motion by Mr. Ferrante, seconded by Mr. Taylor the following Consent Resolutions were adopted by the following vote:

Ayes: (Ferrante
(Rogers
(Spann
(Taylor
(Scott

Abstain: (None
Absent: (None

Nays: (None

TOWNSHIP COMMITTEE REGULAR MEETING
October 26, 2020

Cranbury Township Resolution #R 10-20-120

NOW, THEREFORE, BE IT RESOLVED, by the Township of Cranbury that all bills and claims as audited and found to be correct be paid;

Cranbury Township Resolution # R 10-20-121

Appointment to Clock Winding Committee

WHEREAS, it is necessary to make the following appointment(s) to the Clock Winding Committee for the Township of Cranbury:

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Cranbury that the following individual is appointed to the position(s) and term(s)s noted effective October 26, 2020:

TOWNSHIP COMMITTEE APPOINTMENTS

NAME	APPOINTMENT	TERM ENDING
Omar Mobin-Uddin	Clock Winding Member	12/31/2020

Cranbury Township Resolution # R 10-20-122

TOWNSHIP OF CRANBURY
RENEWING A CONTRACT FOR POLICE & MUNICIPAL
VEHICLE MAINTENANCE

WHEREAS, three (3) bids were received on November 10, 2016 for Township of Cranbury Police and Municipal Vehicle Maintenance; and

WHEREAS, the contract was awarded to George's Garage and Towing, Cranbury, NJ; and

WHEREAS, pursuant to N.J.S.A. 40A:11-2(38) and 11-15 the bid was for a total period of five (5) years, said contract being awarded for a period of three (3) years with the Township reserving the right to extend at the end of the three-year contract period for a an additional 2- twelve months total aggregate contract of five (5) years; and

WHEREAS, the Purchasing Agent, Public Works Superintendent and Chief of Police have reviewed the services provided and recommend that the contract be renewed for an additional one-year period, commencing December 1, 2020 through November 30, 2021; and

WHEREAS, the Chief Financial Officer has certified that there will be sufficient funds for this contract;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Cranbury that the contract for Police & Municipal Vehicle Maintenance in the Township of Cranbury is hereby renewed with George's Garage and Towing of Cranbury, New Jersey for a one year period ending November 30, 2021 with the Township reserving the right to renew each year for a total aggregate contract period of five (5) years.

Resolutions – Non-Consent

Mayor Scott asked the Township Committee if there were any questions or comments on the Non-Consent Agenda item. Hearing none, Mayor Scott requested a motion to adopt the following

TOWNSHIP COMMITTEE REGULAR MEETING
October 26, 2020

Resolution. On a motion by Mr. Ferrante, seconded by Mrs. Spann the following Resolution was adopted by the following vote:

Ayes: (Ferrante
(Rogers
(Spann
(Taylor
(Scott

Abstain: (None
Absent: (None

Nays: (None

CRANBURY TOWNSHIP RESOLUTION # R 10-20-123

TERMINATING CONTRACT BETWEEN TOWNSHIP OF CRANBURY AND TRICON ENTERPRISES, INC. FOR BRAINERD LAKE DREDGING PROJECT

WHEREAS, the Township of Cranbury solicited bids for the Brainerd Lake Dredging Project (the "Project"); and,

WHEREAS, by way of Resolution #R07-20-089 dated July 13, 2020, the Township awarded a Contract to Tricon Enterprises, Inc. as the lowest responsible bidder for the Project; and

WHEREAS, among other things, the Contract Documents required that the Contractor submit, for the review and approval of the Township's Project Engineer, a dewatering system design prepared by a New Jersey-licensed Professional Engineer experienced in design of construction dewatering systems, with drawings, calculations, and written descriptions of the proposed equipment, materials and procedures, at least 2 weeks prior to starting work (a "Dewatering Plan"); and

WHEREAS, the Contract Documents required that Tricon secure a water lowering permit from the New Jersey Division of Fish and Wildlife; and

WHEREAS, that permit requires that the water level be fully drawn down by November 1, and imposes restrictions on the rate of water release; and

WHEREAS, on September 21, 2020 Tricon submitted a proposed Dewatering Plan; and

WHEREAS, the Township's Project Engineer, Mr. Tom Decker, sent Tricon a Dewatering Plan Review Memorandum dated September 22, 2020, addressing certain substantive and procedural aspects of the Dewatering Plan that were not in compliance with the requirements of the Contract Documents; and

WHEREAS, the Contract Documents provide that

"Should the Contractor fail to abide by any provisions of this Contract, the Engineer will forward, by certified mail, to the Contractor, at the address given in the Contract, a Notice of Warning stating the reason of default with course of action to be followed. In the event the Contractor fails to comply with said Notice of Warning within five (5) days from receipt thereof, the Owner shall have the right to terminate the Contract without further notice"; and

WHEREAS, the Township Attorney's Office sent a Notice of Warning to Tricon on September 25, 2020 demanding that Tricon submit an acceptable dewatering plan and identify a subcontractor able to do the work within five (5) days; and

TOWNSHIP COMMITTEE REGULAR MEETING
October 26, 2020

WHEREAS, a Project meeting was held seven (7) days later, on October 2, 2020, during which meeting Tricon stated that a Dewatering Plan would be submitted to the Project Engineer by Friday, October 9, 2020; and

WHEREAS, Tricon failed to submit a Dewatering Plan to the Project Engineer on or before Friday, October 9, 2020, and are therefore in default of the Contract; and

WHEREAS, based on Tricon's failure to submit a Dewatering Plan as required by the Contract Documents, the Township issued a Stop Work Notice and Notice of Intent to Terminate the Contract with Tricon on October 13, 2020; and

WHEREAS, in accordance with the Contract Documents, the Stop Work Notice and Notice of Intent to Terminate the Contract was accompanied by a written certification stating the professional opinion of the Project Engineer that "Tricon ha[d] not fulfilled its obligations, as specified in the Contract Documents, with regards to the rate of progress of the Work"; and

WHEREAS, it is apparent that the scope of services required under the contract, will not be satisfactorily performed by the contractor prior to the expiration of the lake lowering season, despite numerous assertions by Tricon to the contrary; and

WHEREAS, the Township, through the Project Engineer and Counsel have exchanged multiple correspondences and held numerous meetings with representatives of Tricon, pointing out the deficiencies and asking Tricon to comply with its contractual obligations, in an effort to ensure that the services required by the municipality are satisfactorily performed, and that residents in the community are securing the benefit of the contract; and

WHEREAS, Tricon continually failed to meet its responsibilities; and

WHEREAS, the Township Attorney's Notice of Warning letter of September 25, 2020 is incorporated herein and made a part hereof; and

WHEREAS, the Township Attorney's Stop Work Notice and Notice of Intent to Terminate of October 13, 2020 are incorporated herein and made a part hereof; and

WHEREAS, the Township's concerns that Brainerd Lake would not be lowered by November 1, 2020, remain unresolved, unaddressed, and unsatisfied because no Dewatering Plan was submitted within the time period required by the Contract Documents, as communicated by the Project Engineer and Township Attorney; and

WHEREAS, Tricon has therefore materially breached its obligations to and the provisions of its Contract with the Township; and

WHEREAS, the Township Committee seeks to terminate the Contract with Tricon in accordance with the Contract Documents and N.J.S.A. 40A:11-50;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY AS FOLLOWS:

1. The Township of Cranbury finds and declares that Tricon Enterprises, Inc. 322 Beers Street, Keyport, New Jersey 07735, is in default of the Contract entered into in or about July, 2020 with the Township of Cranbury for the Brainerd Lake Dredging Project (the "Contract") for

TOWNSHIP COMMITTEE REGULAR MEETING
October 26, 2020

the reasons hereinabove stated and as communicated to Tricon in Project correspondence, all of which are incorporated herein and referenced hereto as if set forth and/or attached at length;

2. The Contract is hereby terminated.
3. The Township Attorney is authorized to negotiate and execute any and all instruments in connection with the default and termination of the Contract, including alternative dispute resolution practices in accordance with N.J.S.A. 40A:11-50.

Public Comment

Mayor Scott opened the meeting to general public comment.

- Richard Kallan – Mr. Kallan asked why the contract was terminated for the Lake Dredging Project and why due diligence was not done before awarding contract. Mr. Goodell explained that the contractor did not adhere to a November 1st deadline and did not remedy what was necessary to move forward. Mr. Goodell also explained the township is bound by the Local Public Contract Law and assured that due diligence was in fact completed on the contractor. He added that the Township Committee did everything possible.

Hearing no other public comment, Mayor Scott closed the meeting to public comment.

Action Items: None

Closed Session

Ms. Rubin read the following resolution by title. Mayor Scott requested a motion to adopt the following resolution. On a motion by Mr. Ferrante, seconded by Dr. Rogers and unanimously carried, the following Resolution was adopted by a vote:

Ayes:	(Ferrante (Rogers (Spann (Taylor (Scott
	Absent: (None Abstain: (None
	Nays: (None

Cranbury Township Resolution # R 10-20-124

RESOLUTION TO CLOSE MEETING TO THE PUBLIC

BE IT RESOLVED, by the Township Committee of the Township of Cranbury, Middlesex County, New Jersey as follows:

The general nature of the subject to be discussed in this session is as follows:

- **N.J.S.A. 10:4-12b** (7) Any pending or anticipated litigation or contract negotiation other than in subsection b. (4) herein in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to

TOWNSHIP COMMITTEE REGULAR MEETING
October 26, 2020

the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a
lawyer.

It is unknown at this time precisely when the matters discussed in this session will be disclosed to the public. Matters involving contract negotiations or the acquisition of land will be disclosed upon conclusion of the negotiations or upon approval of the acquisition. Matters involving personnel will be disclosed when the need for confidentiality no longer exists. Matters concerning litigation will be announced upon the conclusion of trial or settlement of that litigation or when the need for confidentiality no longer exists.

The meeting moved into Closed Session at 7:42 p.m.

Mayor Scott made a motion to close the Closed Session and return to public session. Mrs. Spann seconded the motion. The motion passed unanimously on a voice vote of all members present. The meeting returned to public meeting at 8:29 p.m.

Adjourn

Mayor Scott requested a motion to adjourn. On motion by Mr. Taylor, seconded by Dr. Rogers and unanimously carried, the meeting adjourned at 8:30 p.m.

Debra A. Rubin, RMC
Municipal Clerk