The regular meeting of the Township Committee of the Township of Cranbury was held at 7:00 p.m. in the Town Hall Meeting Room. Answering present to the roll call were Township Committee members: Susan Goetz, Glenn Johnson, Daniel Mulligan, and Mayor David Cook. Mr. Taylor was absent. Also present were Steven Goodell, Esq., Township Attorney; Denise Marabello, Township Administrator/Director of Finance; and Kathleen R. Cunningham, Clerk/Assistant Administrator. Mayor Cook led in the salute to the flag, and Ms. Cunningham gave 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:

- (1) Posted on November 29, 2011 on the Bulletin Board of the Municipal Office at 23-A North Main Street, Cranbury, New Jersey and remains posted at that location.
- (2) Communicated to the Cranbury Press, Home News Tribune and Trenton Times on November 29, 2011.
- (3) Was filed on November 29, 2011 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, and
- (4) Sent to those individuals who have requested personal notice.

#### Reports and Communications

#### --Mayor

Mayor Cook reported roadway paving has commenced on South River Road from Route 130 to Prospect Plains Road. He reported Cranbury Township has the opportunity to apply to the Department of Transportation for non-traditional DOT projects, such as "beautification" projects. The application has been given to Mr. Bill Tanner, Township Engineer, who will submit an application for that type of funding.

Mayor Cook invited the public to attend the Memorial Day Parade on Monday, May 28th.

Mayor Cook reported modifications are being made to the Peddler's Ordinance for a Farmers' Market. These modifications will simplify the process for vendors to participate in the Farmers' Market.

#### -- Members of Committee

Ms. Goetz reported there are some changes to the Farmers' Market. The original location selected was the Book Worm's parking lot, which must be changed due to zoning issues. The proposed new location is at the end of Park Place West Ms. Goetz stated the Farmers' Market may start just after July 4<sup>th</sup> as produce will be available after that time and reported the time of the Market will be Friday afternoons in the summer. Ms. Goetz stated promoters of the Farmers' Market are meeting with the Environmental Commission to discuss the Market, which could be beneficial for Cranbury, which is a Sustainable New Jersey municipality to potentially obtain additional Sustainable New Jersey "points". Ms. Goetz explained the Township can receive points for various reasons. She stated the more points Cranbury has, the higher status of Sustainable New Jersey the Township is, which allows more eligibility for grants. Points are received for having a green fair or local farmers' market. The Environmental Commission is looking into the possibility of getting a Sustainable New Jersey grant to help support the Farmers' Market. Ms. Goetz stated there are local vendors who are interested if all the details can be worked out.

Reports and Communications (Continued)
--Members of Committee
(Ms. Goetz cont'd.)

Ms. Goetz reported she had a meeting with two (2) contractors to possibly do some work on the vegetation problem in Brainerd Lake. She reported two (2) quotes were received last year which included a chemical-herbicidal treatment and a raking-type treatment. She stated the contractors believe there must be a combination of treatments to sustain the Lake's quality. Ms. Goetz stated a permit must be obtained for the herbicide treatment but not for the raking. It would take several weeks to obtain the permit and the treatment could not be applied until August. She stated by August the Lake will be choked with vegetation, and while the treatment will work, it will deplete the Lake of oxygen and be harmful to the fish. The alternative would be to rake selected areas of the Lake to remove vegetation. The contractors are recommending the Township gets a permit for herbicidal treatment in case some treatment is needed after the raking process. Ms. Goetz stated this is not a one-shot deal; however, it will not need to be done every year. She reported the raking could be complete by July 4<sup>th</sup>.

Mr. Mulligan thanked Ms. Goetz for her efforts with the Farmers' Market. He reported the Drug Free Fair was held this past weekend, and the event was very successful. He thanked Ms. Jane Holland, Ms. Kathleen Argiriou and other members of the Municipal Alliance who worked hard to make the event successful.

Mr. Mulligan reported information was received from the League of Municipalities concerning Bill A-2975, which requires certain user fees being rolled under the 2% cap. Mr. Mulligan explained the State wants to take any user fees the Township charges and put them under the 2% cap. Mr. Mulligan stated this would not be fair to the Township because fees charged are basically paying for a provided service, and putting it under the cap makes the fee a penalty for the Township.

Mr. Mulligan reported he saw in the news last week that the State is \$120 million off in energy tax receipts due to the mild winter and low natural gas costs. He stated he was not sure if that would affect Cranbury; however, he stated the Township already receives less energy funding than it should. Ms. Marabello stated the amount of energy funding to be received will need to be confirmed before tax bills are sent out, and stated she is hoping the State will not reduce the amounts promised to municipalities. She stated, however, it may be the reason the State uses to reduce energy tax receipts next year.

Mr. Mulligan stated he appreciated Mayor Cook's efforts in getting the Vendor Ordinance on the Agenda so quickly for the Farmers' Market. He stated he is also supportive of the raking of vegetation in Brainerd Lake and asked if that item was included in the Budget. Ms. Marabello confirmed the raking is in the Budget, and Ms. Goetz stated the raking process will only take one (1) week to complete.

Agenda Additions/Changes

Ms. Cunningham announced there were no additions or changes to the agenda.

Ordinance First Reading

CRANBURY TOWNSHIP ORDINANCE # 05-12-09

An Ordinance entitled, Cranbury Township Ordinance # 05-12-09, "AN ORDINANCE AMENDING AND REVISING THE CODE OF THE TOWNSHIP OF CRANBURY, MIDDLESEX COUNTY, NJ, CHAPTER 113 ENTITLED "PEDDLING AND SOLICITING" was introduced on first reading. On motion by Mr. Mulligan, seconded by Mr. Johnson, the Ordinance was passed on first reading by vote:

Ordinance First Reading

# CRANBURY TOWNSHIP ORDINANCE # 05-12-09 (Continued)

Ayes: (Goetz

(Johnson Abstain: (None (Mulligan Absent: (Taylor

(Cook

Nays: (None

Second Reading: June 11, 2012

WHEREAS, the Cranbury Township Code regulates peddling and soliciting by requiring any peddler, solicitor or itinerant merchant to obtain a license before engaging in such business within the Township; and

WHEREAS, vendors at a farmers' market do not present the same concerns regarding safety and health as peddlers, solicitors or itinerant merchants; and

WHEREAS, vendors at a farmers' market should be exempt from the licensing requirements imposed on peddlers and solicitors, as long as those vendors post visible identification and address and register with the police department.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Cranbury that the Code of the Township at Cranbury be and hereby is amended as set forth below.

SECTION 1. Chapter 113, Section 3, is amended as follows (insertions <u>underlined</u> and deletions <u>struckthrough</u>):

## § 113-3. Exceptions from requirements.

The requirements of this chapter shall not apply to the following:

A. Any organization tax exempt under the regulations of the Internal Revenue Service.

- <u>B.</u> Any person honorably discharged from the military services of the United States possessing a peddler's license issued in conformity with N.J.S.A. 45:24-9.
- <u>C.</u> Any person who is an exempt fireman of a volunteer fire department, as defined by N.J.S.A. 45:24-9, possessing a license in conformity with said law.
- <u>D.</u> Any person engaged in the delivery of goods, wares or merchandise or other articles or things in the regular course of business to the premises of persons who had previously ordered the same or were entitled to receive the same by reasons of a prior agreement.
- <u>E.</u> Any school, charitable, political or civic organization, benevolent society, volunteer first-aid or rescue squad, service club or organization not for profit which is located in or has a substantial membership from Cranbury Township, provided that identification assigned by the organization the canvasser represents is carried.

Ordinance First Reading

## CRANBURY TOWNSHIP ORDINANCE # 05-12-09 (Continued)

- F. Any farmers' market, provided that the farmers' market is sponsored by a nonprofit corporation or a school, charitable or civic organization and provided further that the farmers' market is limited to no more than ten consecutive weeks. Each vendor at any such farmers' market shall post visible identification and address and shall register with the police department.
- SECTION 2. Repealer. All ordinances and resolutions, or parts thereof, inconsistent with this Ordinance, are hereby repealed.
- SECTION 3. Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.
- SECTION 4. Effective Date. This Ordinance shall take effect immediately upon its passage and publication, as required by law.

#### Resolutions

Consent Agenda

Mayor Cook summarized the Consent Agenda Resolutions and asked the Township Committee if there were any questions or comments, or if anyone wished to have an item considered separately. On motion by Mr. Mulligan, seconded by Mr. Johnson, the following Consent Agenda Resolutions were adopted by vote:

Ayes: (Goetz

(Johnson Abstain: (None (Mulligan Absent: (Taylor

(Cook

Navs: (None

Cranbury Township Resolution # R 05-12-075

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 05-12-076

RESOLUTION TO AUTHORIZE EXECUTION OF RIGHT OF WAY AGREEMENT BETWEEN CRANBURY TOWNSHIP AND FIBER TECHNOLOGIES NETWORKS, L.L.C. TO PERMIT INSTALLATION, USE AND MAINTENANCE OF TELECOMMUNICATIONS FACILITIES WITHIN PUBLIC RIGHTS-OF-WAY FOR PURPOSES OF PROVIDING TELECOMMUNICATIONS SERVICES

WHEREAS, Fiber Technologies Networks, L.L.C. ("Fibertech"), a New York limited liability company, with offices located at 300 Meridian Centre, Rochester, New York, is authorized to provide local exchange and interexchange telecommunications services throughout the State of New Jersey pursuant to an Order issued by the New Jersey Board of Public Utilities ("NJBPU") in docket No. TE05080683 dated September 14, 2005; and

# Cranbury Township Resolution # R 05-12-076 (Continued)

WHEREAS, Fibertech has requested the consent of the Municipality to occupy public rights-of-way within the Municipality for a period of fifty (50) years for the purpose of constructing, installing, operating, repairing, maintaining and replacing a telecommunications system; and

WHEREAS, it is deemed to be in the best interest of the Municipality and its citizenry, particularly including the commercial and industrial citizens, for the Municipality to grant municipal consent to Fibertech to occupy the public rights-of-way within the Municipality for this purpose; and

WHEREAS, the granting of such consent is and shall be conditional upon Fibertech's continued compliance with all existing and future ordinances of the Municipality and its entering into a written agreement with the Municipality to, inter alia, indemnify and hold the Municipality harmless as to all claims and liability resulting from any injury or damage which may arise from the construction, installation, operation, repair, maintenance, disconnect, replacement and removal its telecommunications system within certain public rights-of-way and provide liability insurance coverage for personal injury and property damage.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY;

- 1. That non-exclusive consent is hereby granted to Fibertech to occupy the public rights-of-way within the Municipality for the purpose of construction, installation, operation, repair, maintenance and replacement of a telecommunications system for a period of fifty (50) years;
- 2. The within granted permission is conditioned upon fibertech entering into the attached Agreement with the Municipality and providing liability and property damage insurance coverage.
- 3. The Mayor and Municipal Clerk are hereby authorized to execute the attached Agreement.
- 4. A copy of this Resolution and the executed Agreement shall be filed in the Office of the Municipal Clerk.

#### CRANBURY TOWNSHIP RESOLUTION #R 05-12-077

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY, that Jared Woolley be hired as a Public Works Employee, at a rate of \$18.00 per hour, effective May 14, 2012.

Reports from Township Staff and Professionals

--Administrator's Report

Ms. Marabello reported several years ago when Cranbury went out for a bond sale, Standard and Poor's gave the Township a "AAA" bond rating. She stated they recently requested a phone conference to discuss the Township's financials. She reported Standard and Poor's is doing their "due diligence" on all municipalities and was requesting information on the Township's general economy, real estate, tax appeals, and tax collection rate. Ms. Marabello stated Standard & Poor's questions also focused on the Township's surplus, the amount of the tax rate increase, whether the Township went up to the levy cap or not, and if there was a policy in place on how much surplus the Township wanted to keep in order to keep the taxes stable but not run out of surplus. She reported Standard & Poor's stated they

Reports from Township Staff and Professionals

--Administrator's Report (cont'd.)

like to see a township maintaining a certain amount of surplus to stay within the levy cap. Ms. Marabello reported she has been notified the Township will retain its "AAA"

rating. Mr. Mulligan stated it validated the Township Committee's budget strategy, and Mayor Cook stated it shows having a surplus is significant.

#### --Assistant Administrator's Report

Ms. Cunningham asked the Township Committee to think about the Township Committee table and handouts for upcoming Cranbury Day on September 8<sup>th</sup>.

Reports from Township Boards and Commissions

There were no reports from Township Boards and Commissions.

#### Work Session

a). <u>Presentation and Discussion with the "Turnpike Tree Subcommittee on its "Phase II</u> Recommendations for the Turnpike Trees".

Ms. Kathy Easton and Ms. Barbara Rogers gave a presentation on its "Phase II Recommendations for the Turnpike Trees" and reported they were pursuing a grant of \$117,000. Ms. Rogers stated the Board of Education requested trees be planted in the grove by the soccer fields to contain the recreational activity. Dead trees will also be replaced. She reported 55 trees will be staggered on the property, and Ms. Rogers stated recommendations on types of trees will be obtained from the landscape architect. The trees will be planted where the temporary fencing has been installed, and native species will be used as much as possible. Ms. Marabello reported the Board of Education, by resolution, has already approved the plantings of trees on their property. Ms. Rogers reported the County has also approved the planting of trees on Main Street. Ms. Goetz asked if the trees will get deer protection, and Ms. Rogers stated she would like to see a management plan for Phase II, which would include watering schedule and pest protection. Ms. Marabello stated only the number of trees, type of species and location of plantings are required for the grant. Additional information, like the protection of the trees will be necessary for the bid specs.

Ms. Rogers reported a double row of trees will be planted in the Cranbury Preserve to "shade out" or reduce the invasive species. Trees will also be planted to provide shade for the parking lot. Ms. Rogers stated the piles of dirt to the side of the soccer fields are unsightly. She stated 100 trees will be planted in total. Mr. Mulligan asked for clarification of the planting locations to be sure the trees would not interfere with future projects, such as a track. Mr. Mulligan asked for validation of planting locations from other Commissions, such as Environmental and Recreation, before moving forward. Ms. Rogers reported only the Recreation Board is not on the Tree Subcommittee, and Ms. Beth Veghte, Chairwoman of the Board, did attend the last meeting to voice her concerns about planting near the baseball field and trying to get a windbreaker. Ms. Easton stated Ms. Veghte did not mention the possible construction of a track.

Ms. Easton reported a single row of trees will be planted at the edge of the school parking lot on the Wright South Property. Historically there was a row of white pines at the edge of the school parking lot; however, the trees were removed when the parking lot was expanded, and no replacement trees have been planted. Ms. Easton stated a single row of 20 red maples will be planted.

Ms. Easton reported Ms. Bonnie Larson and Ms. Christine Quinn conducted a survey of trees on every street and road. The survey was shared with the Tree Subcommittee. Ms. Easton stated it was the Subcommittee understanding that trees could not be

Work Session (Continued)

a). <u>Presentation and Discussion with the "Turnpike Tree Subcommittee on its "Phase II</u> Recommendations for the Turnpike Trees".

(Ms. Easton cont'd.)

planted "here and there" because of cost. Main Street was the one (1) location requiring a number of trees. Ms. Easton reported 30 trees will be planted to fill in the gaps. However, she reported she has heard there are residents on Main Street who do not want trees planted in front of their homes. Ms. Easton suggested when the planting plan is developed, a communication be sent to homeowners. Ms. Easton stated there is no reason to plant a tree if a resident does not want one. Ms. Marabello stated the communication must be sent before the number of trees is determined and the planting plan is approved. Once the plan is approved, that number of trees must be planted. Mayor Cook reported after the trees are planted, the Township assumes the responsibility of maintaining the trees. Ms. Goetz asked Ms. Easton if liability is the reason some residents do not want trees. Ms. Easton stated she did not know the reason. Mr. Steve Goodell, Esq., Township Attorney stated there are provisions in the Ordinance stating the Township can bill residents for maintenance of trees. Ms. Goetz stated residents may not want trees if future costs could be involved. Mayor Cook stated the maintenance issue surfaced after Hurricane Irene when a tree fell and no one wanted the responsibility to clear it. Mayor Cook stated even without the disaster component, trees will require maintenance which is costly to the Township. He stated the Township needs to work with residents before planting trees.

Ms. Rogers stated Main Street is Cranbury's attraction, and trees add to the beauty of the Township. Ms. Easton stated the communication sent to residents will include the species of tree to be planted. Ms. Marabello stated she believes most residents will want trees.

Mr. Mulligan asked Mr. Goodell, Township Attorney, about the liability of the Township planting trees on Main Street. Mr. Goodell stated the statutes are complex. In general, the Township has a Shade Tree Commission, which has a plan where trees should be planted. Once trees are planted according to the Shade Tree Commission's plan, the Township has the authority to bill the residents for the trees' upkeep and maintenance. If the Township chooses not to bill for maintenance, the decision must be by a uniform set of regulations. Beyond that, Mr. Goodell stated there should be a maintenance plan in place, which will determine how much the Township will spend for maintenance. If acting in accordance with that plan, the Township cannot be sued for something that may happen that is outside of the Township's knowledge. However, Mr. Goodell stated if the Township knows of a dangerous condition, the Township has the obligation to act.

Mayor Cook stated once the survey is in place, the Township can build policy concerning maintenance. Ms. Goetz asked if developing a maintenance plan is a billable cost for the grant. Ms. Marabello stated the purpose of the grant is specifically for purchasing and maintaining the trees. Removal of dirt to plant trees is also a billable expense. Ms. Easton reported the trees to be planted will have a three (3) inch caliper.

Ms. Easton reported the Parks Commission wants 15 replacement trees for Village Park. Planting location for the Senior Affordable Housing Complex has not changed from original plans, and the Cranbury Housing Associates' survey will be checked for the boundary lines.

Ms. Rogers reported the County approved tree plantings on the Old Trenton Road Extension near Cranbury Greene. Ms. Rogers stated the Committee looked at Barn Park, and stated tall trees and short shrubs will be planted along the adjacent path connecting Cranbury Neck Road to Liedtke Drive.

#### Work Session (Continued)

a). <u>Presentation and Discussion with the "Turnpike Tree Subcommittee on its "Phase II Recommendations for the Turnpike Trees".</u>

Mayor Cook inquired if smaller types of trees are used for planting. Ms. Easton stated the trees are not necessarily smaller; however, care is taken to plant trees resistant to disease. Mayor Cook asked if tall trees would be planted on Liedtke, and Ms. Easton explained currently only the pathway will be planted. Ms. Easton stated Liedtke Drive, formerly the Updike Property, is scheduled to be planted in the future. Ms. Rogers reported some trees will also be planted near the parking lot of the newly-acquired Reinhardt property.

Ms. Easton stated, for the future and not part of this proposal, the Tree Subcommittee highly recommends the reforestation of the Fischer property and possible planting of the Updike Property. Ms. Rogers explained the Fischer property is currently being farmed; however, she recommended a future walking path from the South Main Street side of the property, through to the Hagerty Property. Ms. Easton explained the Fischer property is farmed right up to the edge of the property. She stated that land was preserved so it could be enjoyed by the public; however, it cannot be enjoyed because it is farmed right up to the edge. Ms. Easton suggested the Township recommend the farmer leaves a six (6)-foot path at the edge of the field so the public can walk the property. She reported seeing deer stands on the property.

Ms. Rogers stated the properties covered were areas considered for planting, and did not recommend any of those properties be used soccer or other recreational sports. Mayor Cook asked if the Subcommittee had any plans for Millstone Park, and Ms. Rogers stated the current trees in Millstone have filled out and no other trees are currently requested.

Ms. Easton explained the reason so many trees were planted in Phase I was because the funding came in fast, and the Fischer property could not be planted at that time because it was under lease for farming. She stated it would have been difficult to come up with a plan for 2,500 trees all over the Township so the decision was made to plant them on the Hagerty Property.

Mayor Cook stated he opposed planting on the Fischer Property, and stated at that time it made more sense to plant on the Hagerty Property. Mayor Cook stated it thought it would not be possible to plant that number of trees on the Fischer Property without planting the entire property. He stated he agreed with replacing dead trees and filling in gaps; however, he stated he did not agree with planting on the entire Fischer Property. Ms. Rogers stated 15 acres of the Fischer Property are considered open space. Ms. Easton stated the view will not be changed because trees are already there. Ms. Marabello reported the Fischer Property is leased until 2014 and could not be planted on even if a grant was offered in 2013. Mr. Mulligan stated he did not want to see Cranbury lose farmland, and the Fischer Property is the only piece of farmland left on that side of the Township.

Ms. Easton stated that although the Fischer Property is not part of this phase of planting, the Subcommittee would like to keep the information as part of the document for future discussion. She stated they are not sure if there will be a Phase III or if additional future funding will become available. Mayor Cook stated the six (6)-foot buffer will provide access to the property, and Mr. Mulligan agreed access for residents is important. Mr. Mulligan stated a mixture of farmland and use of open space would be best for that property.

Work Session (Continued)

a). <u>Presentation and Discussion with the "Turnpike Tree Subcommittee on its "Phase II</u> Recommendations for the Turnpike Trees".

(Mr. Mulligan (cont'd.)

Mr. Mulligan asked Mr. Goodell, Township Attorney, if he had ever reviewed the lease for the wording of "open space" for the Fischer Property. Mr. Goodell stated he never reviewed the lease. Mr. Mulligan stated the former Township Attorney, Trishka Waterbury, Esq. told residents in a meeting that the lease did not state you could not farm. Ms. Easton stated she did not believe the property was set aside for agricultural purposes. Mr. Mulligan thanked Ms. Easton and Ms. Rogers for their efforts planting trees on the Hagerty Property. Ms. Easton stated the project was very rushed and commended the landscape architect for a wonderful job. Ms. Easton stated the Hagerty Property contains "four seasons of interest" with bloomers in the spring, summer foliage and early fall foliage. Mayor Cook thanked Ms. Rogers and Ms. Easton for their hard work.

#### **Public Comment**

The Mayor opened the meeting to public questions and comment. There being no further public comments, the Mayor closed the public portion of the meeting.

Resolution
Closed Session

On a motion by Mr. Johnson, seconded by Ms. Goetz and unanimously carried (with Mr. Taylor absent), the motion was carried by vote:

Ayes: (Goetz

(Johnson Abstain: (None (Mulligan Absent: (Taylor

(Cook

Nays: (None

TOWNSHIP OF CRANBURY COUNTY OF MIDDLESEX

#### 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) ("Pending or anticipated litigation"): Discussion with Township Attorney regarding pending or anticipated litigation.

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.

On motion by Mr. Mulligan, seconded by Mr. Johnson and unanimously carried, the Township Committee returned to Open Session at 9:13 p.m.

On a motion by Mr. Johnson, seconded by Ms. Goetz, and unanimously carried (with Mr. Taylor being absent), the meeting adjourned at 9:15 p.m.

Kathleen R. Cunningham, RMC Municipal Clerk