

TOWNSHIP COMMITTEE MEETING  
October 18, 2004

The regular meeting of the Township Committee of the Township of Cranbury was held at 7:30 p.m. in the Town Hall Meeting Room. Answering present to the roll call were: Township Committee members: Michael Mayes, Thomas Panconi, Jr., Pari Stave and Mayor Stannard. Ms. Beauregard arrived at 8:00 p.m. Also present were: Trishka Waterbury, Esquire, Attorney, Cathleen Marcelli, Engineer, Frederick C. Carr, Administrator and Kathleen R. Cunningham, Clerk. Mayor Stannard 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 December 2, 2003 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 December 2, 2003.
- (3) Was filed on December 2, 2003 with a Deputy Municipal Clerk at the Cranbury Municipal Office, 23-A North Main Street, Cranbury, New Jersey and remains on file for public inspection, and
- (4) Sent to those individuals who have requested personal notice.

Reports and Communications from Committee

--Committee Minutes 27 September 2004

On motion by Mr. Mayes, seconded by Ms. Stave, the minutes for September 27, 2004 were adopted.

--Sub Committee Reports --

Mr. Panconi reported he had met with the Fire Company on September 28, 2004. Bob Allen, requested the Township Committee form a new pumper truck subcommittee (preferably with two members of the Committee, Mr. Panconi and anyone else who wishes to be on the subcommittee). The Fire Company, per the Apparatus Evaluation of January 1999, will be requesting the purchase of a new pumper truck in the year 2006. The subcommittee will go through the process of detailing the specifications for the truck and getting bids. The estimated cost of this vehicle is \$450,000 with the Fire Company contributing \$50,000 along with the cost of equipment. Chief Sam DiStasio is still attempting to locate a State energy efficient grant to fund the cost of the replacement of the large un-insulated roll-up doors at the firehouse.

Mr. Panconi also reported he attended a Police Building pre-construction meeting at Town Hall. Items discussed were: an application needs to be submitted for Freehold soil permits. Larry at Hatch Mott MacDonald is expediting the process. Applications also need to be submitted for Middlesex County Planning Board approval. Mylan Architects are taking the application to the County with a letter from Mr. Carr, requesting a waiver of the fee. D&R Commission approval is need, however, Larry from Hatch Mott MacDonald is requesting a waiver.

Mr. Panconi reported a the Police Contract Negotiations Subcommittee had met on Monday, October 4, 2004, Thursday, October 7, 2004 and Thursday, October 14, 2004. Progress is being made. The next meeting is scheduled for Thursday, October 21, 2004.

Agenda Additions/Changes

Mr. Panconi requested the Fire Official's memo, requesting a vehicle, be discussed.

Ordinance

First Reading

Cranbury Township Ordinance # 10-04-25

An Ordinance entitled, Cranbury Township Ordinance # 10-04-25, A BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF LAND FOR USE AS OPEN SPACE BY THE TOWNSHIP OF CRANBURY, IN THE COUNTY OF MIDDLESEX, NEW JERSEY, APPROPRIATING \$500,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$500,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING THE COST THEREOF, was introduced for first reading. On motion by Ms. Stave, seconded by Mr. Mayes, the Ordinance was passed on first reading by vote:

Ayes:	(Mayes (Panconi (Stannard (Stave	Absent: (Beauregard
		Abstain: (None)
Nays:	None	

Public Hearing: November 15, 2004

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY, IN THE COUNTY OF MIDDLESEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Township of Cranbury, New Jersey as a general improvement. For the improvement or purpose described in Section 3, there is hereby appropriated the sum of \$500,000. No down payment is required pursuant to N.J.S.A. 40A:2-11(c) as this bond ordinance authorizes obligations solely for a purpose described in N.J.S.A. 40A:2-7(d).

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$500,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the acquisition of land for use as open space, including all related costs and expenditures incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Cranbury Township Ordinance # 10-04-25  
(Continued)

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget of the Township of Cranbury is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. Any grant monies received for the purposes described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose that the Township may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$500,000, and the issuance of the obligations authorized herein is permitted by the exception to the debt limitation authorized by N.J.S.A. 40A:2-7(d).

(d) An aggregate amount not exceeding \$25,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

(e) This bond ordinance authorizes obligations of the Township solely for a purpose described in N.J.S.A. 40A:2-7(d). This purpose is in the public interest and is for the health,  
Cranbury Township Ordinance # 10-04-25

(Continued)

welfare, convenience or betterment of the inhabitants of the Township. The amounts to be expended for this purpose pursuant to this bond ordinance are not unreasonable or exorbitant, and the issuance of the obligations authorized by this bond ordinance will not materially impair the credit of the Township or substantially reduce its ability to pay punctually the principal of and the interest on its debts and to supply other essential public improvements and services. The Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey has heretofore made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this bond ordinance as passed upon first reading.

Section 8. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 9. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 10. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

#### Resolutions Consent

On motion offered by Mr. Mayes, seconded by Mr. Panconi, the following resolution was adopted by vote:

Ayes: (Mayes (Panconi (Stannard (Stave	Absent: (Beauregard  Abstain: (None
Nays: None	

#### Cranbury Township Resolution # R 10-04-182

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 10-04-183

WHEREAS, it is recommended that the following balances in the Ordinances listed below be cancelled:

	<u>Capital Ordinance</u>	<u>Amount</u>
10-03-13	Open Space Acquisition	\$4,000.00

NOW, THEREFORE BE IT RESOLVED that these balances be cancelled.

CERTIFICATION

I, Kathleen R. Cunningham, Clerk, hereby certify that this is a true copy of a Resolution, which was adopted by the Township Committee on October 18, 2004.

\_\_\_\_\_  
Kathleen R. Cunningham, Clerk

Cranbury Township Resolution # R 10-04-184

WHEREAS, the Tax Collector has determined, that an overpayment has been made for taxes for the 4<sup>th</sup> quarter for Block 23, Lot 108.18, in the amount of \$ 974.98,

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Cranbury that a refund be issued, in the amount of \$ 974.98 to Muhammad Mazhar Qasir.

CERTIFICATION

I, Kathleen R. Cunningham, Clerk, hereby certify that this is a true copy of a Resolution which was adopted by the Township Committee on October 18, 2004.

\_\_\_\_\_  
Kathleen R. Cunningham, Clerk

Cranbury Township Resolution # R 10-04-185

**RESOLUTION OF THE TOWNSHIP OF CRANBURY, NJ**

WHEREAS, the attached Developer's Agreement ("Agreement") between the Township of Cranbury and Cedar Brook East Corporate Center, L.P., has been reviewed by the Township Attorney and the Township Engineer and has been found to be acceptable,

NOW THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Cranbury that the Agreement be and is hereby approved; and

BE IT FURTHER RESOLVED, that the Mayor and Clerk be and are hereby authorized to execute the Agreement on behalf of the Township of Cranbury.

CERTIFICATION

I, Kathleen R. Cunningham, Clerk of the Township of Cranbury, do hereby certify that the foregoing is a true and correct copy of a resolution passed by the Township Committee of the Township of Cranbury at its meeting held on October 18, 2004.

Clerk  
\_\_\_\_\_  
Kathleen R. Cunningham,  
Cranbury Township Clerk

Cranbury Township Resolution # R 10-04-186

WHEREAS, on October 1, 2004 Robert B. Corby, Construction Official, terminated his employment with the Township of Cranbury; and

WHEREAS, pursuant to N.J.A.C. 5:23-4.3, the Township of Cranbury must appoint a Construction Official for a four-year term; and

WHEREAS, Gregory Farrington meets all of the qualifications to be appointed to the position of Construction Official to the Township of Cranbury;

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Cranbury, that Gregory Farrington be appointed as Construction Official to the Township of Cranbury, effective October 18, 2004, and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be sent to the following:

1. Department of Community Affairs
2. Chief Financial Officer
3. Township Administrator
4. Gregory Farrington

CERTIFICATION

I, Kathleen R. Cunningham, Clerk, hereby certify that this is a true copy of a Resolution, which was adopted on October 18, 2004.

\_\_\_\_\_  
Kathleen R. Cunningham, Clerk

Cranbury Township Resolution # R 10-04-187

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY that Jason Marrazzo be appointed to the position of Public Work's Employee, at an hourly rate of \$16.36, with an additional \$1.00 per hour for emergency service (fire fighter), effective October 18, 2004.

CERTIFICATION

I, Kathleen R. Cunningham, Township Clerk of the Township of Cranbury, hereby certify that this is a true copy of a Resolution which was adopted at a regular meeting on October 18, 2004.

\_\_\_\_\_  
Kathleen R. Cunningham, Clerk

Cranbury Township Resolution # R 10-04-188

**RESOLUTION OF THE TOWNSHIP OF CRANBURY, NJ**

**A RESOLUTION AUTHORIZING THE REDUCTION OF A PERFORMANCE GUARANTEE FOR FOUR SEASONS AT HISTORIC CRANBURY – PUBLIC IMPROVEMENTS**

WHEREAS, by letter dated September 10, 2004 K Hovnanian has requested the a reduction of their performance guarantee previously posted with the Township in accordance with Planning Board approval and

WHEREAS, the Township Engineer has, in a letter dated September 29, 2004 (attached hereto as "Exhibit A") recommended that the performance guarantee be reconfigured eliminating the pump station and the amount that shall be **released** is as follows:

Cranbury Township Resolution # R 10-04-188  
(Continued)

Performance Bond	\$ 64,800.00
Cash Deposit	\$ 7,200.00

WHEREAS, the amount that shall be **retained** until all bonded items are complete as follows:

Performance Bond                      \$ 832,205.55

Cash Deposit                              \$ 92,467.28

**WHEREAS, the Township Engineer has stated a \$30,000 maintenance guarantee shall be posted with the Township for a period not to exceed two (2) years and the start of the two year maintenance period for the recently installed pump station improvements shall be from the date of Hatch, Mott MacDonald's correspondence or September 29, 2004.**

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Cranbury as follows:

1. It has reviewed, agrees with and hereby accepts all recommendations of the Township Engineer as set forth in "Exhibit A".
2. It hereby authorizes the reduction of performance guarantees set forth in the Township Engineer's letter referenced above.
3. The Township hereby accepts the public improvements, if any so designated pursuant to the Planning Board's approval.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Township Clerk to be a true copy and forwarded to each of the following:

- (a) Township Engineer
- (b) Township Chief Financial Officer
- (c) K Hovnanian 110 Fieldcrest Avenue CN 7825 Edison, NJ 08816-7825
- (d) Township Attorney
- (e)

CERTIFICATION

I, Kathleen R. Cunningham do hereby certify that the foregoing is a true copy of a Resolution passed by the Township of Cranbury at a meeting duly held on October 18, 2004.

\_\_\_\_\_  
Kathleen R. Cunningham Clerk

Cranbury Township Resolution # R 10-04-193

RESOLUTION OF THE TOWNSHIP OF CRANBURY MAKING APPLICATION TO THE LOCAL  
FINANCE BOARD PURSUANT TO N.J.S.A. 40a:1-7(d)

WHEREAS, THE TOWNSHIP OF CRANBURY desires to make application to the Local Finance Board for its approval of a \$500,000/\$500,000 bond ordinance providing for the application of land for use as open space pursuant to N.J.S.A. 40A:2-7(d);

WHEREAS, THE TOWNSHIP OF CRANBURY believes that:

- (a) it is in the public interest to accomplish such purpose;
- (b) said purpose if for the health, welfare, convenience or betterment of  
the inhabitants of the Township;  
Cranbury Township Resolution # R 10-04-193  
(Continued)
- (c) the amounts to be expended for said purpose or improvements are not unreasonable;

(d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Township and will not create an undue financial burden to be placed upon the Township;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY AS FOLLOWS:

Section 1. The application to the Local Finance Board is hereby approved, and the Township's Bond Counsel, along with other representatives of the Township, are hereby authorized to prepare such application and to represent the Township in matters pertaining thereto.

#### CERTIFICATION

I, Kathleen R. Cunningham, Clerk, hereby certify that this is a true copy of a Resolution which was adopted on October 18, 2004.

\_\_\_\_\_  
Kathleen R. Cunningham, Clerk

#### Work Session

Ms. Beauregard did not participate in the following discussions:

a. Bid Acceptance for Barclay

Cranbury Township conducted a restricted farmland auction on 7 October 2004 in which the Barclay Farm (183 acres) Block 25, Lot 19.01 and Block 23, Lot 12.01 was sold during a public auction. Ms. Stave indicated the members of the Township Committee had received, on their desks this evening, a letter from Capehart Scatchard (see page 8A), representing Mr. and Mrs. Arthur Danser, the highest bidder for this parcel, concerning procedural irregularities associated with the auction. Ms. Stave indicated she could not make a decision to accept the bid without having a thorough review of the letter and counsel. Ms. Stave recommended the Township Committee table the Resolution until the meeting next week, October 25, 2004, however Ms. Stave recommended the Township allow the Township Attorney, Ms. Waterbury speak to what transpired and the reasons that were behind the decisions made and also to hear the public sentiment. Mayor Stannard indicated he did not have a problem with this and asked the Township Attorney if this would affect having the closing for this parcel by the end of this year. Ms. Waterbury indicated it would not, as in the bid packages it was indicated that the Township Committee had until the second regularly scheduled meeting after the auction to award the bid so the Township Committee could delay taking action until the next meeting, October 25, 2004. Ms. Waterbury also indicated she had not had

a chance to read the letter, but Mr. Danser did make an objection on the record that the Township Committee had not formerly authorized an extension of the deadline for the receipt of applications to qualify as a bidder. Ms. Waterbury then gave a brief chronology of the auction process and the Addendum pertaining to the easement with the house and the subsequent extension of the deadline for submitting the auction applications. Ms. Waterbury indicated to the Township Committee they would have two choices: either award the bid to Mr. Danser, in the amount of \$1.9 million, which was the highest bid or reject all bids and re-auction the property. She also indicated the Township Committee

#### Work Session (Continued)

a. Bid Acceptance for Barclay

could not reform the bid. By rejecting the bid for Barclay, because the same extension was given for all three parcels, all of the bids for all the parcels would have to be re-bid.

Ms. Waterbury also indicated, realistically if the parcels were to be re-bid, the Township could not have a closing by the end of the year. Also recommended to the Township Committee was if the



parcels were to be re-bid the minimums would need to be increased to reflect the current market values.

Ms. Stave spoke, indicating the total proceeds from the various auctions would be around \$2.5 million and the Township would most likely be able to close on these properties this year. This money would be spendable in the new year and used for reducing the debt. Ms. Stave indicated whatever decision the Township Committee made, would have to be made with the understanding that the \$2.5 million debt would be held for at least another year, assuming that the property could not be re-auctioned this year. Ms. Stave asked the Township Attorney if the Township would be legally obliged to change the minimum

bids to reflect the market value. Ms. Waterbury indicated under the law, the Township could set whatever minimum bid they decided. Ms. Stave asked the Township Engineer, Ms. Marcelli, in her experience in bidding, had she ever had an instance where she had to extend the deadline and did she ever have to come to the Township to do so. Ms. Marcelli indicated that she had done so on many occasions; when it was more advantageous to get more bidders and, in particular, because of there had been an addendum issued. Under local Public Contracts law she was required to extend the deadline and in those instances, Ms. Marcelli did not go back to the Township Committee to get the deadline extended.

Mr. Mayes asked to review on the three parcels the number of qualified bidders the Township had by both the original and extended deadline. In particular, how did the number change on each deadline. Mr. Carr responded on Barclay North, there was one qualified bidder on October 1, 2004 and two qualified bidders on October 6<sup>th</sup>. On Wright North there were no qualified bidders on the 1<sup>st</sup> and one came in the 6<sup>th</sup>. On Wright South parcel there was one qualified bidder on the 1<sup>st</sup> and after that date, two or three qualified bidders came in.

Ms. Stave asked when the change was posted on the internet. Mr. Carr responded the Addendum had been posted on the internet, posted on the bulletin board at Town Hall, sent to The Cranbury Press for publication for Friday, as well as the Trenton Times on Tuesday, September 28, 2004. A copy was also given to the Cranbury Public Library. Copies were mailed to everyone who had submitted a bid package and picked up an application. Mr. Carr indicated in addition, the S.A.D.C. had provided the Township space on their website.

Mr. Mayes asked Mr. Carr, in his judgment, or the Township Attorney's judgment, would there have been any way that a person could have known that on the original date that these facts existed—that there was just one bidder, or no bidders or one bidder. Mr. Carr indicated that the Township established airtight controls over who picked up the bid packets. Any one who wanted a bid packet was sent to him or the Clerk. The person listed their name and what bid packet they wished to have. The information was then locked in a fire proof safe. When they brought in their completed application with a check, they were then assigned a bid number. This information was also locked in the safe and kept confidential. The only two individuals who knew who submitted bids on the properties were Mr. Carr, Township Administrator and Ms. Cunningham, Clerk. Mr. Carr indicated there was no way of accounting who may have gone to the internet and downloaded the information. Mr. Mayes then asked over what period of time the

#### Work Session (Continued)

- a. Bid Acceptance for Barclay  
property was advertised, prior to the first date of October 1, 2004. Mr. Carr indicated one month. Mr. Carr also indicated it was advertised in The New Jersey Farmer and the Pennsylvania Farmer, recommended by the S.A.D.C. Also sent out, using the S.A.D.C.'s mailing list, a tri-fold flyer to about 1,100 addressees.

Mr. Mayes stated he was actually troubled by how little interest existed in the auction by the first deadline of October 1<sup>st</sup>, as there were only two bidders for two parcels, which was advertised for a month or more. As we go forward as a Township Committee and

purchase open space and auction it, we should keep in mind you could argue that this process is a lot more fragile than it looks, it would have been nice to have a half dozen bidders show up on each parcel--what we had was very little limited interest. Mr. Mayes indicated whether or not the market value is representative of what happened is unclear to him.

Ms. Waterbury indicated she has heard bidders sometimes wait until the last moment to submit their packages, so no one will know they are bidding on the parcels. It could be the reason applications were submitted after the 1<sup>st</sup> was because the extension had been posted on the internet for several days (September 28, 2004) and waited until after the 1<sup>st</sup> of October to submit their bid packages.

Ms. Stave asked the Ms. Waterbury, Township Attorney, to describe how much money had to be put down for each parcel. Ms. Waterbury indicated a required \$25,000 deposit on Wright North, a deposit of \$50,000 on Barclay and a \$7,500 deposit on Wright South. If someone was going to bid on behalf of the applicant, an authorization had to be submitted with the application. Upon receipt of an application and check, a bidder was assigned a bidder number to be used at the auction.

Mayor Stannard then asked for comments from the public:

Mr. Robert J. Hagerty, Esquire, from the law firm of Capehart Scatchard, representing the Dansers in this matter, addressed the Township Committee. Mr. Hagerty indicated he had set forth three different reasons in his letter for the objections by Mr. Danser and, assuming the letter is part of the record, there was no need to review them. He wanted to make it clear that the issue is not that narrow. Mr. Hagerty indicated on behalf of his client, he had to take exception to the notion, that if there is a rebid of the parcel, the minimum price should not be set at \$1.9 million and suggested to the Township Committee if they should choose to re-auction this property, the original price set by the Township Committee was appropriate and fair and if the market truly does bear \$1.9 million price then we will find that out in the next auction.

Mr. Arthur Danser, 147 Plainsboro Road (Barclay South Farm) addressed the Township Committee. Mr. Danser indicated he wanted to make sure the statement he made before the auction was correct and on the record. Mr. Danser indicated the statement he had made was the extension of the deadline to qualify the bidder was improper and was done without any action by the Township Committee. That being the case, he believed anyone who was not qualified as a bidder before last Friday's original deadline (October 1, 2004) was not a properly qualified bidder and should not be eligible to participate in the auction. Mr. Danser gave a history of the Danser family's history and service to Cranbury Township. Mr. Danser also stated the bid packages contents had been approved by the Township Committee by resolution, including all the regulations required for any one who wished to bid. There was also information there would be two farm tours, one on September 10<sup>th</sup> and one on September 24<sup>th</sup>. Mr. Danser indicated, at the September 24<sup>th</sup> tour, Mr. Carr, Township Administrator made an announcement the Work Session (Continued)

a. Bid Acceptance for Barclay

deadline was October 1, 2004 and the auction would take place on October 7, 2004. Mr. Carr stated there were no exceptions; if someone came into the office at 12:05 on October 1, 2004, their bid application would not be accepted. The Mayor, the Township Attorney and Kathy Kovach, C.F.O. were there as well. Mr. Danser referenced a historic preservation easement on the house in the bid packet, which was to go to the State Department of Environmental Protection. The State ended up declining the easement, after doing an inspection, due to some structural problems with the house. The Township then decided they would keep the easement and it would be regulated by the Township and the Historic Preservation Advisory Committee. This issue came up at the Township Committee Meeting of September 27, 2004 and the Township Committee agreed to taking over the easement. At that meeting, nothing was mentioned about extending the deadline for application to bid. The notice of the Addendum went out on Tuesday, September 28,

2004 and Mr. Danser indicated he did not understand why this extension was not brought up at the meeting the evening before. Mr. Danser stated he did not feel this was proper procedure, as it did not have the Township Committee's approval. Mr. Danser also mentioned in the bid packet, it was specifically mentioned, any bidder who qualified by the October 1<sup>st</sup> deadline would be notified by the Township Committee, by the end of the day on October 4<sup>th</sup>, either by fax or by mail and extending the deadline

to October 6, 2004 made that impossible to happen. Mr. Danser stated it was his contention he made the original bid of \$1.2 million and after that he bid up, only to protect his interests because later on if the Courts decided the extension was legal, and the other bidder was a qualified bidder, Mr. Danser would have been "out in the cold".

Mr. Alan Danser, 60 Petty Road, spoke. Mr. Danser stated the Township Committee had worked very long and deliberately to establish all the terms and conditions for the sale of the three parcels. Mr. Danser referenced the change in the easement and mentioned it had not been done by resolution, but by motion by the Township Committee. Mr. Danser indicated he could come up with no reason for extending the deadline for the other two properties and indicated when he received the letter extending the deadline he went immediately to Town Hall to see Mr. Carr, Township Administrator to let him know that he could not extend the deadline. Mr. Danser indicated it was improper for the deadline to have been changed without Township Committee action.

Mr. John Ritter, Plainsboro Road expressed his concern if the Township Committee should decide to re-bid, everyone who bid this auction now has the intelligence as to the high price and the number of bidders. If the Township does not raise the minimum, that could be to the Township's disadvantage.

Ms. Stave spoke, indicating the reason why the Township Committee changed the agreement with the State on the historic easement had more to do with the structural integrity of the house than who would own the easement. She indicated it did make a difference because when the State came out and examined the house and found it was

damaged by termites, they asked the Township to write into the easement, permission for the future owner to have the ability to tear the house down if structurally it could not be repaired. To anyone who is buying a house, that makes a big difference as to whether you would have to live with that house as it is forever and try to maintain that house or

if you were a land speculator, it might be more attractive to tear the house down providing you have the right to do that. Ms. Stave also indicated she believed this was a substantive change.

Mr. David Cook, North Main Street spoke in support of the Danser family. He indicated it was not just about money, but about a long-standing family in the community and the deadline of October 1, 2004 should have been the deadline.

Work Session (Continued)

a. Bid Acceptance for Barclay

Connie Bauder, 57 Petty Road spoke concerning her and her husband being one of the bidders on the Wright South parcel. Ms. Bauder indicated they had the application and money ready to submit when they received the letter in the mail extending the deadline. She indicated had the Township not mailed out the letter extending the deadline they would have deposited it by the original date. Ms. Bauder also raised her concern over the Wright South property information in the packet did not disclose the arsenic levels being above the residential clean up levels on that property. Having attended Township Committee meetings in the past, Ms. Bauder indicated she had knowledge of the arsenic levels and this affected her and her husband's decision on how high they wished to bid on the property. Ms. Bauder mentioned she had brought the arsenic issue up at a Township Committee meeting in the past and due to New Jersey having a real estate disclosure law, anything impacting the value of a property, must be disclosed by the seller and made the Township Committee aware they had responsibilities to disclose that information and did not find any information relating to the

arsenic in the bid packet for the Wright South parcel. Ms. Bauder also referenced the minimum bid being \$500,000 and when the auctioneer started at \$700,000 and to have had a bidder who was going to pay that and to go back to that bidder and ask if he would take it for \$500,000 also showed an irregularity. Ms. Bauder mentioned she had attended many auctions in other towns and the unsuccessful bidders' checks were always returned right away. Cranbury had not returned her and her husband's check. Ms. Bauder indicated there were too many negatives with the parcels, such as not being able to build a house on the one parcel and not providing water to the parcel; not attracting individuals to bid. Ms. Bauder asked the Township Committee to give some of these issues consideration.

Ms. Stave responded to Ms. Bauder in reference to house options on Wright North and South--the issue of not being able to build a house on the parcels. Ms. Stave indicated those properties were acquired and the Township was reimbursed by the State and once the deed has been restricted you cannot go back and apply to the State or County to put a house option on it. It was an option on Barclay North when the Township pulled the application from the County in order to preserve the stream corridor and then found the opportunity, because the Township had not yet deed restricted the property with the opportunity to consider that option. With the two parcels referred to by Ms. Bauder, the Township did not have the option of doing that. In reference to the arsenic on the Wright South parcel, Ms. Stave responded if the testing results had been in the packets, it could have discouraged individuals from bidding. Ms. Waterbury, Township Attorney, indicated she believed that in the packet it was mentioned that soil samples had been taken and the results were available for inspection to the public and that was certainly complying with the requirements.

Mr. Carr responded to Ms. Bauder's complaint, concerning the bid for the Wright North starting at \$700,000. Mr. Carr indicated the auctioneer had made an error and that is why he re-started the bid at \$500,000. The minimum bid for that parcel was to be \$500,000 and that is what was advertised and in the bid packet. As it turned out, there was only one bidder and he bid the \$500,000 and there was no higher bidder.

Joan Rue, Cranbury Neck Road, asked about the advertisement of the change. She asked why the change was not advertised in The Trenton Times and also asked who would oversee the house could no longer be repaired and the owner could take it down.

Ms. Waterbury responded to Ms. Rue indicating it would be up to the Township Committee whether or not the home could be torn down.

#### Work Session (Continued)

##### a. Bid Acceptance for Barclay

Mayor Stannard indicated it was advertised in The Trenton Times and The Cranbury Press is the official newspaper of the Township.

Ms. Waterbury indicated she had glanced over Mr. Hagerty's letter and he raised a valid point, and she concurred with him, in that the Township Committee, not only needed to look at the dollars and cents issue, but also needed to look at the public's perception of what had taken place and public's perception of fairness and openness in the process. Ms. Waterbury indicated to the Township Committee they had two options: to either

sustain the actions which took place and award the high bid to Mr. Danser and to the other bidders on the Wright South and North property or decide to hold the auction over again and perhaps makes changes which were suggested, in light of some of the issues that were identified. Ms. Waterbury indicated the Township Committee could not throw out some of the bids, either throw them all out or take the high bid.

Mr. David Cook, North Main Street, asked Mr. Hagerty if Ms. Waterbury's interpretation was correct. Mr. Hagerty indicated the interpretation was correct, either throw all of the bids out and re-bid or take the high bid.

Mayor Stannard spoke, applauding the work done by the Township's professionals and Township Committee members in trying to run this auction as fair and open as possible.

Mr. Mayes stated the Township Committee had gone to great lengths over many meetings, to make sure that the Township utilized the process that was fair and open and public so there would be no one second-guessing after the fact and the irony is that exactly what the Township tried to avoid happening has happened. Mr. Mayes stated for the record, the extension which was made was not made by the Township Committee and he would have preferred it had come to the Township Committee. Mr. Mayes indicated he felt strongly, once a process which was laid out over a long period of time had been established, it was extremely dangerous and potentially unfair to change the process. Mr. Mayes asked if the process was extended and that extension was unauthorized, what would be the flaw in having the Township Committee say any bids which were submitted after the unauthorized extension are not valid bids. Ms. Waterbury responded that under the Statute, there was no law which would allow the Township to do that; it would be illegal. Mr. Hagerty responded he wished the Township Committee could find a way that the action taken by the Administrator was not valid and therefore would only accept bids taken before October 1, 2004, however, Mr. Hagerty indicated that would invite a host of criticisms identical to the criticisms set forth in his letter to the Township Committee. Mr. Mayes also asked if the Township Committee were to proceed, at a later date, to award the bid to the highest bidder, Mr. Danser, what are Mr. Danser's options? Ms. Waterbury indicated without having had time to research the answer, he had none, if the Township Committee awarded him the bid, he would have to go through with it. Mr. Mayes asked if there was not any controversy over the bid and the Township had three top bids on three parcels, are each of the bidders required to perform and not be able to change their decision? Ms. Waterbury responded the individual would be breaching a contract, the Township could go after the individual for damages—it would be the Township's call to make. Mr. Mayes then asked if the Township Committee were to decide to re-bid the auction, are there any concerns about the quality or number of the bids the Township would receive at a new auction. Ms. Waterbury responded it would be anyone's guess as to whether the Township would get more or fewer bids and as long as all the noticing requirements were complied with and all three properties were marketed as aggressively as feasible, there should not be an issue of fewer bids.

#### Work Session (Continued)

##### a. Bid Acceptance for Barclay

Mr. Danser spoke, indicating as he stated before the auction began, he had disagreed with the procedure and the extension was improper and he felt that anyone who had submitted their application after the October 1<sup>st</sup> deadline, was not qualified to bid. As far as Mr. Danser was concerned his bid of \$1.2 million was the only bid that was qualified as the other bidder had not submitted his application and bid by the original deadline of October 1, 2004.

Mr. Hagerty spoke, indicating he disagreed with Ms. Waterbury in reference to Mr. Danser being compelled to purchase the property for \$1.9 million.

Mayor Stannard spoke, indicating it seemed inappropriate to take a vote on this issue at this meeting. Mayor Stannard indicated he would like to digest some of the information this evening and asked for the other members' decisions. Mr. Mayes indicated he would like to wait and also defer a decision on the other parcels as well.

Mr. David Smith, the highest bidder for the Wright South parcel spoke, indicating that he would claim a hardship, should he not be allowed to be the highest bidder for the parcel.

Ms. Waterbury responded the Township Committee reserves the right, if they should decide not to take the highest bidder, to reject all bids.

Ms. Judy Dossin, Wynnewood Drive addressed the Township Committee and asked when the discussion came up concerning the easement on the house for the Barclay parcel, did the Township Committee discuss a need for extending the deadline. Ms. Stave responded : The Township Committee did not discuss extending the deadline at the September 27, 2004 meeting, nor were they informed when the extension was made, and were not involved in that decision at any point.

Mr. Hagerty addressed the Township Committee, stating he wanted to make it clear, he and his client were not challenging the awarding of the bids for Wright North and South and the Township Committee could award those two bids, without affecting their challenge for the Barclay parcel.

Ms. Stave and Mr. Panconi also indicated they wish to defer the decision until the next meeting on October 25, 2004.

Mr. Danser addressed the Township Committee stating he had not realized the notice had appeared in the Trenton Times and that being the case, had given an applicant adequate time to submit his/her bid application and check by October 1, 2004.

Ms. Bauder spoke and requested the Township Committee to vote to release the checks to the unsuccessful bidders.

Mayor Stannard indicated the checks would be returned to the unsuccessful bidders.

Ms. Beauregard returned to the meeting.

b. Public Hearing Comcast Renewal

The Township Committee conducted a public hearing on Comcast of Central Jersey, Inc.'s Application for Renewal of Municipal Consent to Construct, Upgrade and Operate a Cable Television Franchise in the Township of Cranbury. Mr. Rob Clifton, Area Director for Government and Community Affairs for Comcast Cable was sworn in by Lisa Randazzese, Esquire and then addressed the Township Committee. Bonnie

Work Session (Continued)

b. Public Hearing Comcast Renewal

Larson, Chairperson of the Citizen's Committee on Cable Television, was sworn in by Lisa Randazzese, Esquire and then spoke, giving the Township Committee background on meetings that have been held by the Sub Committee as well as Mr. Sandy Kerzner of Kerzner Associates. Mr. Kerzner indicated that he has been requesting cable service for quite some time for his tenants and has been repeatedly told by Comcast that it will cost him a lot of money to run the service. The Sub Committee indicated to Mr. Kerzner

they would look into the problem he had been having. {SEE ADDENDUM TO MINUTES: COMCAST HEARING TRANSCRIPT.}

Ms. Dossin, Wynnewood Drive, mentioned the sidewalk apron being cracked on the West Property, as well as the gravel being pushed onto the roadway. Mr. Carr responded the school will be taking care of this as part of their agreement with the Township concerning use of the West property during construction of the school addition.

c. Proposed Township Committee Meeting Schedule 2005

The Township Committee discussed the proposed Township meeting schedule for 2005. Ms. Stave asked the Clerk to call other towns and do a survey on how many times a month they meet and what time. Ms. Stave made a motion, seconded by Mr. Panconi and unanimously carried, to meet twice a month, the second and fourth Monday. Ms. Cunningham will call ten towns. This matter was tabled until the next meeting.

d. Memo From Fire Official, Requesting A Vehicle

Mr. Panconi asked who was notifying Mr. Seip, Fire Official, the decision not to purchase a fire vehicle for him. Mr. Carr will give Mr. Seip a copy of the memo from the Township Attorney addressing this issue.

Public Comment

The Mayor opened the meeting to public questions and comments on those items not on the agenda. There being no comments, the Mayor closed the public part of the meeting.

Mayor's Notes

a. Holiday Party - 15 December 2004

The Township Committee discussed the Holiday Party at the Holiday Inn at  
Exit 8A.

Resolution

On motion offered by Ms. Stave, seconded by Mr. Mayes, the following resolution was adopted by vote:

Ayes: (Beauregard  
(Mayes  
(Panconi  
(Stannard  
(Stave

Absent: (None

Abstain: (None

Nays: None

Cranbury Township Resolution # R 10-04-181

Township of Cranbury  
County of Middlesex

RESOLUTION TO CLOSE MEETING TO THE PUBLIC  
Cranbury Township Resolution # R 10-04-181  
(Continued)

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

The Township Committee will now convene in a closed session that will be limited only to consideration of items with respect to which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act, P.L. 1975, c. 231.

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

----Personnel: Police Chief Update of Police Department

----Closed Session Committee Minutes of September 27, 2004

2. 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.

Date: October 18, 2004

On motion by Ms. Stave, seconded by Mr. Panconi and unanimously carried, the meeting returned to Open Session:

Ayes:	(Beauregard	Absent: (None
	(Mayes	Abstain: (None
	(Panconi	
	(Stannard	
	(Stave	

Nays: (None

Ms. Beauregard did not participate in the following discussion:

Ms. Stave asked the Township Attorney for an interpretation of Mr. Hagerty's (the attorney representing Mr. Danser) letter and Mr. Hagerty's intimation that if the Township Committee votes to accept the bid, they would take a further action. Ms. Stave indicated the Township Committee needed to know what the range of possibilities for further action are. Ms. Waterbury responded Mr. Hagerty could go to court and challenge the legality of the auction and were he to be successful, the remedy would be for the judge to invalidate the auction and have it re-done. Mr. Panconi asked if all three auctions would have to be re-done. Ms. Waterbury responded it would depend on the basis the judge invalidates the auction. Mr. Panconi requested Ms. Waterbury to review Mr. Hagerty's letter and let the Township Committee know if the issue is just with the extended deadline or other issues. Ms. Waterbury will let the Township Committee know before the next meeting. The Township Committee discussed the possibility of re-bidding and the process, dates to facilitate the bids, etc.

Mr. Carr provided the Township Committee with a sample sign to be placed at the construction site of the new police station. The Township Committee unanimously made a decision not to have their names on the sign.

On motion by Ms. Stave, seconded by Mr. Panconi, and unanimously carried, the Closed Session Minutes of September 27, 2004 were adopted.

On motion by Ms. Beauregard, seconded by Mr. Panconi and unanimously carried, the meeting adjourned at 10:45 p.m.

---

Kathleen R. Cunningham, Clerk