



<i>Resolution #080062 - Authorizing the Issuance of a Limousine License to Cedars Limousine Service, Inc., Mojgan Abousleiman .....</i>	<i>14</i>
RESOLUTION #080066 - APPOINTMENT OF TODD EDELSTEIN TO THE FIRE SAFETY FORUM .....	15
ORDINANCE #1998 - ACCEPTING A STREAM BUFFER CONSERVATION EASEMENT ON BLOCK 133, LOT 9.01, FROM J. JOSEPH AND JENNIFER CAMBRIA TO THE TOWNSHIP OF BERNARDS – INTRODUCTION .....	15
ORDINANCE #1999 - AN ORDINANCE OF THE TOWNSHIP OF BERNARDS, COUNTY OF SOMERSET, STATE OF NEW JERSEY, AMENDING, REVISING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF BERNARDS, CHAPTER 21, “LAND DEVELOPMENT”, CONCERNING LOT WIDTH – INTRODUCTION .....	16
ORDINANCE #2000 - AN ORDINANCE OF THE TOWNSHIP OF BERNARDS, COUNTY OF SOMERSET, STATE OF NEW JERSEY, AMENDING, REVISING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF BERNARDS, CHAPTER 21, “REVISED LAND USE ORDINANCES”, ARTICLE IV “ZONING”, SECTION 21-11 “NONCONFORMING USES AND STRUCTURES” - INTRODUCTION .....	17
ORDINANCE #2001 - AN ORDINANCE AMENDING CHAPTER IV ENTITLED “GENERAL LICENSING”, SECTION 4-9 ENTITLED “QUARRYING” OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF BERNARDS, TO AMEND SUBSECTIONS 4-9.4 ENTITLED “APPLICATION FOR LICENSE”, 4-9.7 ENTITLED “FEES”, 4-9.8 ENTITLED “QUARRY INSPECTIONS” AND 4-9.9 ENTITLED “REGULATION OF OPERATION” – INTRODUCTION .....	18
RESOLUTION #080069 - A RESOLUTION OF THE BERNARDS TOWNSHIP COMMITTEE ADOPTING PROCEDURES FOR THE PAY FOR PERFORMANCE PROGRAM .....	24
<b>PUBLIC COMMENT .....</b>	<b>28</b>
<b>EXECUTIVE SESSION (CONTINUATION OF EARLIER SESSION, IF REQUIRED) ...</b>	<b>28</b>
<b>ADJOURNMENT .....</b>	<b>28</b>

## CALL TO ORDER

The mayor called the meeting to order at 7:30 PM. Those assembled saluted the flag and the mayor read the open public meetings statement in accordance with the law.

## ROLL CALL

Present: Kelly, Malay, Pavlini (7:37), Spitzer, Carpenter

Absent:

Also Present: CFO/Administrator McArthur, Engineer/Planner Messina, Attorney Belardo, Municipal Clerk/Asst. Admin. Szabo

## EXECUTIVE SESSION – [Resolution #080063](#)

Motion by Malay, second by Kelly, and unanimously agreed that Resolution #080663 be amended to include a discussion on farmland preservation, and that the amended resolution be adopted. The meeting temporarily adjourned to executive session at 7:32 PM.

**WHEREAS**, Section 8 of the Open Public Meetings Act, Chapter 231 P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

**WHEREAS**, this public body is of the opinion that such circumstances presently exist.

**NOW THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Bernards, County of Somerset, State of New Jersey, as follows:

1. The public shall be excluded from discussion of an action upon the specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:
  - Personnel Matters
    - Pay for Performance
    - Administrator's Review
  - Contract Negotiation
    - Labor Negotiations
  - Land Acquisition
    - Block 150, Lots 1, 2.01, 3.01, 5.01 (Winters)
    - Farmland Preservation
3. It is anticipated that the minutes on the subject matters of the closed session will be made public upon conclusion, dismissal or settlement of litigation; or final resolution of agreements on personnel matters; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and 4-13.
4. The committee will come back into open session and may take further action.
5. This resolution shall take effect immediately.

The meeting resumed in open session at 8:28 PM.

## AMEND AGENDA

Motion by Malay, second by Pavlini, to amend the agenda to include Resolution #080069, "Adopting Procedures for the Pay for Performance Program."

Roll Call:

Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter

Nay:

Abstain:

Motion carried.

## **MINUTES**

[01/02/2008](#) – *Reorganization Meeting – Open Session*

By unanimous consent, these minutes were approved for content and release.

## **FIRE & RESCUE APPOINTMENTS**

[Resolution #080067](#) - *Appointment to Membership in Township of Bernards Volunteer, Liberty Corner First Aid Squad, Inc., Karen F. Szarek*

Motion by Kelly, second by Pavlini, to approve Resolution #080667.

Roll Call:

Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter

Nay:

Abstain:

Motion carried.

**WHEREAS**, § 2-16.1 of the Revised General Ordinances of the Township of Bernards, there shall be a first aid department known as the "Township of Bernards First Aid and Emergency Department" consisting of the First Aid Squad of the Basking Ridge Fire Company No. 1 and the Liberty Corner First Aid Squad, Inc.,

**WHEREAS**, Karen F. Szarek, 33 Monarch Circle, Basking Ridge, NJ. has been recommended by the Liberty Corner First Aid Squad, Inc. for appointment,

**NOW THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Bernards that the applicant is hereby appointed as a member of the Liberty Corner First Aid Squad, Inc. effective this date.

## **CORRESPONDENCE**

[NJDOT's request for Noise Waiver](#)

The NJDOT has scheduled bridge deck preventive maintenance including deck patching, joint repairs, header reconstruction, crack repairs, and applying a corrosion inhibitor on the following bridges in Bernards Township: Mine Brook Road over I-287, Annin Road over I-287, Washington Ave. over Route I-287, Madisonville Road over I-287, N. Maple Ave. over I-287 NB, and N. Maple Ave. over I-287 SB.

The duration of the work on each of the bridges will be approximately 5 minimum to 10 maximum working days per site. This number varies with the amount of deck repair necessary. They anticipate the contract to be bid in April 2008, with construction starting in June and ending in December 2008.

The clerk was directed to prepare a resolution authorizing weekday hours of 7 AM – 10 PM, (with no loud noise such as jackhammers after 7 PM), Saturday 8 AM – 5 PM, no construction activity on Sunday, and nighttime work only in extreme emergencies.

## REPORTS

### *EDC Rate Hearing*

Attorney Belardo recused himself and left the dais.

Malay and McArthur attended the rate hearing held on 1/14/08. They reported on the hearing.

- Approximately 125 members of the public in attendance
- Reps from Ratepayer Public Advocate, EDC Attorneys, BPU Accountant, stenographer, and Judge Braswell in attendance
- Attorney Murray Bevins representing Bedminster presented (Bernards is paying 31.5% of cost of this representation)
- 3 members of Bedminster TC there (Payne, Holtaway, Rubin)
- Public comment lasted approximately 1.5 hours (more Bedminster residents than Bernards participated); main topics:
  - Long-term exorbitant rates (especially when compared to neighboring authorities - Bernards Township, and Bridgewater mentioned)
  - Rates need to get away from flat based, and move to use based (long term complaint with no progress made)
  - HDC / EDC corporate activity
  - Forensic audit recommended
  - EDC accounting

The process now moves into hearing dates in Hon. Walter Braswell's courtroom in Newark. Dates scheduled: March 28 and 31, April 15, and May 1 and 2.

EDC last had a rate increase in 2005. They are seeking a 10.4% increase on residents in the BT section of Hills as follows:

Single family rise to \$77.28/month (\$927.36/year)

Condos/Townhouses rise to \$64.37/month (\$772.44/year)

### *Princeton Hydro, Quarry Fill*

Stephen Souza of Princeton Hydro was present. The committee reviewed a report prepared by Princeton Hydro dated 1/4/08 regarding results from November sampling.

A sample taken on 11/15/07, and subsequently tested detected concentrations in excess of the most stringent NJDEP soil cleanup criteria. The PH report provides their take on this sampling.

After the lab work was complete, and these results were communicated to the Township the following steps were taken: Township counsel notified, Quarry notified in writing

Quarry is researching all loads which came from this source. The Quarry had begun a process prior to 11/15/08 that quarantined all loads tested by PH. Therefore the offending load was not blended into the slope reduction project.

Souza proposed an increase of monitoring. They propose inspecting about 20% of trucks on the site.

Souza emphasized that these contaminants are very common within developed areas and have a relatively high persistency in soils with low mobility. Therefore, while they tend to degrade very slowly (or in the case of metals, not at all), they have a high affinity for the fine grained soils that they are associated with, and as such, do not easily migrate.

**PUBLIC COMMENT**

John Crane, Decker Street, Basking Ridge, asked that Ordinance #2000 be removed from the agenda this evening for a work session discussion.

**TOWNSHIP COMMITTEE/STAFF COMMENTS**

Committee and staff members reported on their recent activities.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

*Consent Agenda*

The items listed within the consent agenda portion of the meeting have been referred to the Township Committee for reading and study, a copy placed on the bulletin board of the meeting room and are considered routine and will be enacted by one motion of the Township Committee with no separate discussion. If separate discussion is required, the item may be removed from the agenda by township committee action and placed on the regular agenda under new business.

Motion by Pavlini, second by Kelly, to remove Resolution #080662 from the consent agenda and to approve the balance.

Roll Call:

Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter

Nay:

Abstain:

Motion carried.

*\*\*Begin Consent Agenda\*\**

Resolution #080064 - Approval of the Bill List Dated 01/15/2008

**BE IT RESOLVED**, that the bill list dated 01/15/2008 be audited, and if found correct, be paid.

01/15/08  
Page No: 1  
12:39:43

TOWNSHIP OF BERNARDS

Check Register By Check Date

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Range of Checking Accts: CASH - CHECKING to CASH - CHECKING Range of Check Dates: 01/15/08 to 01/15/08  
Report Type: All Checks Report Format: Super Condensed Check  
Type: Computer & Manual  
=====

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void	Ref Number
CASH - CHECKING					
65885	01/15/08	Alignment Check		VOID	
65886	01/15/08	90090 MOTT, DENNIS	53.03		887
65887	01/15/08	90128 SZABO, DENISE	62.57		887
65888	01/15/08	90225 LEOPOLD, MARK	162.00		887
65889	01/15/08	90380 HELMSTETTER, MEGAN	54.24		887
65890	01/15/08	90393 SICLARE, ANN MARIE	44.48		887
65891	01/15/08	90395 NERI, MARK	350.64		887
65892	01/15/08	A0028 AMERICAN PUBLIC WORKS ASSN.	296.00		887
65893	01/15/08	A0033 APPRAISAL INSTITUTE	900.00		887
65894	01/15/08	A0059 AMERICAN PLANNING ASSOCIATION	838.00		887
65895	01/15/08	A0060 ANJEC	330.00		887

65896	01/15/08	A0168	ALLIED OIL COMPANY, LLC	68,314.24	887
65897	01/15/08	A0174	ALL SPORTS	4,618.15	887
65898	01/15/08	A0180	AMERICAN LIBRARY ASSOCIATION	220.00	887
65899	01/15/08	A0232	ARROW ELEVATOR, INC.	200.00	887
65900	01/15/08	A0250	AMBASSADOR MEDICAL SERVICES	257.00	887
65901	01/15/08	A0327	ACCURINT	56.50	887
65902	01/15/08	A0330	ANDY MATT, INC.	6,857.00	887
65903	01/15/08	A0375	ARAMARK WORK APPAREL & UNIFORM	183.20	887
65904	01/15/08	A0398	ABSO	325.00	887
65905	01/15/08	B0001	BAKER & TAYLOR, INC.	3,354.44	887
65906	01/15/08	B0003	BAKERS AUTO PARTS, INC.	27.53	887
65907	01/15/08	B0010	BITAR ESQ., THOMAS J.	6,332.68	887
65908	01/15/08	B0020	BASKING RIDGE ELECTRIC CO., INC	8,485.50	887
65909	01/15/08	B0026	BERNARDS TOWNSHIP CURRENT	57,837.01	887
65910	01/15/08	B0028	BERNARDS TWP. SEWERAGE AUTH.	4,680.00	887
65911	01/15/08	B0034	BERNARDS TOWNSHIP PAYROLL ACCT	481,063.72	887
65912	01/15/08	B0145	BASKING RIDGE GARDEN CLUB	312.95	887
65913	01/15/08	B0203	DIFRANCESCO, BATEMAN, COLEY,	11,716.48	887
65914	01/15/08	B0266	BETHEL RIDGE CORP.	500.00	887
65915	01/15/08	B0311	BOBCAT OF CENTRAL JERSEY	741.84	887
65916	01/15/08	B0386	BWI	87.90	887
65917	01/15/08	B0461	BAURKOT, DANIEL	165.00	887
65918	01/15/08	B0524	BOWERBANK, SARAH	100.00	887
65919	01/15/08	C0003	CASCADE TREE SERVICE	3,462.50	887
65920	01/15/08	C0024	COURIER NEWS	44.75	887
65921	01/15/08	C0026	CREATIVE VISUAL SYSTEMS	2,045.90	887
65922	01/15/08	C0028	CY DRAKE LOCKSMITHS, INC.	10.40	887
65923	01/15/08	C0083	CDW GOVERNMENT, INC.	5,964.81	887
65924	01/15/08	C0107	CF ASSOCIATES	375.00	887
65925	01/15/08	C0127	CHILD'S WORLD INC	666.10	887
65926	01/15/08	C0183	CUMMINS METROPOWER, INC.	223.25	887
65927	01/15/08	C0309	COPPER KETTLE DELICATESSEN	857.80	887
65928	01/15/08	C0343	COUNTY OF MORRIS TREASURER	225.00	887
65929	01/15/08	C0345	COURIER NEWS	155.11	887
65930	01/15/08	C0408	CHAMPION UNIFORM SUPPLY	1,262.50	887
65931	01/15/08	C0422	CENTRALPACK SERVICE CORP.	2,547.08	887
65932	01/15/08	C0424	CREATIVE COMPANY	688.50	887
65933	01/15/08	C0434	CENTRAL JERSEY CONSTRUCTION	3,328.18	887
65934	01/15/08	C0454	COMMUNICATIONS ADVANTAGE	55.50	887
65935	01/15/08	C0482	CABLEVISION OF RARITAN VALLEY	109.00	887
65936	01/15/08	C0492	CALEA	200.00	887
65937	01/15/08	C0530	CIT FINANCIAL SERVICES	15.00	887
65938	01/15/08	C0549	CACCAVO, MARK	453.75	887
65939	01/15/08	C0554	COVERSPORTS USA	369.70	887
65940	01/15/08	C0556	CIMAGLIA, DAVE	120.00	887
65941	01/15/08	D0009	DOMB LIGHTING & ELECTRICAL	213.90	887
65942	01/15/08	D0033	DEMCO	36.84	887
65943	01/15/08	D0063	DELUXE INTERNATIONAL TRUCKS	215.19	887
65944	01/15/08	D0083	DAILY RECORD	52.44	887
65945	01/15/08	D0223	DESIDERIO PAINTING &	6,759.00	887
65946	01/15/08	D0364	DOOLAN, MARK	135.00	887
65947	01/15/08	E0005	CULLIGAN	1,716.50	887
65948	01/15/08	E0031	E & B DISTRIBUTORS	85.00	887
65949	01/15/08	E0161	ELSEVIER SCIENCE	688.78	887
65950	01/15/08	E0185	EDWARDS TIRE COMPANY	26.90	887
65951	01/15/08	E0209	ENVIRONMENTAL EXCAVATING CO	1,815.00	887
65952	01/15/08	F0003	FOLEY, INCORPORATED	715.27	887
65953	01/15/08	F0005	UNION SECURITY INSURANCE CO.	7,563.15	887
65954	01/15/08	F0067	FERRIERO ENGINEERING, INC.	2,240.00	887
65955	01/15/08	F0090	FRED PRYOR SEMINARS	298.00	887
65956	01/15/08	F0125	FURMAN FEINER ADVERTISING	245.21	887
65957	01/15/08	F0126	FELLOWSHIP VILLAGE	1,229.50	887
65958	01/15/08	F0148	FAIRFIELD MAINTENANCE INC	611.61	887

65959	01/15/08	F0228	FIREHOUSE	49.95		887
65960	01/15/08	G0003	GALE RESEARCH	22.07		887
65961	01/15/08	G0004	GALLS, INC.	267.92		887
65962	01/15/08	G0008	GAYLORD BROTHERS INC.	50.60		887
65963	01/15/08	G0011	GEORGE SCHOFIELD CO. INC.	818.41		887
65964	01/15/08	G0066	GRAINGER INC	728.32		887
65965	01/15/08	G0081	GROLIER PUBLISHING COMPANY	289.00		887
65966	01/15/08	G0098	JCP&L	0.00	01/15/08 VOID	0
65967	01/15/08	G0098	JCP&L	0.00	01/15/08 VOID	0
65968	01/15/08	G0098	JCP&L	25,865.63		887
65969	01/15/08	G0106	GFOA OF NJ	90.00		887
65970	01/15/08	G0326	GARDEN STATE MESSENGER INC.	522.00		887
65971	01/15/08	G0351	G.H. SERVICE, INC.	290.91		887
65972	01/15/08	G0401	G & L TRANSCRIPTIONS OF NJ	27.00		887
65973	01/15/08	G0404	GREEN VALLEY CONTRACTORS, INC	5,695.00		887
65974	01/15/08	H0029	HUMPHREYS PEST CONTROL, INC.	376.32		887
65975	01/15/08	H0145	HOOP HEAVEN	2,350.00		887
65976	01/15/08	H0181	HOUSER WELDING SUPPLY	35.95		887
65977	01/15/08	H0265	HOPPER, MARIA P.	100.00		887
65978	01/15/08	I0018	INST./TRANSPORTATION ENGINEERS	270.00		887
65979	01/15/08	I0048	INTERNATIONAL SALT CO.	86,515.54		887
65980	01/15/08	I0067	INDUSTRIAL RUBBER COMPANY	65.80		887
65981	01/15/08	J0002	JAEGER LUMBER	54.95		887
65982	01/15/08	J0007	AIRGAS EAST	203.46		887
65983	01/15/08	J0080	JANSEN, BUCCO, DEBONA & SEMRAU	294.00		887
65984	01/15/08	J0123	JPC PAPER CO.	902.93		887
65985	01/15/08	L0058	LOUNSBURY EXCAVATING, INC.	2,466.75		887
65986	01/15/08	L0181	LAND'S END, INC.	1,651.80		887
65987	01/15/08	L0199	LAWYER'S DIARY & MANUAL	84.00		887
65988	01/15/08	L0201	LEXISNEXIS	191.07		887
65989	01/15/08	L0260	LANAHAN, MEGAN	100.00		887
65990	01/15/08	M0008	MILLINGTON QUARRY, INC.	381,804.86		887
65991	01/15/08	M0010	MOBILE LAWNMOWER SERVICE, INC.	552.84		887
65992	01/15/08	M0062	MARSHALL CAVENDISH CORPORATION	389.66		887
65993	01/15/08	M0248	MONMOUTH & OCEAN COUNTY TCTA	75.00		887
65994	01/15/08	M0261	M.A.I.N., INC.	14,211.08		887
65995	01/15/08	M0292	MUNCO OF NJ	50.00		887
65996	01/15/08	M0342	MORTON'S MARKETING RESOURCES	201.20		887
65997	01/15/08	M0516	MOUNTAIN LANDSCAPE CONTRACTORS	4,778.20		887
65998	01/15/08	M0546	MORATH, CHRISTOPHER & PATRICIA	86.31		887
65999	01/15/08	N0006	NEW JERSEY AMERICAN WATER CO.	0.00	01/15/08 VOID	0
66000	01/15/08	N0006	NEW JERSEY AMERICAN WATER CO.	0.00	01/15/08 VOID	0
66001	01/15/08	N0006	NEW JERSEY AMERICAN WATER CO.	1,518.74		887
66002	01/15/08	N0017	NJ STATE LEAGUE OF MUNICIPAL.	1,600.00		887
66003	01/15/08	N0019	NJSPLS SURVCON 05	505.00		887
66004	01/15/08	N0023	TREASURER, STATE OF NEW JERSEY	10,420.00		887
66005	01/15/08	N0029	NJ SOCIETY/MUNICIPAL ENGINEERS	150.00		887
66006	01/15/08	N0032	NJ STATE DEPT HEALTH/SR SVCS	7.20		887
66007	01/15/08	N0101	NEW JERSEY DEVILS	1,800.00		887
66008	01/15/08	N0118	NATURE'S CHOICE CORPORATION	1,890.00		887
66009	01/15/08	N0124	NJ HEALTH OFFICERS ASSOCIATION	200.00		887
66010	01/15/08	N0203	WEIGHTS AND MEASURES FUND	460.00		887
66011	01/15/08	N0206	NORTHWEST JERSEY T.A.A.	50.00		887
66012	01/15/08	N0322	NEXTEL COMMUNICATIONS	845.73		887
66013	01/15/08	O0021	OFFICE DEPOT	701.74		887
66014	01/15/08	O0046	OCS PRINTING	508.00		887
66015	01/15/08	O0081	OAKLEY GOVT SALES	138.32		887
66016	01/15/08	P0005	PITNEY BOWES, INC.	180.00		887
66017	01/15/08	P0014	PUBLIC SERVICE ELEC. & GAS CO	3,983.46		887
66018	01/15/08	P0035	PIZZA MILL,THE	46.50		887
66019	01/15/08	P0046	RESERVE ACCOUNT	1,664.70		887
66020	01/15/08	P0093	PUBLIC WORKS ASSOC.OF N.J.	100.00		887
66021	01/15/08	P0448	PMK GROUP	3,450.00		887

66022	01/15/08	Q0002	CINTAS CORP. - #101	221.25	887	
66023	01/15/08	Q0005	QUALITY AUTOMOTIVE CO.	24.00	887	
66024	01/15/08	R0003	RAY'S SPORT SHOP, INC.	1,484.43	887	
66025	01/15/08	R0004	RECORDED BOOKS INC.	223.85	887	
66026	01/15/08	R0005	RECORDER PUBLISHING COMPANY	536.80	887	
66027	01/15/08	R0009	REGENT BOOK COMPANY INC.	53.46	887	
66028	01/15/08	R0010	REIDER ASSOCIATES	1,945.00	887	
66029	01/15/08	R0045	RUTGERS - THE STATE UNIVERSITY	237.00	887	
66030	01/15/08	R0086	ROBERTS, ARTURO	200.00	887	
66031	01/15/08	R0281	RECREATION PETTY CASH CHECKING	105.00	887	
66032	01/15/08	R0373	RUESTERHOLZ, KEVIN	6,000.00	887	
66033	01/15/08	R0374	RICE, TATAR	12,531.08	887	
66034	01/15/08	S0009	SEELY EQUIPMENT & SUPPLY CO.	94.43	887	
66035	01/15/08	S0016	STORR TRACTOR COMPANY	1,766.79	887	
66036	01/15/08	S0036	SOMERSET COUNTY PARK COMM.	600.00	887	
66037	01/15/08	S0066	SOMERSET HILLS FLORIST	125.00	887	
66038	01/15/08	S0072	SOMERSET COUNTY GOVERNING OFF.	35.00	887	
66039	01/15/08	S0103	SOMERSET GRAIN FEED & SUPPLY	644.50	887	
66040	01/15/08	S0202	SUBURBAN PROPANE	947.65	887	
66041	01/15/08	S0302	SEMCOR EQUIPMENT CORP.	137.16	887	
66042	01/15/08	S0441	STEWART INDUSTRIES	216.24	887	
66043	01/15/08	S0443	STAPLES BUSINESS ADVANTAGE	226.86	887	
66044	01/15/08	S0508	SOUTH JERSEY ENERGY	9,916.24	887	
66045	01/15/08	S0656	STADIUM AUTO MALL SALES, INC	336.68	887	
66046	01/15/08	T0001	TAMS-WITMARK MUSIC LIBRARY, INC	90.00	887	
66047	01/15/08	T0003	ENVIROTEST LABORATORIES, INC.	2,125.00	887	
66048	01/15/08	T0029	TCTA OF NJ	150.00	887	
66049	01/15/08	T0051	TRI-COUNTY COURT ADMIN. ASSOC.	50.00	887	
66050	01/15/08	T0066	THOMSON	5,472.18	887	
66051	01/15/08	T0074	TREASURER - STATE OF N.J.	350.00	887	
66052	01/15/08	T0087	TOTAL MEDIA INC.	50.00	887	
66053	01/15/08	T0090	TREASURER, STATE OF NEW JERSEY	3,057.28	887	
66054	01/15/08	T0101	TRIANGLE COMMUNICATIONS	114.00	887	
66055	01/15/08	T0154	TILCON NEW YORK, INC.	411.38	887	
66056	01/15/08	T0304	TREASURER, STATE OF NEW JERSEY	260.00	887	
66057	01/15/08	T0306	THE EARDLY T. PETERSEN CO. INC	5,751.00	887	
66058	01/15/08	U0040	URUCORP MAINTENANCE CONTRACTOR	3,455.41	887	
66059	01/15/08	V0037	VILLAGE SUPERMARKET, INC.	26.30	887	
66060	01/15/08	V0043	VOSS SIGNS, LLC	112.50	887	
66061	01/15/08	V0052	VERMONT SYSTEMS, INC.	11,187.25	887	
66062	01/15/08	V0058	VERIZON	0.00	01/15/08 VOID	0
66063	01/15/08	V0058	VERIZON	0.00	01/15/08 VOID	0
66064	01/15/08	V0058	VERIZON	6,669.40	887	
66065	01/15/08	V0059	VERIZON CABS	192.79	887	
66066	01/15/08	W0016	WARRENVILLE TRUE VALUE	673.01	887	
66067	01/15/08	W0056	WELDON CONCRETE CO.	75.00	887	
66068	01/15/08	W0187	WASTE MANAGEMENT OF NJ, INC	200.00	887	
66069	01/15/08	X0003	XEROX CORPORATION	1,027.85	887	
66070	01/15/08	X0005	XTEL COMMUNICATION	780.12	887	
66071	01/15/08	Y0011	YORK FENCE CONSTRUCTION CO, INC	8,275.00	887	
66072	01/15/08	Z0038	ZAHOS, GEORGE & KATHERINE	597.25	887	

Total Checks: 188    Total Void Checks: 7    Total Amount Void: 0.00    Total Amount Paid: 1,359,863.28

Fund Description	Fund	Budget	Fund Total	Revenue	Fund Total
CURRENT FUND	7-01		423,357.27		0.00
GOLF COURSE UTILITY	7-26		575.82		0.00
	Year Total:		423,933.09		0.00
CURRENT FUND	8-01		468,091.38		0.00

DOG FUND	8-12	7.20	0.00
TRUST FUNDS	8-13	449,250.12	0.00
GOLF COURSE UTILITY	8-26	1,149.15	0.00
		-----	-----
Year Total:		918,497.85	0.00
CAPITAL FUND	C-04	12,660.82	0.00
GRANT FUND	G-02	4,771.52	0.00
		=====	=====
Total Of All Funds:		1,359,863.28	0.00

[Resolution #080054](#) – Transfer Resolution

**WHEREAS**, there appears to be insufficient funds in the following account(s) (excepting the appropriation for Contingent Expenses or Deferred Charges) to meet the demands for the balance of the Current Year,

Current Fund – 2007 Reserve Appropriations  
Utilities & Bulk Purchases

**WHEREAS**, there appears to be a surplus in the following accounts(s) (excepting the appropriation for Contingent Expenses, Deferred Charges, Cash Deficit of Preceding Year, Reserve for Uncollected Taxes, Down Payments, Capital Improvement Fund, or Interest and Debt Redemption Charges) over and above the demand deemed necessary for the balance of the Current Year,

Current Fund – 2007 Reserve Appropriations  
Streets and Roads – Other Expenses

**NOW, THEREFORE, BE IT RESOLVED** (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with the provision of R.S. 40A:4-59, part of the surplus in the account heretofore mentioned be and the same is hereby transferred to the account (excepting the appropriation for Contingent Expenses or Deferred Charges) mentioned as being insufficient, to meet the current demands, and

**BE IT FURTHER RESOLVED** that the Treasurer be and he is hereby authorized and directed to make the following transfers:

<b><u>FROM:</u></b>	<b><u>AMOUNT</u></b>	<b><u>TO</u></b>
Approp Res Streets & Roads – O/E	\$30,000.00	Approp Res Utilities & Bulk Purchases

[Resolution #080060](#) - Interlocal Services Agreement for the Provision of 2008 Somerset County Recycling Pickup to the Township of Bernards

**WHEREAS**, the Township of Bernards requires recycling pickup; and

**WHEREAS**, the County of Somerset has indicated a willingness to provide recycling pickup pursuant to and on the terms set forth herein and in a contract dated December 4, 2007; and

**WHEREAS**, N.J.S.A. 40:48-5 authorizes a municipality to contract with any public or private entity for the provision of any service which the municipality itself could provide directly; and

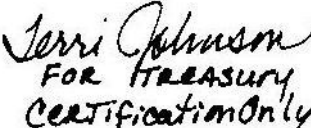
**WHEREAS**, N.J.S.A. 40:-8A-1, et. seq. the Interlocal Services Act, provides the mechanism for making such contract between public agencies; and

**WHEREAS**, the County of Somerset already has in place a recycling pickup program.

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Bernards that the following agreement shall be entered into between the Township of Bernards and the County of Somerset, to implement recycling pickup, subject to the terms and provisions set forth below and a contract dated December 4, 2007.

**This agreement**, sets forth the specific provision for the Interlocal Services Agreement between the Township of Bernards and the County of Somerset for recycling pickup for the calendar year 2008 in accordance with N.J.S.A. 40:48-2, N.J.S.A. 40:8A-1 et. seq., the Interlocal Services Act, as follows:

The rate remains at \$23.85 per household. The number of households will be adjusted on a quarterly basis, when and if appropriate.

<b>TREASURER'S CERTIFICATION</b>	
I, Terri Johnson, Supervisor of Treasury Services of the Township of Bernards, hereby certify that adequate funds are available for the above referenced purchase in the amount of \$23.85 per household. Monies will be made available after Budget Adoption, and subsequently transferred to Trust Fund – Reserve for Recycling. Note: Amount budgeted for curbside recycling is annually transferred to the Bernards Township Trust Fund after budget adoption. These funds are earmarked exclusively for Recycling Expenditures.	
Date: 1/3/07	 FOR TREASURY CERTIFICATION ONLY
	Terri Johnson, Supervisor of Treasury Services

[Resolution #080061](#) - Awarding Professional Services Contract for 2008 Site Inspection Services to Ferriero Engineering Inc., in the Not to Exceed Amount of \$35,000

**WHEREAS**, the Township of Bernards requires services for Professional Site Inspection Services; and

**WHEREAS**, Ferriero Engineering Inc., has submitted a proposal dated December 21, 2007 outlining services to the township; and

**WHEREAS**, section N.J.S.A. 40A:11-5 of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) exempts such professional services from competitive bidding.

**WHEREAS:** This contract was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44A-20.4 *et seq.* and

**WHEREAS**, the treasurer has certified funds are available in the Bernards Township Trust Fund Inspection Fees-Escrow accounts # 8-13-56-051-IFP & 8-13-56-050-IFO line item appropriation or ordinance.

**NOW THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Bernards that a professional service contract be awarded to Paul W. Ferriero, PP, PE, CME., NJ License # 32978 of the firm Ferriero Engineering, Inc., 180 Main Street, PO BOX 571, Chester, NJ 07930 as follows:

1. The contract will encompass services as outlined in the submitted proposal dated December 21, 2007.
2. The contract term is from January 1, 2008 through December 31, 2008 for professional site inspection services at an hourly rate of (\$73.00) and a not to exceed amount of \$35,000.00.
3. Billings must be rendered by the contractor within 30 days of service delivery.
4. Any modification to this contract shall be in writing and signed by both parties and upon obtaining said signatures shall immediately become part of the contract.

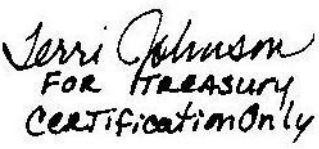
5. No payments in excess of the “not to exceed” contract amounts will be approved, unless such services/expenditures are negotiated and agreed upon in advance of service deliver.
6. As required by law, the parties to this contract agree to incorporate into this contract the mandatory affirmative action language promulgated by the Treasurer pursuant to P.L. 1975, c.127, which is attached to this resolution as Exhibit A.
7. This contract shall, for all purposes, be deemed a NJ Contract and any provisions of this contract shall be governed and interpreted with the Laws of the State of New Jersey.
8. The contractor shall report directly to Peter A. Messina, Township Engineer/Planner who will be the chief contact for the Township of Bernards on this project.

**BE IT FURTHER RESOLVED** that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

**NOW THEREFORE BE IT FURTHER RESOLVED**, by the Township Committee of the Township of Bernards that a copy of this resolution be published in the official township newspaper, and be placed on file and available for public inspection in the office of the Bernards Township Purchasing Agent.

I agree to the terms as stated in the Resolution and by signing this document I, Paul W. Ferriero, PE, CME, NJ License # 32978, for Ferriero Engineering Inc., I am committed to follow all terms of this award.

\_\_\_\_\_  
Paul W. Ferriero, PE, CME, NJ License # 32978

<b>TREASURER'S CERTIFICATION</b>	
I, Terri Johnson, Treasurer of the Township of Bernards, hereby certify that adequate funds are available for the above referenced purchase in the amount not to exceed \$35,000.00. Monies are available in the Bernards Township Trust Fund Inspection Fees-Escrow: 8-13-56-051-IFP & 8-13-56-050-IFO.	
Date: 12/26/07	 <b>FOR TREASURY CERTIFICATION ONLY</b>
Terri Johnson Supervisor of Treasury Services	

[Resolution #080065](#) - Authorizing Purchasing from the Somerset County CO-OP Contract # CC-09-06 for Gasoline and Contract # CC 30-07 for Fuel Oil and Kerosene and or Morris County CO-OP Contract # 1 & 2 for Gasoline and Fuel Oil at a cost not to exceed \$550,000

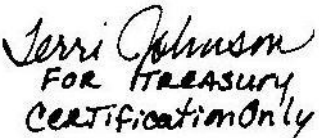
**WHEREAS**, the Township of Bernards wishes to continue to purchase petroleum products from the lowest responsible bidder under the Somerset County CO-OP Pricing System and Morris County CO-OP; and

**WHEREAS**, Somerset County CO-OP and Morris County CO-OP awarded a contract to Allied Oil Co., 25 Old Camplain Road, Hillsborough, NJ 08844 for petroleum products; and

**WHEREAS**, the Supervisor of Treasury Services has certified that funds are available in the 2008 Budget for the same, and the line item appropriation to be charged is 8-01-31-430-G01.

**WHEREAS**, it is the recommendation of the Director of Public Works and the Purchasing Agent to purchase these petroleum products through the Somerset County CO- OP and Morris County CO-OP; and

**NOW THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Bernards that the Purchasing Agent be authorized to issue purchase orders to Allied Oil Co., 25 Old Camplain Road, Hillsborough, NJ 08844 through December 31, 2008.

<b>TREASURER'S CERTIFICATION</b>	
I, Terri Johnson, Supervisor of Treasury Services, hereby certify that adequate funds are available in the Utilities Operating budge #8-01-31-430-200	
Date: 01/07/08	 FOR TREASURY CERTIFICATION ONLY
	Terri Johnson, Supervisor of Treasury Services

[Resolution #080068](#) - Return of Improvement Performance Surety Reduction from 100 Marketplace, Block 187, Lot 59.02

**WHEREAS**, the Development Control Officer of the Township of Bernards, Somerset County, New Jersey, 07920, has the following Improvement Performance Surety Reduction:

Name of Applicant:	100 Marketplace LLC
Address:	225 Route 202 Basking Ridge, NJ 07920
Improvement Performance Surety #:	5019013
Insurance Company:	Bond Safeguard Insurance Company
Address:	631 Shute Lane Old Hickory, TN 37138
Amount:    \$93,151.62 (Reduction)	Cash Portion: \$10,350.18 (Reduction)

**WHEREAS**, the aforesaid applicant is requesting return of their Improvement Performance Surety Reduction and

**WHEREAS**, the Township Engineer recommends return of the Improvement Performance Surety Reduction to the applicant, and

**WHEREAS**, no Maintenance Surety required.

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Bernards that the aforesaid Improvement Performance Surety Reduction be released to the above named applicant.

*\*\*End Consent Agenda Items\*\**

[Resolution #080062](#) - Authorizing the Issuance of a Limousine License to Cedars Limousine Service, Inc., Mojgan Abousleiman  
Motion by Spitzer, second by Malay to approve Resolution #080062.

Roll Call:  
Aye:           Kelly, Malay, Pavlini, Spitzer, Carpenter

Nay:  
Abstain:  
Motion carried.

**WHEREAS**, Mojgan Abousleiman, 149 North Finley Avenue, Basking Ridge, NJ, has applied for a 2008 Limousine License expiring December 31, 2008; and

**WHEREAS**, the application submitted by the applicant is in compliance with Chapter 4, Section 8 of the Revised General Ordinances of the Township of Bernards; and

**WHEREAS**, the Municipal Clerk, the Chief of Police, and the Zoning Officer have reviewed said application and recommend approval.

**NOW THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Bernards the application be approved as submitted.

[Resolution #080066](#) - *Appointment of Todd Edelstein to the Fire Safety Forum*  
Motion by Malay, second by Kelly, to approve Resolution #080066.

Roll Call:  
Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter  
Nay:  
Abstain:  
Motion carried.

**WHEREAS**, pursuant to Resolution #050266, the township committee established a Fire Safety Forum; and

**WHEREAS**, on January 3, 2008, Eleanor McLaughlan, a citizen representative of the Fire Safety Forum resigned thereby creating a vacancy.

**NOW THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Bernards that we do hereby appoint Todd Edelstein, of 172 Riverside Drive, to the Fire Safety Forum to fill the unexpired one year term of Eleanor McLaughlan, expiring 12/31/08.

[Ordinance #1998](#) - *Accepting a Stream Buffer Conservation Easement on Block 133, Lot 9.01, from J. Joseph and Jennifer Cambria to the Township of Bernards – Introduction*

The clerk read the ordinance by title. Motion by Malay, second by Kelly, that Ordinance #1998 be introduced on first reading, advertised as required by law, with a public hearing on 2/12/08.

Roll Call:  
Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter  
Nay:  
Abstain:  
Motion carried.

**BE IT ORDAINED**, by the Township Committee of the Township of Bernards, in the County of Somerset and State of New Jersey as follows:

1. Pursuant to the Local Land and Buildings Law, N.J.S.A. 40A:12-1 et seq., Bernards Township hereby accepts from J. Joseph and Jennifer Cambria, 74 Annin Road, Far Hills, NJ, 07931, a stream buffer conservation easement on Block 133, Lot 9.01, in Bernards Township.
2. The easement is on file with the office of the township clerk.
3. This Ordinance shall take effect upon its final passage and publication according to law.

[Ordinance #1999](#) - *An Ordinance of the Township of Bernards, County of Somerset, State of New Jersey, Amending, Revising and Supplementing the Code of the Township of Bernards, Chapter 21, "Land Development", Concerning Lot Width – Introduction*

The clerk read the ordinance by title. Motion by Malay, second by Spitzer, that Ordinance #1999 be introduced on first reading, advertised as required by law, referred to the Planning Board, and scheduled for public hearing on 2/12/08.

Roll Call:

Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter

Nay:

Abstain:

Motion carried.

BE IT ORDAINED by the Township Committee of the Township of Bernards, County of Somerset and State of New Jersey, that Chapter XXI entitled "Land Development", of the General Land Development Ordinances of the Township of Bernards, shall be amended, revised and supplemented as follows:

**Section 1.** Amend Chapter XXI entitled "Land Development", Article 2 entitled "Definition of Terms", Section 3 entitled "Definitions", as follows (additions in double underlining, deletions in ~~strikethrough~~):

#### SECTION 21-3

##### **Definitions**

LOT WIDTH shall mean the distance between the side lot lines measured along a line drawn parallel to the front lot line at a distance from the front lot line equal to the minimum front yard setback. ~~On lots on cul-de-sac or pie-shaped lots, the lot width shall be measured at the actual location of the house, but not closer to the street right of way than the minimum front yard setback.~~ Where the minimum width is required to be increased as a result of being a corner lot, only one width need be increased. For cul-de-sac or pie-shaped lots in existence as of February 12, 2008, the lot width shall be measured at the actual location of the house, but not closer to the street right-of-way than the minimum front yard setback.

**Section 2.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**Section 3.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Bernards, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Bernards are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 4.** The Township Clerk is directed to give notice at least ten days prior to a hearing on the adoption of this ordinance to the Somerset County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63(if required).

**Section 5.** After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Bernards for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Committee, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

**Section 6.** This ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with (a) the Somerset County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

[Ordinance #2000](#) - *An Ordinance of the Township of Bernards, County of Somerset, State of New Jersey, Amending, Revising and Supplementing the Code of the Township of Bernards, Chapter 21, "Revised Land Use Ordinances", Article IV "Zoning", Section 21-11 "Nonconforming Uses and Structures" - Introduction*

The clerk read the ordinance by title. Motion by Kelly/Pavlini, second by Spitzer, that Ordinance #2000 introduced on first reading, advertised as required by law, referred to the Planning Board, and scheduled for public hearing on 2/12/08.

Malay was concerned about residential structures and asked counsel for clarification.

Belardo opined that the purpose of this ordinance is to clarify and establish the conditions under which a nonconforming structure may be restored or repaired without conforming to the zoning ordinance requirements currently in effect for the construction of new structures. In *Township of Lacey v. Mahr*, 119 N.J. Super. 135 (App. Div. 1972), the municipality had an ordinance which defined total destruction as destruction of 75% of a nonconforming structure. A nonconforming restaurant/inn building sustained a fire. The Township asserted that 60% of the building was totally destroyed, and 14% was badly gutted. The owner contended that 33% of the structure remained. The owner sought to restore the building. In determining if the building was partially destroyed, the Court refused to consider the objective percentage standard contained in the ordinance. The Court recognized the ordinance was invalid. The property owner argued that the Legislature intended the words "partial destruction" to mean all destruction less than total. The

Court did not reach that issue. Instead, the Court relied upon the expert produced by the municipality and found: “The use of the building as an inn was substantially totally destroyed by the fire and therefore its destruction exceeded partial destruction within the meaning of the statute.” Id. at 138. Thus, if by design or accident, a structure is “substantially totally destroyed”, such destruction exceeds partial destruction, and the nonconforming status is lost. This ordinance adopts the Mahr Standard in defining when destruction exceeds partial destruction.

Roll Call:

Aye: Carpenter  
Nay: Kelly, Malay, Pavlini, Spitzer,  
Abstain:  
Motion failed.

Motion by Malay, second by Kelly, to table Ordinance #2000 until such time it could be scheduled for a work session discussion with staff present to present different scenarios for the committee to consider if the ordinance were adopted.

Roll Call:

Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter  
Nay:  
Abstain:  
Motion carried.

[Ordinance #2001](#) - *An Ordinance Amending Chapter IV Entitled “General Licensing”, Section 4-9 Entitled “Quarrying” of The Revised General Ordinances of the Township of Bernards, To Amend Subsections 4-9.4 Entitled “Application For License”, 4-9.7 Entitled “Fees”, 4-9.8 Entitled “Quarry Inspections” and 4-9.9 Entitled “Regulation of Operation” – Introduction*

The clerk read the ordinance by title. Motion by Malay, second by Kelly, that Ordinance #2001 be introduced on first reading, advertised as required by law, and scheduled for public hearing on 2/12/08.

Roll Call:

Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter  
Nay:  
Abstain:  
Motion carried.

**WHEREAS**, Bernards Township (the “Township”) regulates quarries for the protection of persons and properties at Ordinance §4-9, “Quarrying” of its general licensing ordinances; and

**WHEREAS**, the Township has the general authority to regulate quarries pursuant to the State’s grant of police power pursuant to N.J.S.A. 40:48-1 and –2, and as set forth by the New Jersey Supreme Court in Bernardsville Quarry, Inc. v. Borough of Bernardsville, 129 N.J. 221 (1992); and

**WHEREAS**, Bernardsville Quarry further held at page 237 that “the prevention of damage to the environment constitutes a particularly strong justification for prohibiting inimical uses”; and

**WHEREAS**, the importation of environmentally contaminated fill material to the Property “can [as noted by the New Jersey Supreme Court] cause severe impacts on surrounding property and the environment, and significantly effect the public interest,” id. at 241; and

**WHEREAS**, the Township has a reasonable basis and concern to ensure that the importation of fill material to the Millington Quarry, Inc. property consisting of 179.76± acres, located at Block 164, Lot 4.01, on Stonehouse Road in the Township (the “Quarry Property”) be of clean and sound quality free of contaminants; and

**WHEREAS**, over the last year, Princeton Hydro, LLC has been providing expert environmental consulting services to the Township, which services include semi-monthly visits to the Quarry Property for inspections and sampling of imported fill material, and review of importation forms and delivery manifests provided by various suppliers of imported fill material (i.e. construction and trucking companies); and

**WHEREAS**, to date, the fill materials imported onto the Quarry Property appear to consist of spoil from construction sites, including soil, concrete and brick materials; and

**WHEREAS**, Princeton Hydro, by letter to the Township Engineer dated January 2, 2008, notified the Township that the test results from a sample of imported fill material taken on November 15, 2007, at the Quarry Property revealed concentrations in excess of the NJDEP most stringent Soil Cleanup Criteria, specifically, the November 15, 2007, sample tested high in arsenic, copper, lead, zinc, benzo[a]anthracene, benzo[b]fluorathene, benzo[k]fluorathene, benzo[a]pyrene, indo[1, 2, 3-cd]pyrene, and dieldrin; which letter is on file with the Township Clerk; and

**WHEREAS**, the currently existing procedures for oversight of the importation of fill material onto the Quarry Property, to ensure the fill material is of clean and sound quality free of contaminants, are as follows:

- Tilcon New York Inc. (“Tilcon”) screens trucks which contain fill materials to be imported. As trucks enter the Quarry Property, they are placed on a scale for determination of the soil weight. During the weighing, a video camera mounted at the weigh station is used visually to inspect the fill material in the trucks. If a truck contains material that is suspicious, then Tilcon supposedly turns the truck away and does not permit any trucks containing suspicious fill material into the Quarry Property.
- Princeton Hydro’s inspectors make semi-monthly visits to the Quarry Property for inspections and sampling, during which visits its inspectors visually inspect the imported fill material in the trucks, observe the placement of the soil and compaction operations within the quarry, and collect one sample of imported fill material for analysis of the suite of contaminants of concern to the New Jersey Department of Environmental Protection (“NJDEP”). Samples of fill material are obtained and tested by Princeton Hydro whether or not any fill material appears suspicious.
- The Township’s inspectors visit the Quarry Property for inspections on a semi-monthly basis, on the alternating weeks when Princeton Hydro does not visit the Quarry Property. The

Township inspector(s) remain on the Quarry Property for several hours and visually inspect the trucks carrying imported fill material; and

**WHEREAS**, based on the observations of Princeton Hydro's and the Township's inspectors, up to 200 truckloads of fill material per day are imported to the Quarry Property, at a rate of up to six days per week. This amount equates to 5,200 truckloads per month, or about 120,000 tons of imported fill materials; and

**WHEREAS**, the current ratio of visual inspection of truckloads by the Township and Princeton Hydro is observation of one truck per 17 trucks, and the current sampling frequency is one sample per 2,600 truckloads of imported fill material; and

**WHEREAS**, the frequency of inspections and sample collection with testing of fill material imported onto the Quarry Property is a concern to the Township as visual inspections constitute just over 5%, and sampling with testing constitutes less than 1% of the trucks depositing fill material in the Quarry Property during any given month, and

**WHEREAS**, to address the Township's concern regarding the public health and safety if importation of environmentally contaminated fill material is brought to the Quarry Property, Princeton Hydro is proposing to increase its level of monitoring by increasing the frequency of both its visual inspections of trucks importing fill material and its actual sampling and testing of fill material imported into the Quarry Property,

**WHEREAS**, Princeton Hydro has submitted a revised proposal to the Township dated December 14, 2007, for increased monitoring of importation of fill material onto the Quarry Property, which proposal is on file with the Township Clerk; and

**WHEREAS**, Princeton Hydro proposed the following approach to increase both inspections of trucks containing fill material and sampling of the fill material which is being imported into the Township and deposited on the Quarry Property from various sources:

- Instead of twice per month, Princeton Hydro will inspect the quarry operations once per week. The inspection day shall be increased from four hours to eight hours or a full day of operation;
- Princeton Hydro will inspect at least 80% of the trucks entering the Quarry Property during the day of its inspection visit, and will have the authority to turn away trucks that contain loads with suspicious materials or odors. Such materials would include concrete containing reinforcement bars, woody and metal debris, municipal waste and trash, or apparent sludge and dredged materials. Loads that contain soil with an odor of volatile organics or oil would also be turned away;
- The trucks inspected as stated above would be screened by Princeton Hydro using a photo-ionization detector (PID) to assess the presence of volatile organics, and also a Geiger counter will be used to screen for potential radioactive materials.
- Princeton Hydro will increase the sampling of trucks to one truck per visit to the Quarry Property.

- In an effort proactively to ensure that contaminated materials are not being imported onto the Quarry Property, if any sample analysis reveals contamination above the NJDEP Residential Direct Contact Soil Cleanup Criteria (“RDCSCC”), then for a period of two months following the discovery of such contamination Princeton Hydro and the Township will increase the frequency of truck inspections to six full days per week, with discrete sampling of fill material increased to one sample per day. If after this two-month period no material is detected that contains contaminants in excess of the RDCSCC, then inspection efforts will be reduced to the normal frequency of inspections of once per week by Princeton Hydro.
- Through Millington Quarry and Tilcon records, Princeton Hydro will collect the daily counts of trucks entering the site for each day of the month. Either directly from Millington Quarry or through the Township, Princeton Hydro will track the number of trucks entering the site and assess patterns of increased or decreased truckloads. This assessment will be used to determine whether the frequency of site visits and monitoring is adequate or whether it needs to be adjusted.

The proposed increase in visits and monitoring to be performed by Princeton Hydro would result in an inspection frequency of 20% of the fill material imported to the Quarry Property; and

**WHEREAS**, Princeton Hydro has proposed to provide these increased inspection and sampling services on an annual Not-to-Exceed basis of One Hundred Nineteen Thousand, Seven Hundred Forty (\$119,740.00) Dollars, according to the following schedule of fees and reimbursed expenses – assuming one visit per week:

Soil Scientist, Geologist or Engineer: \$90/hr x 8hrs/wk x 52 weeks =	\$ 37,440.00
Travel/Mileage or truck usage fee: \$ 75 x 52 weeks =	\$ 3,900.00
PID and Geiger counter rental: \$ 400/wk x 52 days =	\$ 20,800.00
NJDEP Clean-up List plus TOC \$ 900/wk x 52 weeks =	\$ 46,800.00*
Monthly Letter Report \$ 900/month x 12 mo. =	\$ 10,800.00
<b>Total =</b>	<b>\$119,740.00</b>

\* Subject to periodic increases from analytical laboratory subcontractor.

If contamination was detected above the RDCSCC, then the monthly costs would increase to \$59,870.00 per month; and

**WHEREAS**, to provide funding for the proposed increase in expert environmental consulting services provided to the Township by Princeton Hydro, and the entry of a professional service agreement with Princeton Hydro, the Township must obtain additional fees from the quarry license holder;

**WHEREAS**, Tilcon has written to the Township advising that, effective October 29<sup>th</sup> [2007], Tilcon “increas[ed] by \$20 per load” ... “the fees to dispose of fill” material in the quarry; and

**WHEREAS**, Township Engineer Peter Messina, P.E., has calculated and projected, based upon bills of lading for trucks importing fill material into the quarry, and an average fee of \$205.00 assessed per truckload of fill material, that the annual fees to be generated and paid to Tilcon for

the period of October, 2007, to September, 2008, will be Fifteen Million, Five Hundred Thirty-Six Thousand, Seven Hundred Forty-Five (\$15,536,745.00) Dollars, which chart and projected calculation is on file with the Township Clerk and is incorporated herein; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Bernards, that:

**Section 1.** Chapter IV entitled “General Licensing”, Section 4-9 entitled “Quarrying”, Subsection 4-9.4 entitled “Application for License”, Paragraph d., of the *Revised General Ordinances of the Township of Bernards* is amended to add new Subparagraph 40 as follows:

40. The application shall include a detailed plan and report setting forth methods to prevent, control and ensure that contaminated or environmentally unsound fill material is not imported into and onto the quarry property.

**Section 2.** Chapter IV entitled “General Licensing”, Section 4-9 entitled “Quarrying”, Subsection 4-9.7 entitled “Fees”, Paragraph b, of the *Revised General Ordinances of the Township of Bernards* is amended to read as follows (additions in underlining, deletions in ~~strikethrough~~):

b. A separate annual escrow fee in the amount of ~~\$15,000~~150,000.00 is established to cover the monthly inspections, including the inspections of the importation of fill material, monthly reports, investigations of violations by the Township Engineer, special expert review of dust, blasting, noise, samplings of importation of fill material, other areas of special expert advice deemed necessary by the Township Committee or the Township Engineer, and attorneys' fees incurred by the Township for review of the license application. The license holder shall deposit the annual escrow fee by January 2 of each year, and ~~it shall be replenished~~ the escrow account as necessary within 15 days of a written replenishment request made by the Township. Any unexpended portion of the annual escrow fee shall be credited to the following year's annual escrow fee. The annual escrow fee shall be administered in accordance with the applicable provisions of N.J.S.A. 40:45D-53.2. A statement of account shall be provided to the license holder in advance of any request by the Township for the replenishment of the escrow, or any subsequent annual deposit to be made by the license holder.

**Section 3.** Chapter IV entitled “General Licensing”, Section 4-9 entitled “Quarrying”, Subsection 4-9.8 entitled “Quarry Inspection”, Paragraph b, of the *Revised General Ordinances of the Township of Bernards* is amended to read as follows (additions in underlining, deletions in ~~strikethrough~~):

The Township Engineer or his authorized representative is hereby designated as quarry inspector. The quarry inspector shall conduct inspections of the quarry property and quarry in order to determine whether operations are being conducted in accordance with the quarry license and the terms and provisions of this chapter. The Township Committee may retain environmental expert consultants to ensure that inspections and sampling of the importation of fill material into and onto the

Quarry Property is performed so as to ensure the fill material is not environmentally contaminated. Inspections shall be conducted at least one time per month or as frequently as the quarry inspector determines is necessary. The quarry inspector shall submit written reports of all quarry inspections to the Township Committee.

**Section 4.** Chapter IV entitled “General Licensing”, Section 4-9 entitled “Quarrying”, Subsection 4-9.9 entitled “Regulation of Operation”, of the *Revised General Ordinances of the Township of Bernards* is amended to add new Paragraph p. as follows:

p. Fill material sources providing a volume of greater than 5,000 cubic yards of fill material to the quarry property must provide certified testing reports to the license holder to ensure that the fill material is free of environmental contamination. If an importer of fill material has multiple sources that in aggregate total greater than 5,000 cubic yards, then the fill material must be tested for each site. All sampling must be certified with a letter from a New Jersey licensed professional engineer, licensed geologist, or Certified Hazardous Materials Handler (CHMM). The testing must include the following analysis:

NJDEP Soil Cleanup Criteria (SCC) List

- SCC Volatiles 8260B
- SCC Base Neutral /Acid Extractables 8270C
- PCB 8082
- TCL Pesticides 8081A
- PP Metals + Ba & V 7000 Series / 6020
- Hexavalent Chromium 3500-Cr D / 7196A
- Trivalent Chromium Calculation
- Total Cyanide 9014
- Corrosivity (as pH) / pH (S.U.) 150.1 / 9040B / 9045C
- Phenols 9066

Geotechnical Index Testing

- Grain Size with Hydrometer ASTM C422
- USCS Description w/Munsell Soil Description ASTM D2488 (+ Munsell)
- Moisture Content ASTM D2216
- Organic Content ASTM D2974

The licensee must have all laboratory analysis performed by a New Jersey licensed analytical laboratory in good standing. Tests must be conducted at a minimum of once per 5,000 cubic yards, and for each soil type. Tests must be conducted for every 5,000 cubic yards of fill material rounded up to the nearest 5,000 cubic yards. The test results of the samples must be submitted to the Township Engineer and the licensee for review and written approval before the fill material may be delivered to the quarry property. Owners with multiple sites with an aggregate of soil greater than 5,000 cubic yards must have each site sampled for every 5,000 cubic yards rounded up to the nearest 5,000 cubic yards.

**Section 5.** The provisions of this ordinance shall apply retroactively to January 1, 2008, including the increase in escrow fees to \$150,000 and quarry license requirements for 2008.

**Section 6.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**Section 7.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Bernards, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the *Revised General Ordinances of the Township of Bernards* are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 8.** This ordinance shall take effect immediately upon adoption in accordance with the laws of the State of New Jersey.

[Resolution #080069](#) - *A Resolution of the Bernards Township Committee Adopting Procedures for the Pay for Performance Program*

Motion by Malay, second by Pavlini, to approve Resolution #080069.

Roll Call:

Aye: Kelly, Malay, Pavlini, Spitzer, Carpenter

Nay:

Abstain:

Motion carried.

**WHEREAS**, tax dollars fund a large portion of employees' salaries; and

**WHEREAS**, the Township Committee of the Township of Bernards is ultimately responsible for municipal spending; and

**WHEREAS**, the Township can maximize the benefits of a payroll investment when increases are tied to performance; and

**WHEREAS**, the Township Committee of the Township of Bernards supports a pay for performance program;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Bernards in the County of Somerset and the State of New Jersey as follows:

1. The governing body hereby approves and adopts the attached document entitled "Bernards Township Compensation Program, dated January 15, 2008."
2. The Manager of Human Resources is further authorized and directed to distribute a certified copy of this Resolution and the accompanying Policy Statement to all Department Heads and employees.

*The following policy applies to all Bernards Township employees who are not covered by a collective bargaining agreement.*

*Tax dollars fund a large portion of employees' salaries. The Township Committee is ultimately responsible for municipal spending and must answer to our residents, who in some instances are also employees. Bernards Township supports a Pay for Performance program.*

*Pay for performance is not a mechanism to save or reduce payroll dollars. The payroll budget increase remains constant, but the method of compensation distribution shifts from entitlement to rewarding superior performance. The Township can maximize the benefits of a payroll investment when increases are tied to performance. The pay for performance program strategically distributes merit compensation based on performance. This document describes the appraisal process and the merit pay program.*

### ***The Performance Appraisal Process***

*The performance appraisal is used for administrative and developmental purposes. Appraisals are administrative tools upon which personnel decisions are based, such as merit increases, promotions and disciplinary warnings. The completed appraisal becomes part of an employee's permanent record. By compiling many years of appraisals, one can document a history of performance.*

*Appraisals are also used for developmental reasons. Performance discussions provide employees with guidance regarding their ability to meet job standards. Extraordinary skills or abilities are recognized, and areas for improvement are explored. The appraisal discussion should be more than an assessment of the past. Supervisors should also review future training needs and career planning.*

#### ***Employee Performance Appraisal***

*In addition to the day-to-day feedback regarding performance, two formal reviews are conducted each year -- mid-year and end-of-year. Organizing the review requires much thought and preparation on the part of the supervisor. The communication exchange between the supervisor and employee is essential to development of the Township's most important asset -- its people.*

*The Mid-year Review, conducted in the month of June, is a calibration tool. For consistency purposes, the same form will be used for both the mid-year and end-of-year review. Assuming no change in performance, the mid-year evaluation serves as an accurate predictor of the end-of-year results. Thus, employees should not be surprised with the year-end feedback and ratings.*

*The End-of-year Review, conducted in the month of December, evaluates the entire year's performance. Merit increases and/or bonuses are based on end-of-year review results. The end of year review is also the time that the Supervisor and employee discuss and set goals for the upcoming year. It is these goals that set the standard for the reviews that will take place in the upcoming year.*

#### ***Rater Errors***

*The performance appraisal requires supervisors to formally assess and discuss job performance. Accurate feedback and ratings are the primary goal of the performance appraisal. Supervisors, or raters, must understand the potential information processing errors involved in rating performance. The most common rater errors include halo, leniency/severity, contrast, and recency.*

*Halo error: This error occurs when a rater allows one aspect of a person's performance to overshadow all other performance factors be it positive or negative. Ideally, each performance factor should be evaluated individually based on specific behaviors exhibited.*

*Leniency/severity: This error results when a rater has a consistent tendency to rate either high or low. Top performers are hurt by lenient raters, because the distinction between truly outstanding and fully successful performance is minimized. Once again, it is extremely important that ratings are accurate.*

*Contrast Error: A rater falls prey to this error when comparing an employee's performance to the performance of others in the department rather than comparing an employee's performance to established standards.*

**Recency Error:** A supervisor exhibits the recency error when overall performance rating is based on recent performance rather than the entire performance period. Such errors often account for employees going “all out” just before the review period.

Through education and training, rater errors can be minimized, if not eliminated.

### **Overview of Review Forms**

There is one performance appraisal form used for employees not covered by a collective bargaining agreement. The directions are simple and the format is user friendly. The "Comments" section provides an area for feedback. Supervisors should include additional comments, such as examples of positive and/or negative behaviors for clarification purposes and to support the given rating.

### **Performance Discussion**

Two formal discussions will be held each year to review the mid-year and end-of year appraisals. At the end of the meeting, each employee will sign the evaluation form to acknowledge that the review was discussed. Signing a review does not imply agreement with the review results. It simply confirms that the discussion took place. An employee also has the opportunity to include his or her comments regarding the evaluation in the "Employee's Comments" section of the appraisal form.

The review meetings create an excellent forum for an employee to remind his or her supervisor of successes and accomplishments over the performance period. In fact, a supervisor may request accomplishments from employees in advance of the performance discussion as part of his or her review preparation. Roadblocks to fulfilling job responsibilities and/or ideas for improving or stream-lining internal processes are to be explored. Future training needs and the next year's goals are also discussed.

The supervisor should ask employees for feedback regarding his or her own skills as they relate to communication, team building, delegation, and sensitivity to needs of subordinates. Open communication is the key to improvement.

### **Counseling Action Plans**

If it is determined that an employee whose overall performance indicates a need for improvement, a Counseling Action Plan will be provided to address the specific improvements needed to achieve a satisfactory rating in a specified amount of time. Upon recommendation of the Supervisor, should the employee achieve a satisfactory review after the probationary review period, a pro-rated salary increase may be awarded.

After the appraisal process is complete, the appraisal is forwarded to Human Resources for review and placement in the employee's personnel folder. The completed appraisal becomes part of the employee's permanent record in accordance with the Employee Handbook of Personnel Policy and Procedures.

### **Merit Program**

The merit matrix is used to develop a policy for setting merit increases that keeps the payroll liability within the maximum percentage budget increase approved by the Township Committee. Assigning all employees the same percentage increase, or an across the board increase, is another method of capping the budget impact. However, across the board increases conflict with the philosophy and intent of the Pay for Performance program. The Township wants to differentiate and reward employees who exhibit outstanding performance.

The goal of the compensation program is to pay employees fairly. Ideally, salaries will cluster around the salary range midpoint which reflects market value. The merit program allows salaries that are low in the range to reach the midpoint at an accelerated rate. Future compensation beyond the midpoint shifts to smaller base increases and larger merit pay

The matrix sets up a mathematical equation whereby potential base salary increases can be tested to estimate the overall budget impact. This is determined by calculating the distribution of performance and distribution of where salaries fall within a range.

### **Definitions:**

The following section defines commonly used compensation terms:

Compa-ratio: The ratio of the actual salary within a grade (numerator) to the midpoint for the grade (denominator). This number indicates placement within the salary range.

Entitlements: Any payments made on the basis of membership in an organization.

Midpoint: The middle value in a salary range which reflects current market value.

Performance Distribution: Using performance appraisal results, one calculates the percentage of employees rating each of the nine (9) levels of performance.

Pay for Performance: An adjustment to an individual's compensation based on performance factors.

Merit Pay: Provides bonuses for workers who perform their jobs better, according to measurable criteria.

#### **Merit Process:**

##### **Township Committee sets overall payroll budget increase**

On a yearly basis, the Township Committee sets the overall payroll budget increase. This amount is included in the budget for the following year.

##### **Appraisal results are submitted to Human Resources by first Friday of December**

Supervisors evaluate employees and forward the results to Human Resources by the first Friday of December. The appraisal results are compiled to determine the overall performance distribution.

##### **Merit matrix and bonus matrix numbers are finalized**

Since the budget impact directly correlates to the performance distribution, it is necessary to confirm the overall budget impact. The performance distributions are plugged into the matrix to confirm that the base salary increases and merit pay do not exceed the budget amount approved by the Township Committee. Matrices are released to supervisors in December.

##### **Supervisors meet with subordinates to discuss performance**

Supervisors meet with employees to discuss the performance reviews. As described earlier, the meeting will include a review of past performance, planning for future training needs, and discussion of next year's goals.

The merit matrix sets the base salary increase. Supervisors have the flexibility to award up to the maximum bonus indicated by the corresponding compa-ratio and performance factors.

##### **Payment of Salary Increase**

Base salary increases will be effective January 1. Base salaries cannot exceed range maximum. If a range maximum is reached, the merit balance will be paid in 26 equal installments over the course of the year during the normal payroll cycle.

##### **Employees covered under the Salary Ordinance**

The merit program applies to employees covered under the Salary Ordinance. The matrix will be applied as follows:

Full-time employees covered under section 2(a) of the Salary Ordinance are eligible for a merit increase and/or bonus based on performance and the base salary's placement within the salary range. If the salary is at the range maximum, compensation will be paid as a merit balance as described above. Any bonus or merit balance paid will not add to the employee's base pay.

Regular part-time employees covered under the Salary Ordinance are eligible only for a merit increase based on performance and the base salary's placement within the salary range. If the hourly wage is at the range maximum, there is no bonus and future increases are capped until a future amendment to section 2(a) of Salary Ordinance increases the range maximum to an amount higher than the hourly wage. Any bonus or merit balance paid will not add to the employee's base pay.

Regular part-time employees covered under section 3(a) of the Salary Ordinance are eligible for an increase which will be determined each year. If the hourly wage is at the range maximum, there is no bonus and future increases are capped until a future amendment to section 3(a) of the Salary Ordinance increases the range maximum to an amount higher than the hourly wage. Any bonus or merit balance paid will not add to the employee's base pay.

The Manager of Human Resources and Administrator/CFO reserve the right to distribute a portion of the annually budgeted HR incentive line to reward meritorious performance. These rewards may be distributed any time throughout the year to an employee who performs at an exceptional level or develops a cost-saving approach for the township. Awards may be of nominal value.

**How to use the Matrix**

The matrix is simple to use. Using the performance rating, one scans down the vertical axis to identify the row containing the overall appraisal rating. Using the compa-ratio, one scans across the horizontal axis to identify the correct column. The increase awarded is the amount at the intersection of the row and column. The same procedure is used in determining the maximum possible bonus available.

In review, the Township Committee sets the overall payroll increase amount each year. The matrices set up mathematical equations whereby potential base salary increases and bonuses can be tested to confirm the overall budget impact. Matrix results are used to determine base salary and bonus awards.

The matrices below are an example. As noted earlier, actual increase and merit pay amounts may be higher or lower depending on the distribution of performance.

**For example:** An employee has an overall performance rating of satisfactory and an hourly rate of \$13.91 in a position in Grade "C". The range for Grade "C" is \$10.64 - 17.73 with a midpoint of \$14.19 per hour. Thus, the compa-ratio is .98 (\$13.91/14.19).

<b>Performance</b>	<b>&lt;= 0.85</b>	<b>.86 - .95</b>	<b>.96 - 1.05</b>	<b>1.06 - 1.15</b>	<b>&gt;=1.16</b>
<b>Exceeds Expectations</b>	3.8	3.8	3.7	3.6	3.5
<b>Satisfactory</b>	3.5	3.5	3.4	3.3	3.2
<b>Needs Improvement</b>	2.0	1.9	1.8	1.7	1.6

Given the above example, the base increase would be 3.4%.

**PUBLIC COMMENT**

Bill Allen, 44 Holmesbrook Road, distributed a letter to the committee, which he summarized, regarding Master Plan and Quarry Rehabilitation Plan.

John Crane, Decker Street, commented on the Master Plan and Banisches' performance. He also commented on Ordinance #2000.

Todd Edelstein, Riverside Drive, commented on laptop computers for committee members, township emergency announcements, and sheet rock recycling.

**EXECUTIVE SESSION (CONTINUATION OF EARLIER SESSION, IF REQUIRED)**

By unanimous consent, the meeting adjourned to executive session at 10:24 PM to resume discussions authorized by Resolution #080063.

**ADJOURNMENT**

By unanimous consent, the meeting adjourned at 11:30 PM.

Respectfully submitted

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Denise Szabo, Municipal Clerk

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John Carpenter, Mayor