

**DELAWARE TOWNSHIP**  
**ORDINANCE #2014- 05**

AN ORDINANCE OF THE TOWNSHIP OF DELAWARE, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY, AUTHORIZING CONTRIBUTION TO THE ACQUISITION OF INTERESTS IN PROPERTY DESIGNATED AS LOT 20 BLOCK 27 ON THE DELAWARE TOWNSHIP MUNICIPAL TAX MAP, "LOVENBERG/HIGGINS FARM," IN CONJUNCTION WITH THE COUNTY OF HUNTERDON AND THE STATE AGRICULTURE DEVELOPMENT COMMITTEE, AND AUTHORIZING THE EXPENDITURE OF FUNDS FROM THE TOWNSHIP OF DELAWARE OPEN SPACE TRUST ACCOUNT.  
#2014-05

WHEREAS, the Township of Delaware (the "Township") has established a Municipal Open Space Trust Account (the "Trust"), as permitted by P.L. 1997, c. 24 of the Laws of the State of New Jersey; and,

WHEREAS, monies from the Trust shall be used for the acquisition of lands for recreation, conservation, farmland, and historic preservation purposes; and,

WHEREAS, Marjorie Y. Lovenberg, trustee for the Marjorie Y. Lovenberg Trust, and Joel R. Higgins (collectively, the "Owner") own certain real property designated as Lot 20 Block 27 on the Delaware Township Municipal Tax Map, consisting of approximately 44.382± acres of land, known as "Lovenberg/Higgins Farm" (the "Property"); and,

WHEREAS, the Township, Hunterdon County (the "County") and the State Agriculture Development Committee (the "SADC") wish to share the cost of the acquisition by the County of a Development Easement on the Property, consisting of approximately 42.063± acres of land (the "Development Easement"), subject to adjustment based upon a final survey, which establishes permanent restrictions on the Property, limiting its use to general agricultural purposes; and,

WHEREAS, contribution to the acquisition by the County of the Development Easement in conjunction with the County and the SADC furthers the preservation of farmland; and,

WHEREAS, Lovenberg/Higgins Farm is worthy of preservation due to its agricultural value, natural resources, and scenic character; and,

WHEREAS, the SADC has certified a value of Eight Thousand Eight Hundred (\$8,800.00) per acre (the “Certified Fair Market Value” or “CMV”) for the Development Easement; and,

WHEREAS, the Township has committed to fund, from the Trust, twenty (20%) percent of the cost of acquisition of the Development Easement by the County, based upon the CMV; and,

WHEREAS, the County has committed to fund twenty (20%) percent of the cost of acquisition of the Development Easement by the County, based upon the CMV; and,

WHEREAS, the SADC has committed to fund sixty (60%) percent of the cost of acquisition of the Development Easement by the County, based upon the CMV; and,

WHEREAS, the County and the Owner will enter into a Contract for the Sale of Development Rights in the Property (the “Contract”); and,

WHEREAS, the Contract will provide that the Deed of Easement between the County and the Owner will contain a provision providing that in the event of condemnation, the funds contributed to the acquisition by the Township will be returned to the Township, and this language will be included in the Deed of Easement, or alternatively, in a separate agreement between the County and the Township; and,

WHEREAS, in addition to the SADC’s standard requirements, the Deed of Development Easement between the Owner and the County will contain a non-severable exception area of approximately 2.0± acres of land, restricted to one single-family residence, and an exception area of approximately 0.319± acres of land lying within the right-of-way limits of Yard Road, subject to adjustment based upon a final survey (total gross area of the Property being 44.382 acres, less exception areas, leaving a net area of 42.063 acres); and,

WHEREAS, the Development Easement shall also be subject to a twenty-five (25’) foot wide stream easement encompassing the Third Neshanic River, outstanding rights in the Third Neshanic River, a utility grant to N.J. Power & Light Co., and outstanding rights in the old driftway running along with easterly side of the Property,

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Delaware in Hunterdon County, New Jersey, as follows:

Section 1. Findings. The Township Committee of the Township of Delaware hereby finds and determines that it is in the best interests of the Township and its residents to preserve the

Property described herein, in conjunction with the County and the SADC.

Section 2. Authorization to Contribute to the Acquisition by the County of the Development Easement. The Township is authorized to contribute to the acquisition by purchase of the Development Easement by the County, for the purposes described herein, and to expend an amount equal to Twenty (20%) Percent of the total cost of the Development Easement based upon the CMV of Eight Thousand Eight Hundred (\$8,800.00) Dollars per acre, plus usual and customary closing costs as authorized by the Township's Chief Financial Officer. Payment of the Township's contribution to the purchase price and the costs associated therewith shall be made through the Delaware Township Municipal Open Space Trust Account.

Section 3. Authority to Execute Documents and to Undertake All Acts Necessary to Effectuate the Purposes of this Ordinance. The Mayor, Chief Financial Officer, Township Clerk, Township Attorney, and other appropriate staff, are hereby authorized to proceed with the contribution to the acquisition of the Development Easement by the County, as described herein, in conjunction with the County and the SADC, and to execute any and all such documents, subject to approval by the Township Attorney of the form and substance of such documents, and to undertake any and all such acts, as may be necessary to effectuate the purposes of this Ordinance. This grant of authority shall include the authority to make non-material changes to the terms described herein as may be necessary to satisfy County and SADC requirements for acquisition of the Development Easement.

Section 4. Repealer. All ordinances and resolutions, or parts thereof, inconsistent with this Ordinance are hereby repealed.

Section 5. Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by a court having jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this Ordinance shall be valid and enforceable.

Section 6. Effective Date. This Ordinance shall take effect upon final adoption and publication in accordance with law.

ATTEST:

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Judith A. Allen, RMC  
Township Clerk  
April 14, 2014  
Published 4/17/04

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Kenneth J. Novak, Mayor

PLEASE TAKE NOTICE that the above Ordinance was approved on first reading at a Regular Meeting of the Delaware Township Committee held on April 14, 2014. It will be considered on second reading for final adoption and will have a public hearing at a Regular Meeting beginning at 7:30 p.m. on April 28, 2014 at the Delaware Township Municipal Bldg., 570 Rosemont Ringoes Road (Rt. 604), Sergeantsville, NJ. At that time an opportunity will be given for all interested citizens to be heard.