

TO: Mayor Brian Tipton and Township Committee Members **VIA EMAIL ONLY**
FROM: Michael S. Finelli, P.E., P.P., C.M.E.
DATE: April 28, 2022
RE: **Harmony Township Engineer's Report for the May 3, 2022 Committee Meeting**
FCE No. HAWM254R5

HARMONY SAND AND GRAVEL QUARRY PERMIT

- Please refer to prior Engineering reports for 2017, 2018 & 2019 permit application summaries.
- HS&G has requested that the hearing on their 2020 application be carried until the May 5, 2020 Committee meeting based upon issues with the Haul Road. The application which was received is proposing mining of the material within the existing Haul Road and has proposed a new Haul Road to Roxburg Station Road. Based upon some research we have determined based upon a previous Board of Adjustment decision and further based upon the lands on which the new Haul Road would be located (Block 7, Lot 1) being agriculturally preserved that a Haul Road to Roxburg Station Road is not possible. Attorney Wilhelm has indicated that HS&G is investigating other options – potentially connecting to the existing Rotondi driveway on Block 7, Lot 14.02. An announcement should be made at the April 7, 2020 meeting that the matter is being carried to the May meeting. Note that FCE does not intend to provide a technical review of the application until we have received revised plans clearly documenting the applicant's intentions for 2020.
- The plans which are currently in the Township's possession reflect a relocation of the Haul Road to connect with Roxburg Station Road which is not possible. Based upon that issue, Attorney Wilhelm asked that the matter be carried to the May 5, 2020 Committee meeting. Since new plans for the 2020 HSG permit have not been received, we presume that the application will need to be carried to a future meeting.
- The 2020 mining application was found to be incomplete at the May 5, 2020 Committee meeting for lack of design details of the new Haul Road which is proposed to be constructed around the perimeter of the Front Pit. New plans were received on May 22, 2020 for the 2020 licensing application including separate plans for construction of the new Haul Road. FCE will provide a separate review report to the Committee for the June 2, 2020 meeting.
- HS&G's 2020 quarrying permit was approved at the June 2, 2020 Committee meeting. We will be providing the Committee with an approval resolution for adoption at the July 7, 2020 Committee meeting. The restoration of Pit 2 (Star D Farms) is continuing under the supervision of Earth Efficient who has been retained by HS&G for the restoration work. The work is being inspected by FCE personnel as needed to ensure compliance with the approved plans and with the Material Acceptance Plan (MAP) which was submitted by Earth Efficient in February 2020 and approved by the Committee. The Committee is aware that there have been some concerns with debris contained within the imported fill. We have discussed this matter with Earth Efficient and have been advised that their test results confirm that the fill meets the requirements



for clean fill as defined by NJDEP. The problem is that a de minimis amount (< 1%) of “debris” such as wood, metals, plastic, wire, wallboard, roofing material, insulation, carpeting, trash etc. which materials are classified as solid waste is acceptable as “clean” fill. This becomes more of an issue when the fill materials are being placed in the water. We are coordinating with Earth Efficient to institute provisions addressing the issue including providing a revised MAP for review and approval. On June 24, 2020 we did receive a revised MAP. We will be providing a report on the revised MAP to the Committee under separate cover.

- The resolution memorializing the approval of HS&G’s 2020 quarrying license was adopted at the July 7, 2020 Committee meeting. A revised Material Acceptance Plan for the restoration of Pit 2 was received in our office on July 21, 2020 in response to our July 2, 2020 review letter. We have attached a copy. We will be providing our review of the revised MAP under separate cover. Slope restoration work by Earth Efficient is continuing in Pit 2 with inspection by our office, as necessary. Control and removal of debris is improving.
- We have provided our August 31, 2020 review of the revised Material Acceptance Plan under separate cover which found the revised plan to be acceptable. Enhanced provisions in the plan for control of debris are being implemented by Earth Efficient. Progress continues on the Pit 2 slope restoration.
- Restoration of Pit 2 is continuing. Significant progress is being made.
- HS&G’s 2021 Quarrying License Application has been received by this office and the Township via email dated January 26, 2021 from LAN Associates. As of the date of this report we have not had the opportunity to perform a Site Inspection of the Front Pit or complete the review of the application. Based upon a conversation with K. Campbell, Esq. the applicant has noticed for the hearing to commence at the February 2, 2021 Committee meeting. We have no objection to the applicant beginning their testimony with the hearing to be continued at the March 2, 2021 meeting.
- Our office has reviewed the 2021 Quarry License Application and has provided our report under separate cover to the Committee.
- The Committee approved HS&G’s 2021 Quarry License at their March 2, 2021 meeting. The memorializing Resolution should be scheduled for adoption at the April 6, 2021 Committee meeting.
- The memorializing Resolution approving the 2021 Quarry License is scheduled for adoption at the May 4, 2021 Committee meeting.
- We have received a September 21, 2021 email from R. Panicucci seeking permission to begin construction of the proposed relocated Haul Road. Plans for the new Haul Road were submitted in 2020 in conjunction with their annual mining application. A preliminary review of these plans was provided in our May 29, 2020 letter to the Committee. There are two (2) issues which we wish to discuss with the Committee prior to this work commencing. The first is whether the Committee has the authority to approve the plans for the relocated Haul Road as part of the Quarry License process without any other Township approvals. The second is whether there are any legal

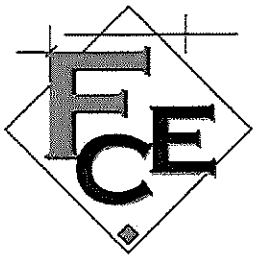


issues with the construction of the proposed new Haul Road as it will result in the removal of the existing Haul Road. The Committee will recall that there was litigation between HS&G and Star D Farm over the ownership of the existing Haul Road and rights to the sand and gravel beneath the Haul Road. Our office will be conducting a final review of the plans and required other agency permits prior to permitting the construction to begin.

- Based on a October 26, 2021 conversation with K. Campbell, we are in agreement that the Committee can authorize the construction of the new Haul Road and removal of a portion of the old Haul Road without any input from the Land Use Board. It was also noted in our conversation that it will be incumbent upon HS&G to abide by all provisions of the settlement of the Haul Road litigation. We anticipate scheduling a pre-construction meeting with HS&G and R. Panicucci and the Upper Delaware SCD prior to the start of the work.
- Construction of the new Haul Road has commenced. The work is being inspected by our inspection staff on an as needed basis. Good progress is being made by EarthEfficient on the restoration of the side slopes within Pit 2. Based upon our inspection on November 30, 2021 a significant portion of the slopes along the Buckhorn Creek side of the pit have been “flattened” to what appear to be 3:1 slopes and topsoil has been placed in certain areas. As-built plans will need to be provided by HS&G prior to our final acceptance of the restoration. It appears that the northern side of Pit 2 which parallels Roxburg Station Road still needs the slopes to be “flattened”. It is also noted that that soundings and as-built cross sections will need to be provided for the underwater slopes prior to our acceptance of the work.
- Please be advised that the applicant recently submitted their annual quarry permit application for 2022. We received the information on January 26, 2022. We obviously did not have sufficient time to develop our review and issue our report in advance of the February 1, 2022 Committee Meeting.
- Our review of HS&G’s 2022 quarrying application dated February 25, 2022 was submitted to the Committee in advance of the March meeting. Note that we have also submitted a March 28, 2022 letter to the Committee, for its files, which includes documents from Earth Efficient confirming the sources of the imported fill used in the reclamation of Hartung Pit 2 and test results confirming that the material meets NJDEP standards for “clean fill”.
- **The Committee at its April 5, 2022 meeting approved HS&G’s 2022 quarrying permit with conditions. A resolution has been prepared by this office and K. Campbell, Esq. and provided to the Committee for adoption at its May 3, 2022 meeting. Based upon potential environmental concerns expressed by S. Gruenberg, the applicant has agreed to perform Soils testing for Pit #2.**

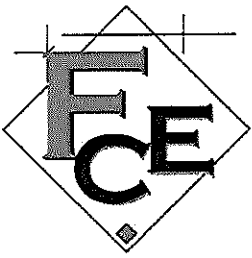
SHANDOR’S USED AUTO PARTS / JUNKYARD LICENSE

- Our office has received a copy of the 2020 Junkyard application on March 16, 2020. Under separate cover, our review of the application will be provided to the Committee for consideration at the April 7, 2020 Committee meeting. It is noted that the application does not clearly identify who is the applicant and the names of the owners along with the consent of all owner’s (both lots).



We believe these matters need to be clarified prior to proceeding. The advice of Attorney Campbell should be sought.

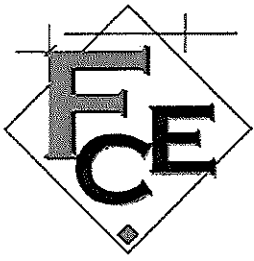
- The Committee took no action on the 2020 permit at its April 7, 2020 meeting. The matter was carried to the May 5, 2020 meeting. A copy of our April 3, 2020 review of the 2020 license application has been submitted to the Committee for consideration. It is noted that the Committee did ask K. Campbell to contact NJDEP to obtain information on outstanding NJDEP violations on these properties.
- Action on the 2020 license was tabled at the June 2, 2020 TC meeting based upon the recent passing of Mr. & Mrs. Shandor.
- Refer to K. Campbell's July 25, 2020 memo to the Committee. The applicant has been advised that the Shandor estate needs to be probated to clarify ownership of the junkyard prior to the Committee approving the 2020 license.
- A 3rd Zoning Violation was issued by Joe Rossi on October 22, 2020 for operation of the junkyard without a license. The junkyard's license was revoked by the Committee last year for failure of the junkyard to provide correct information on the owner of the land and owners of the entity operating the junkyard. The matter is scheduled for Municipal Court hearing on February 4, 2021. In addition, we received from K. Campbell a copy of a January 15, 2021 Consent Order and Settlement Agreement requiring the owners to bring the site into compliance with applicable NJDEP rules.
- March 4, 2021 was the most recent court appearance on the zoning complaint. During the hearing, the applicant's attorney, William Mandry, Esq, stated that the applicant would be submitting a new application for the 2021 Junkyard Permit. A Junkyard License application was received at the Township on March 8, 2021. It appears that the Junkyard has been conveyed through the Estate of Joseph Shandor to Jeffery Riddle. I will be discussing the review of this "new" application with Attorney Campbell.
- The judge granted a continuation for the hearing to April 15, 2021.
- The Junkyard License was conditionally approved by the Committee at its April 6, 2021 meeting. Based upon our inspection on April 28, 2021 the condition requiring that abandoned vehicles be removed from the adjoining field has not been satisfied. The Riddle's should be notified by the Clerk of the issue. The 2021 License should be withheld until the condition is satisfied. The most recent court hearing on this matter was held on April 15, 2021. No action was taken as Attorney Mandry did not appear before the court with no explanation to the court. The municipal court hearing for operating the junkyard without a license since 2020 has been continued to May 6, 2021.
- Abandoned vehicles in the adjoining field have been removed by the applicant so the 2021 Junkyard License should be provided to the applicant by the Clerk if not already released. The Municipal Court action for operating a junkyard without a license has been adjudicated with the Court finding the owner guilty with the issuance of a fine.
- As of the date of this report, the 2022 Junkyard License Application has not been filed.



- We have received Shandor's 2022 Junkyard License Application. A copy of our review report will be provided under separate cover in advance of the April 5, 2022 Committee meeting.
- **No action was taken on the 2022 Junkyard License at the April 5, 2022 Committee meeting. As suggested by the Committee, K. Campbell, Esq. sent an April 14, 2022 letter to J. Riddle requiring that he address the comments in FCE's April 4, 2022 review letter prior to the application being considered for approval. As of the date of this report, no additional information has been received from Mr. Riddle.**

FOX FARM ROAD, SECTION 2 (2021 NJDOT Grant Project)

- The Township was notified by the State that they received a grant in the amount of \$136,700 for the resurfacing of Fox Farm Road Section 2.
- A Budget Memo was sent to the Township which showed a significant shortfall for this work. FCE is presently evaluating a modification to the scope of the work (shorten the length roadway to be resurfaced) and will provide a revised budget amount to the Township.
- The snow covering the existing Guide Rail has forced a delay in the modification to the Initial Budget Memo, but we are hoping to provide the Committee a revised Budget memo in advance of the 3/2/21 TC Meeting under separate cover.
- FCE has scheduled the field survey work and will begin to develop the initial documents for submission to DOT.
- The Field survey work has been completed and we are now proceeding with the design phase of the project. Per prior discussions and the subsequent approval from the Twp. Committee, this section of Fox Farm Rd. is longer(almost 1.5 Miles) than "conventional" DOT Grant projects. This will obviously have a direct impact on the total costs of the project(as outlined in our Jan. Memo to the Committee).
- Plans, Specifications and Engineers estimate was submitted to NJDOT on August 4, 2021. NJDOT has reviewed our submittal and we may proceed with award to Morris County Cooperative Pricing council.
- The Morris County Cooperative Pricing Council paving contractor is not able to schedule the resurfacing of Fox Farm Road for this year. The NJDOT approvals are in place, and we will be in position to have this project started in the Spring of 2022.
- A new resolution of award has been sent to the Township to reflect the new 2022 Morris County Cooperative Pricing Council bid prices so this project can proceed as soon as the weather allows.
- NJDOT has given the Township approval to Start construction. FCE has spoke with the DPW and the paving contractor to schedule paving for the end of April, beginning of May.
- **Paving was completed on April 26th and 27th. The Guiderail contractor is scheduled for May 9, 2022 and the striping contractor has been contacted, but we do not have a scheduled date from them yet.**



Ridge Road Section 2 (2022 NJDOT Grant Project)

- The Township was notified by the State that they received a grant in the amount of \$131,600 for the resurfacing of Ridge Road Section 2.
- A Budget Memo was sent to the Township which showed a significant shortfall for this work. A shortened section of Ridge Road was also presented in the budget memo for the Township to evaluate and discuss. Obviously, Kathleen will need to be involved in these discussions from an overall budgeting perspective for 2022.
- Based upon the Budget Memo referenced above, it is our understanding that the Township is evaluating some options for proceeding with this project. The Township will need to advise our office regarding how they would like to proceed with this project for 2022 based upon the fairly significant shortfall of Grant monies (\$131,600.00 vs. the estimated cost of the project).
- The Township has decided to proceed with the full length of roadway. FCE is in the process of surveying the road and creating the base mapping.
- **FCE has completed the field survey work and is in the process of developing the base mapping for the project.**

2021 LOCAL RECREATION IMPROVEMENT GRANT **(no change since last month's report)**

- After discussions with Kelley Smith, the Township is moving forward with an application through this grant program for the construction of a walking path at the recreation site. Donna Becker, PE (our office) will use all of the information that was prepared for the TA-Set Aside Grant (Refer to prior item listed in this report) and will prepare all necessary supporting documents to submit the application. There are a number of forms that need to be signed by the Township which have been previously forwarded to Kelley Smith. Applications are due through NJDCA SAGE by May 24, 2021.
- This application was submitted on May 19, 2021.
- In the beginning of January we were informed that we did not receive this grant. However, after looking at the grants awarded, we think we should submit a "new/modified" application in 2022 with a reduced scope of work, less amenities, and the walking path. The State is not currently accepting applications for 2022.

c: Kelley Smith, Clerk, via email only
Katrina Campbell, Esq., via email only
Kathleen Reinalda, CFO, via email only
Randy Hoffman, DPW, via email only

- Regular The Regular Meeting of the Harmony Township Committee was called to order by the Mayor. The Mayor made the following announcement: "Adequate notice of this meeting was given in accordance with the Open Public Meetings Act by providing a notice of the meeting to the Express-Times and Star Ledger posting a copy thereof on the Township bulletin board and filing a copy thereof in the office of the Municipal Clerk." The Pledge of Allegiance to the American Flag was led by the Mayor.
- Roll Call Tipton, Yamrock, Cornely
- Budget Mr. Mooney gave a summary of the budget. There is a reduction in the tax rate this year. It is a small reduction and almost flat. The County is almost flat also. Waiting to see where the school comes in at.
- Motion by Yamrock, seconded by Cornely and carried unanimously by roll call to introduce the 2022 budget as appended to these minutes.
Roll Call: Ayes: Tipton, Cornely, Yamrock Nays: none
- HS&G Permit Renewal Mr. Wilhelm and Mr. Panicucci were present representing Harmony Sand and Gravel. Mr. Wilhelm indicated they were presenting the 2022 mining application, proof of service was provided. They had received a letter from the Township Engineer Mr. Finelli which was responded to. He indicated most of the questions should have been answered in a satisfactory manner. Mr. Finelli reviewed the report of February 25, 2022. He said there has been good progress made in the restoration of pit 2. He said there was a few issues that need discussion. There are a few areas that they pointed out to HS&G that were in excess of the 3:1 slope. Finelli engineering asked for additional survey work and verification. Finelli engineering did it with a smart level. He explained how that works and indicated they were in excess of the 3:1 in a few areas. Some are vegetated areas primarily at the north end of the pit. Mr. Panicucci responded to that with information received April 4th. There is clearly still some reclamation that remains. Primarily that is topsoil, fertilizing and seeding and landscaping. The reclamation is not done but getting close. Mr. Finelli stated there was a letter received from Attorney Gruenberg on behalf of Star D Farm which raises some other issues. The concerns are the 3:1 slope areas, the material received and used as fill material at the quarry, as it is known HS&G has been in a contractual relationship with Earth Efficient for a couple of years. They were responsible for the importation of material and the depositing of that material. He said when it first started a lot of concern was raised by Star D and their office relative to some of the material being imported. Provisions made by the field crew on site to facilitate the cleanup which has been on going over time. Finelli's office sent the township committee documentation or all the information they have received from Earth Efficient which certifies all the material as clean fill. Mr. Finelli said that could be a long discussion, but Mr. Gruenberg on behalf of Star D has taken exception to some of that material and has provided some pictures, and the other main issue is the consideration of a bond reduction. Mr. Finelli stated they have been conducting intermittent inspections. Most of the material now is being deposited in the "active pit" that is being reclaimed. He said the issue of qualification as clean fill is again an interesting and debatable topic. There is a lot of information provided by Earth Efficient certifying that it is clean and qualifies as such, also, there is clearly some extraneous material that is in the said clean fill. Mr. Gruenberg has requested a Phase

II environmental study which needs to be discussed. Mr. Finelli state the operation, reclamation and condition of the pit has never been this far along, he was there about a month ago and based upon slopes, the grading that was conducted for the majority of the pit and the pit walls/slopes has come along way and is in pretty good shape not to say that it is done or it is perfect, but it has come along way. Mr. Wilhelm stated they had three things they are prepared to address, the 3:1 slopes, clean fill and the bond. Mayor Tipton asked about the reports on the materials. He stated the materials reports were discussed before and wanted to know why Star D was not getting the reports after all this time. He said he is surprised and he gets them via email. Mayor Tipton said Star D farm should get them on the material that is deposited on their property and should be a non issue. Mr. Wilhelm stated he would concur and he will look into that and ask Earth Efficient to send them to them directly he didn't know why that wasn't happening. Mr. Panicucci said that request was made by Mr. Gruenberg in past years' and it was done immediately after. He stated he copied hm on the bi-monthly reports that were submitted. They hadn't submitted one since mid or late fall since they were done with the filling operation and are waiting for approval on acceptance of the grades before they proceeded with the seeding but subsequent to that meeting he was added to those reports and also subsequent to that meeting arrangements were made for him to have access to the Earth Efficient website to dig down and get the details of the reports because they don't get them all or submit them that is all available through the Earth Efficient portal on the website. Mayor Tipton stated he thought he got the emails from Earth Efficient and Mr. Finelli agreed that he also gets them. Mayor Tipton said he doesn't have to go anywhere it just happens that he gets them on a regular basis and they should get them also. Mr. Finelli stated he looked at his emails and found one just to him and he thought others were receiving so he never inquired about who else was receiving them. Mr. Wilhelm state that would have to be corrected. Mayor Tipton stated time wise, it has come along way, taking longer than the Township wanted it to, what does Mr. Finelli foresee that is remaining being a completion time. Mr. Finelli stated it is certainly doable in 2022. He stated the clean fill aside, there is no reason in his opinion, if there are some slope areas that need to be fixed and improved that can be done as well, but there is no reason why that pit could not be completed this year. Mayor Tipton would like to understand where the photos that Mr. Gruenberg provided are in proximity to the pit area. Mr. Gruenberg stated the first photo that shows the macadam is in the northeast corner of the pit area. The one with the brick and the shells are in the northeast corner, the shelling of a different texture with lots of shells are on the southeast side. The tree area is on the east side that has a lot of debris in that area and the next is in the north that has the problem with the slope along the Roxburg Station Road area. The last photo is the very northeast area next to the Buckhorn Creek near Roxburg Station Road. This is where it was at 300 elevation and now it is at a lower elevation on their map. It is supposed to be at 300 to prevent the creek from overflowing. It was discussed that that is the area that the trucks were coming in from. Mayor Tipton asked if the committee had any question so far. Neither did. Mr. Wilhelm asked Mr. Panicucci about the 3:1 slopes. Mr. Panicucci stated in response to Mr. Finelli's comment in the February 25th report they did have their survey crew out and the took 200 spot elevation across the north end of the slopes and the cross sections that have always been in the application, there are 3 cross sections there at 100 ft apart and they did them at 25 ft apart to show a lot more cross sections and what it comes down to is that there is an area that is the north west corner of the pit that was shown in photographs he submitted and a letter of last Friday, there are trees growing there and he believes it is the same photo provided by Star D with the brush and trees that are in the northwest corner. He stated when they resloped they didn't touch that because it was established growth there and there is a small area where that grade is exceeded. Having to clear the trees and changing the grading

a little bit they figured it was safer to leave the trees since that was an established area, it is not much steeper than 3:1, but it does exceed it and it's a small spot in the corner. Mayor Tipton asked what the approximate size of the area was. Mr. Panicucci stated maybe a 50 ft. diameter. The photos Mr. Panicucci provided were viewed and reviewed by Mr. Panicucci. Mayor Tipton asked what is the slope in this area. Mr. Finelli stated that without having survey shots it is probably 2:5, it's just steeper. Mayor Tipton said in order to do it the area needs to be deforested. He asked Mr. Gruenberg if that is what was wanted because that would create a worse situation. Mr. Gruenberg stated he would call it forested, that the only reason is that there is material there and this has taken so long to fix the area that it hasn't been restored in a timely manner and that is why there are small trees there. Mayor Tipton agreed, he said but now it is what it is, is the preference to have it done per the ordinance at the 3:1 with the understanding you will lose the vegetation. Mr. Gruenberg stated the property owner is worried about the safety of the situation because it is a steeper slope than permitted in the ordinance and it should be restored in the proper way so if it means regrading that area to make it appropriate slope it should be done in accordance with the ordinance and with accordance with the Township Committee's directions over the last several years that he has been a part of. Mayor Tipton asked if there were any question by the committee or professionals on that. None were heard. Mr. Wilhelm introduced Mike Miller of Earth Efficient and MHN management to discuss the material issues. Mr. Wilhelm asked him if he was familiar with the importation of the materials by Harmony Sand and Gravel on the subject property. Mr. Miller indicated yes. Mr. Wilhelm asked how long he was familiar with this project. He stated since its inception. Mr. Miller indicated he has heard the discussion going on today and has heard the complaints and concerns that are being made. Mr. Miller stated he represents that he certified the material is in fact clean fill in accordance with the NJDEP regulations. He addresses some of the concerns primarily as it relates to the macadam. Mr. Miller stated he is part of the team that goes through making sure it meets all the requirements of the NJDEP rules and regulations for importation of clean fill. He does not have any concerns that it is not meeting those regulations. Mayor Tipton asked if he saw the photos presented by Mr. Gruenberg. Mr. Miller stated he has. Mayor Tipton said it appears that there are chunks of macadam, pieces of broken glass, brick, seashells. He asked if there was a certain amount of that material permitted as clean fill or is it permitted in general. Mr. Miller stated when the project started, they had created a material acceptance plan for site specific for mine reclamation at plant 1, pit #2. He said part of that has been submitted and given to, or all or it has been given to, the Engineering firms that represent the Township and Harmony Sand and Gravel. It was made accessible to the Warren County Soil Conservation District and the DEP. Mr. Miller said one of the things is the definition of clean fill and soil material defined by the NJDEP, they classify it as, soils, sands, clay that do not contain concentrations of 1 or more contaminants that exceed the residential direct contact remediation standards that are set for in NJAC 7:26D remediation standards and non-water soluble non-decomposable non-prestrubable(?) such as rock, gravel, brick, block, concrete, glass and or clay or ceramic products or any combination therefore that do not meet the definition of solid waste pursuant to the rules. As the above rules any fill containing wood material, plastic, wire, wallboard, roofing material, insulation, carpet or padding are also deminimis levels and considered solid waste, said debris of 1% or less by any volume should be deemed deminimis. He said any time there is less than 1% by volume of anything that is not considered, soil, sand, clays, brick, block or concrete would be considered solid waste that is allowed to be up to 1% in there. They have devised a plan that any time there is anything large enough that can be removed by hand within reason is done and over time they have taken samples, the amount of material they brought out and taken out of the soils

and disposed of, bagged the material and hauling it away they figured out and calculated the amount of material that was being removed came to a debris minimum of .009% based on the clean up when the material was taken off, weighed and calculated it on June 12, 2020. He said he can get updated numbers for that currently. It is his position that it is less than 1%. Mr. Cornely said his question was answered on the amounts allowed. Mr. Finelli stated that was the battle all along until they were educated on what qualified as clean fill and permitted and hauled in, there loads are certified, Earth Efficient is doing the testing and they do not operate a lab and double check everything on a daily basis. A lot of the material goes below the water into the pit and some material floats so obviously anything that floats they would take boat and a crew to try to maintain it and to try to keep a little bit ahead of it that was border line successful and was not the perfect set up but it was an improvement when it first begun and clearly there was a lot of stuff being dumped that didn't belong there 1% or not. Mr. Finelli stated there has been an improvement in the protocols and the cooperation. They are trying to keep things clean but not with 100% success and some of the stuff that is getting dumped and may qualify as clean fill through the DEP, he doesn't argue that, but it just doesn't look like it belongs there, so he feels it is a very gray area. It's improved, it's better but not perfect. Mayor Tipton stated that the top course has to be able to vegetate. Mr. Finelli said there is still a lot of topsoil that needs to be done yet. The final stabilization at the North and East ends needs a lot of work yet and the south end to some degree. Mr. Panicucci showed the plan for final landscaping that needs to be done. Mr. Finelli said beyond the areas shown on the pictures that are further down the slope closer to the water that have trees grown, it is a stable area. There are also some 3:1 slope violations up closer to the road at the top and is basically behind the evergreen tree row that exists along the road at the top of the slope, he is sure that the argument with that will be to comply with the ordinance especially with the maturity of some of the evergreens. He doesn't know if they can be saved or not so there's also 2 areas at the north end of the pit and some further down the slope and then at the very top of the slope and they are separated. Mr. Gruenberg asked Mr. Miller about when they are calculating the amount that you claim is deminimis, that's based upon dumping out and pulling out what is offensive material and figuring out how much of that offensive material is in relation to the truck load that was dumped, but that doesn't account for the stuff that is missed and dumped on the ground. Mr. Miller stated that was correct. Mr. Gruenberg stated then the .0009% is based solely on what is able to be picked out so there is still other stuff in there actually being dumped on the ground that they might not be able to get to or went into the water, that doesn't account for that .0009% correct. Mr. Miller stated that they are not getting every single piece out and they are not screening it. Mr. Wilhelm stated that they will stipulate to that that they are not getting every piece. Mr. Gruenberg stated so what they are counting as deminimis is only what is being pulled off the load not what might be under 2 or 3 feet under the ground or in the water. Mr. Miller said the material is pushed off with a bulldozer and as it is being pushed they are turning the material and they have people watching and physically pulling anything they can by hand or physically able to pick up as a rule. Mr. Wilhelm addressed the bond request. He stated in accordance with the calculations set by Mr. Panicucci and confirmed by Mr. Finelli they are seeking a reduction in the bond to \$700,000.00. He stated that as Mr. Finelli has said that the last couple of years things have improved and got better and he thinks based on the calculations that \$700,000 is appropriate. Mayor Tipton asked about the timeline of completion in 2022. He asked what they thought about that including the slope adjustments. Mr. Panicucci stated they are ready to start the landscaping and if there are some slope adjustments in a small area that can be done in a very short period of time. He thinks it is reasonable to complete the project in 2022. The committee had no further questions at

this time. Mr. Panicucci commented on the grading along the road in the Northeast corner that was lowered. There were some sections there as high as 300 at some point but the plans have shown it cut down to 296 across that spot as part of the reclamation. That cut was to help with the reclamation and part of the flood hazard permit application so that was intended to lower that grade.

Mr. Gruenberg stated with respect to the slope area his clients feel it needs to be fixed and the vegetation has grown because it hasn't been dealt with. He feels it can be done as their engineer has also indicated so he requests no leniency be given by the committee in that area. With respect to the depositing of the material on site, the owners have continuously voiced their concerns and objections with respect to it and he noted that the resolution from last year required Earth Efficient to provide a certificate of insurance that included the Township of Harmony and Finelli Consulting Engineers as additionally insured, he doesn't understand why it doesn't include the property owner where the property is being deposited as an additional insured. That would seem to be logical and if Earth Efficient is so confident that this material that they are allowing to be deposited onto the property owned by his clients is environmentally acceptable they should be an additionally insured as well as the Township and Finelli Engineers. Mr. Gruenberg stated there are great concerns with respect to the environmental issue that might be caused by the depositing of this material. He stated reducing the bond at this point when his clients has not had the ability to have it investigated if the township is not willing to have a Phase II done, then he would like to have the ability to have it inspected once it is completed in order to ensure themselves that there are no environmental issues and if it meets the de minimis 1% standard then the bond eventually can be reduced, there is no reason to reduce it at this point, especially with the history that has gone on over the years. Mr. Gruenberg stated they were glad that the restoration appears to be nearing an end but it's been a really long torturous fight to get to this point and to reduce the bond doesn't seem to be a reward that should be granted particularly with his clients peril with the environmental issues that might be there that the Townships engineer has struggled with in dealing with the conservations about it. He asked that the Township allows his client to be an additional insured, not reduce the bond, and require the slopes to be corrected the way they should be.

Mr. Wilhelm stated making the property owners an additionally insured should not be a problem and easily accomplished. Mr. Miller will check with the insurance company and does not see a reason why it can't be done. Mr. Wilhelm asked Mr. Gruenberg to provide the email addresses for the Earth Efficient reports so they can be emailed directly. Mr. Wilhelm stated as it relates to the bond, they have made a good faith effort and the calculations are the calculations. It is approximately 640,000 so he thinks 700,000 is reasonable. He said this is nit picking, he understands they have concerns about the material and he would be concerned about what material is dropped on my property however they were asked to get a 3rd party and they did and the third party is producing certified clean fill in accordance with the regulations and you are getting a couple pieces shown to support their argument, but Mr. Gruenberg tried to make a point to say that not all the debris is not getting picked up, that's acknowledged but based upon the calculations it's .009% so in other words in order to be in excess of 1% that would mean that Earth Efficient is only picking up 1 1000th of the non-clean material and he said that is certainly not the case. Mr. Miller agreed. Mr. Wilhelm said if their calculations is 9 1000th of 1% that means they are only picking up 1 out of 1000 pieces of debris that doesn't fit the definition of clean fill. He said you have that and it is what it is. Mr. Wilhelm stated if they want the to do the 3:1 and deforest that area they will do it. They think they have shown good faith in getting the

3rd party in over the years and would ask to have good faith sent back by reducing the bond.

Mayor Tipton asked Mr. Finelli if 700,000 was ok. Mr. Finelli stated yes. He said there is still the issue of final soil testing to be done. He noted Mr. Gruenberg asked for a Phase II, but he thinks there is a number of different ways to look at it. He said to be honest there is probably a reasonable compromise that could be met to have that work done at this point in time and he is assuming the tests results would come back fine, that being the case, he thinks everyone would have a greater degree of satisfaction going into the next step when they are out of the site and Star D can enjoy their pit. He thinks that is worth the question. Mr. Wilhelm stated that Star D has been able to do an environmental any time they want because they have owned the property and they haven't done it in all the years and now this is the first time hearing it. HS&G does not think it is necessary to do anything additional, they think it would be onerous and burdensome, they are doing what they have been asked to do in the past, got the third party, they don't see the need to burden them with having to do further environmental testing. Mr. Gruenberg stated that the Township Engineer is raising concerns from a what happens now when it is all done, what if they're wrong, what if the material is greater than 1%, why is there a fear to test. He is using the term Phase II but why is there a fear to test that material which would be a lot less intrusive means to protect the Township, his client from whatever has been deposited there. Test it before the bond is released and require the applicant to do that if they're so confident that the material is clean fill and under the standards then they shouldn't work about having to test it. He said it should be a "no brainer" for everyone. Mr. Wilhelm stated they are not worried about the result they just don't believe they should have to pay for this when the 3rd party, Earth Efficient, calculations are so far below the 1%. Mayor Tipton asked if the committee or professionals had any more questions. Mr. Cornely said he thinks that they should be allowed to be added as additionally insured, have the slope restored to 3:1 and as far as the bond is concerned he will entertain what the rest of the committee would like. Mayor Tipton said the Mr. Finelli said the 700,000 is more than sufficient so he thinks the committee should stick with that. Mrs. Yamrock said she agrees and she has driven past and is impressed with what has been done from what it was to what it is now there is a big difference and she understands there is more to do. Mayor Tipton asked Mr. Finelli to give more consideration at some point to testing because just saying testing gives a lot of options. Mayor Tipton stated like it's been said since everyone is so confident maybe there should be some limited testing in certain areas would be a proper decision. He said they have compromised during this process for the last 10 years between what the ordinances say, what happened in the past, who's fault was what, he also doesn't want to make some sort of expensive stringent standard that is overkill.

Mayor Tipton moved to approve the 2022 application with the requirement of the slopes in the area recognized by the applicant and Star D Farm to be made 3:1 with the elimination of any trees necessary, make sure the reports are provided to Star D Farm, set the bond amount to \$700,000.00, this will all be accomplished in 2022, the property owner is added as an additional insured, and Mr. Finelli will look into and come up with some sort of testing that he feels is fair and reasonable to the applicant as well as the property owner and for the sake of the Township.

Mr. Finelli said he is fine coming up with the test parameters. He asked if the testing needs to be approved by HS&G or does Star D. Mr. Cornely said they should both get a copy of the results. Mayor Tipton said that he should balance all equities and he thinks it is more of a professional engineering type technical thing that the committee does not have the expertise to make that decision and he should discuss within the parties.

He stated due to what has been seen in the material and they are doing the best they can, and it's DEP approved, he gets what they are doing but at the same time things have been uncovered that are undesirable and even though it might be legit under the DEP regs he thinks it's a reasonable request. Mr. Finelli said there are more specialty type consultants that they have worked with and they might need to reach out to them. They will do what they think is in the best interest of Star D and what is reasonable for HS&G. Mr. Gruenberg stated he appreciates that.

Mrs. Yamrock seconded the motion made. Roll Call: Ayes: Cornely, Tipton, Yamrock. Nays: none.

Motion by Tipton, seconded by Yamrock and carried unanimously by roll call to approve the Harmony Sand & Gravel 2022 Operating Permit Renewal.

Roll Call: Ayes: Cornely, Tipton, Yamrock Nays: none

Consent
Agenda

Motion by Yamrock, seconded by Cornely and carried unanimously by roll call to approve the consent agenda that included the following items:
Roll Call: Ayes: Tipton, Yamrock, Cornely Nays: none

Reports

Attorney, Engineer and Zoning

Minutes

March 22, 2022

Resolution

RESOLUTION FOR MEMBER PARTICIPATION
IN A COOPERATIVE PRICING SYSTEM

A RESOLUTION AUTHORIZING THE TOWNSHIP OF HARMONY
TO ENTER INTO A COOPERATIVE PRICING AGREEMENT
RESOLUTION NUMBER R:22-16

WHEREAS, N.J.S.A. 40A:11-11(5) authorizes contracting units to establish a Cooperative Pricing System and to enter into Cooperative Pricing Agreements for its administration; and

WHEREAS, the Hunterdon County Educational Services Commission, hereinafter referred to as the "Lead Agency " has offered voluntary participation in a Cooperative Pricing System for the purchase of goods and services;

WHEREAS, on April 5, 2022 the governing body of the Township of Harmony, County of Warren, State of New Jersey duly considered participation in a Cooperative Pricing System for the provision and performance of goods and services;

NOW, THEREFORE BE IT RESOLVED as follows:

TITLE

This RESOLUTION shall be known and may be cited as the Cooperative Pricing Resolution of the Township of Harmony, Warren County, New Jersey;

AUTHORITY

Pursuant to the provisions of *N.J.S.A. 40A:11-11(5)*, the Chief Financial Officer is hereby authorized to enter into a Cooperative Pricing Agreement with the Lead Agency.

CONTRACTING UNIT

The Lead Agency shall be responsible for complying with the provisions of the *Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.)* and all

other provisions of the revised statutes of the State of New Jersey.

EFFECTIVE DATE

This resolution shall take effect immediately upon passage.

CERTIFICATION

I, Kelley D. Smith, Municipal Clerk of the Township of Harmony, do hereby certify the foregoing to be a true copy of a Resolution adopted by the Harmony Township Committee at a meeting held on April 5, 2022.

Kelley D. Smith
Municipal Clerk

BY: Brian R. Tipton, Mayor

(NAME AND TITLE)

ATTEST BY: Kelley D. Smith, Municipal Clerk

(NAME AND TITLE)

New
Business

1. Shandor's Used Auto Junkyard License Renewal has been carried to May's Township Committee meeting.
2. The Township Committee tabled the Introduction by Title Only; Ordinance No O:22-1; short term rentals.
3. Motion by Yamrock, seconded by Cornely and carried by all in favor to approve the application for Brian Unangst to join the New Jersey State Fireman's Association.

Old
Business

1. Motion by Yamrock, seconded by Cornely and carried by all in favor to open the public hearing for consideration of Ordinance O:22-2; CAP Ordinance;

There were no public comments

Motion by Yamrock, seconded by Cornely and carried by all in favor to close public comments.

Motion by Yamrock, seconded by Cornely and carried unanimously by roll call to adopt O:22-2; CAP Ordinance.

Roll Call: Ayes: Tipton, Cornely, Yamrock Nays: none

Public
Comment

Jane Nemeth asked for explanation on Correspondence #1.

Adjourn

Motion by Yamrock, seconded by Cornely to adjourn the meeting at this time. The motion was carried unanimously by all in favor.

Kelley Smith, Municipal Clerk