

ORDINANCE 49-2009

BOND ORDINANCE TO AMEND IN ITS ENTIRETY THE BOND ORDINANCE (ORD. NO. 73-2008) ENTITLED: "BOND ORDINANCE TO AUTHORIZE THE ACQUISITION OF REAL PROPERTY FOR OPEN SPACE PRESERVATION AND RECREATION PURPOSES BY AND FOR THE BOROUGH OF MADISON, IN THE COUNTY OF MORRIS, NEW JERSEY, TO APPROPRIATE THE SUM OF \$12,800,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO APPROPRIATE A COUNTY GRANT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS," ADOPTED ON NOVEMBER 24, 2008.

BE IT ORDAINED by the Borough Council of the Borough of Madison, in the County of Morris, State of New Jersey, as follows:

Section 1. The bond ordinance (Ord. No. 73-2008) entitled:

"BOND ORDINANCE TO AUTHORIZE THE ACQUISITION OF REAL PROPERTY FOR OPEN SPACE PRESERVATION AND RECREATION PURPOSES BY AND FOR THE BOROUGH OF MADISON, IN THE COUNTY OF MORRIS, NEW JERSEY, TO APPROPRIATE THE SUM OF \$12,800,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO APPROPRIATE A COUNTY GRANT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS"

adopted by the Borough Council of the Borough of Madison, in the County of Morris, New Jersey (the "Borough") on November 24, 2008 (the "Prior Ordinance") is hereby amended in its entirety to (A) decrease the bonds and notes authorized from \$6,000,000 to \$4,700,000 (a decrease of \$1,300,000); (B) increase the sum provided by the County Grants appropriated from \$6,000,000 to \$7,300,000 (an increase of \$1,300,000); and (C) decrease the gross

debt of the Borough shown on the Supplemental Debt Statement filed for the ordinance, as amended, from \$6,000,000 to \$4,700,000 (a decrease of \$1,300,000); and shall hereafter read as follows:

"BOND ORDINANCE TO AUTHORIZE THE ACQUISITION OF REAL PROPERTY FOR OPEN SPACE PRESERVATION AND RECREATION PURPOSES BY AND FOR THE BOROUGH OF MADISON, IN THE COUNTY OF MORRIS, NEW JERSEY, TO APPROPRIATE THE SUM OF \$12,800,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO APPROPRIATE COUNTY GRANTS, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

BE IT ORDAINED by the Borough Council of the Borough of Madison, in the County of Morris, New Jersey, as follows:

Section 1. The Borough of Madison, in the County of Morris, New Jersey (the "Borough") is hereby authorized to acquire approximately 53 acres of real property for open space preservation and recreation purposes by and for the Borough. Said improvement shall include real estate transaction expenses and all work, materials and appurtenances necessary and suitable therefor. The property to be acquired is designated as a portion of Block 1401, Lot 5 on the Tax Assessment Map of the Borough of Florham Park. The Borough of Madison intends to annex said property after its acquisition.

Section 2. The sum of \$12,800,000 is hereby appropriated to the payment of the cost of making the improvement described in Section 1 of this ordinance (hereinafter referred to as "purpose"). Said appropriation shall be met from the proceeds of the sale of the bonds authorized, the down payment appropriated and the \$7,300,000 aggregate grants from the Morris County Open Space

Preservation Trust Fund (collectively, the "County Grant") appropriated by this ordinance. Said improvement shall be made as a general improvement and no part of the cost thereof shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that (1) the making of such improvement is not a current expense of said Borough, and (2) it is necessary to finance said purpose by the issuance of obligations of said Borough pursuant to the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes, as amended; the ALocal Bond Law), and (3) the estimated cost of said purpose is \$13,050,000 (consisting of the \$12,800,000 hereby appropriated and the \$250,000 previously appropriated from the Borough's Open Space and Recreation Trust Fund for the deposit for the real estate purchase pursuant to Ordinance No. 4-2008 adopted by the Borough Council of the Borough on January 28, 2008), and (4) \$7,300,000 of said sum is to be provided by the County Grant hereinafter appropriated to finance said purpose, and (5) \$800,000 of said sum is to be provided by the down payment hereinafter appropriated to finance said purpose, and (6) the estimated maximum amount of bonds or notes necessary to be issued for said purpose is \$4,700,000, and (7) the cost of such purpose hereby financed includes the aggregate amount of \$50,000 which is estimated to be necessary to finance the cost of such purpose, including architect's fees, accounting, engineering and inspection costs, legal expenses and other

expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 4. It is hereby determined and stated that the aggregate sum of \$7,300,000 received or to be received as the County Grant is hereby appropriated to the payment of the cost of such purpose.

Section 5. It is hereby determined and stated that the aggregate sum of \$800,000 (consisting of (A) \$50,000 in the Borough of Madison Open Space and Recreation Trust Fund and (B) \$750,000 in the General Capital Improvement Fund) is now available to serve as the down payment on said purpose. The sum of \$800,000 is hereby appropriated from such moneys to the payment of the cost of said purpose.

Section 6. To finance said purpose, bonds of said Borough of an aggregate principal amount not exceeding \$4,700,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 7. To finance said purpose, bond anticipation notes of said Borough of an aggregate principal amount not exceeding \$4,700,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds.

In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 8. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said notes shall be signed by the Mayor and by a financial officer and shall be under the seal of said Borough and attested by the Borough Clerk or Deputy Borough Clerk. Said officers are hereby authorized to execute said notes and to issue said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is hereby authorized to sell said notes

either at one time or from time to time in the manner provided by law.

Section 9. It is hereby determined and declared that the period of usefulness of said purpose, according to its reasonable life, is a period of forty years computed from the date of said bonds.

Section 10. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Borough Clerk of said Borough, and that such statement so filed shows that the gross debt of said Borough, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$4,700,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 11. Any funds received from private parties, the County of Morris, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purpose (other than the County Grant hereinbefore appropriated which shall be applied to the cost of such purpose, but shall not be applied to the payment of outstanding bond anticipation notes and the reduction of the amount of bonds authorized), shall be applied to the payment of the cost of such purpose, or, if bond anticipation notes have been issued,

to the payment of the bond anticipation notes, and the amount of bonds authorized for such purpose shall be reduced accordingly.

Section 12. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 13. The Borough intends to issue the bonds or notes to finance the cost of the improvement described in Section 1 of this bond ordinance. If the Borough incurs such costs prior to the issuance of the bonds or notes, the Borough hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 14. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Borough, and the Borough shall levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 15. This ordinance shall take effect twenty days after the first publication thereof after final passage."

Section 2. This amendatory bond ordinance shall supersede the Prior Ordinance, and all contracts, expenditures, encumbrances and charges made pursuant to the Prior Ordinance shall be deemed to have been made pursuant to this amendatory bond ordinance. All bond anticipation notes issued pursuant to the Prior Ordinance are hereby ratified and approved and shall be deemed to have been issued pursuant to this bond ordinance.

Section 3. The capital budget is hereby amended to conform with the provisions of this amendatory bond ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 4. This ordinance shall take effect twenty days after the first publication thereof after final passage.

MARY-ANNA HOLDEN, Mayor

Attest:

ELIZABETH OSBORNE, Acting Borough Clerk