

**EXPLANATION:** This Ordinance authorizes the sale of Block 11, Lot 13.01 (Bothers Farm) to Briarwood Farms, Inc.

**ORDINANCE 2008-43**

**AN ORDINANCE AUTHORIZING THE SALE OF BLOCK 11, LOT  
13.01 (BOTHERS FARM) TO BRIARWOOD FARMS, INC.**

**WHEREAS,** the Township of Hillsborough acquired title to Block 11, Lot 13.01, consisting of approximately 158.4 acres, commonly known as the Bothers Farm ("Property"), with the assistance of a Planning Incentive Grant for the preservation of farmland; and

**WHEREAS,** the Township having achieved the goal of farmland preservation by the imposition of a Deed of Easement, which Deed is from the Township of Hillsborough to the County of Somerset Agriculture Development Board, and which was recorded with the Somerset County Clerk's Office on June 30, 2005, in Deed Book 5763, Pages 545 to 560, and which ensures that the Property shall remain farmland; and

**WHEREAS,** it is the goal of the Township of Hillsborough to preserve other farms; and

**WHEREAS,** that goal may only be achieved through the replenishment of the Open Space Trust Fund; and

**WHEREAS,** the Township Committee desires to return the Property to the real estate tax rolls; and

**WHEREAS,** the Township Committee also desires to avoid the management, maintenance and repair required of the Property; and

**WHEREAS,** in order to achieve the goals of replenishing the Open Space Trust Fund, returning the Property to the real estate tax rolls, and avoiding the continued management, maintenance and repair of the Property, the Township Committee authorized that, pursuant to the Local Lands and Buildings Law, N.J.S.A. 40A:12-1, et seq., the Property be auctioned to the

highest bidder as surplus property; and

**WHEREAS**, in addition to the Deed of Easement, the Township of Hillsborough imposed the following Supplemental Restrictions:

1. Provided that the State Agriculture Development Committee and the County of Somerset Agriculture Development Committee approve, the Buyer may replace the existing single family residence on the Bothers Farm with one (1) single family residence containing a maximum of 5,000 square feet of livable area.

2. Provided that the State Agriculture Development Committee and the County of Somerset Agriculture Development Committee approve, the Buyer may construct a green house in the area of any existing barn not to exceed 3,000 square feet.

3. The total impervious coverage shall not exceed five (5%) percent.

4. There shall be no disturbance of topsoil.

5. Poultry and swine production shall be limited to one hundred (100) of each, and all farm operations must comply with Section 188-99.3, Agricultural District, of the Code of the Township of Hillsborough.

6. No manufacturing or processing of agricultural by-products or materials not grown or produced on the Property shall be permitted.

7. No spreading, injecting, stockpiling or composting of leaves shall be permitted on the Property. This prohibition includes recycling, storage, spreading or participating in a leaf application program.

8. No spreading, injecting, or stockpiling of food by-products shall be permitted on the Property.

9. No All-Terrain Vehicles or similar vehicles shall be operated on the Property except for a farm use. In other words, no recreational use of an ATV. This restriction also applies to snowmobiles.

10. No further subdivision of the Property is permitted.

11. The access drive from River Road which cuts through Block 11, Lot 13.02, must remain open to the public because Lot 13.02 is a public trail.

and

**WHEREAS**, the Township of Hillsborough issued a Request for Proposals for an auction of the Property to be conducted by a licensed real estate broker; and

**WHEREAS**, Max Spann Auction Co. ("Auctioneer") responded to that Request for Proposals and was awarded the contract for auction services; and

**WHEREAS**, on October 17, 2008, after a marketing program consisting of mailings, newspaper and internet advertising and open houses, the Auctioneer held an auction at the Township of Hillsborough Municipal Complex; and

**WHEREAS**, after spirited bidding, the highest bid for the Property was \$845,000.00; and

**WHEREAS**, the Buyer of the Property is solely responsible for the auction premium of ten (10%) percent to the Auctioneer bringing the total purchase price to \$929,500.00; and

**WHEREAS**, the bid price is within an acceptable range for property which has been stripped of its development rights; and

**WHEREAS**, the Township Committee of the Township of Hillsborough desires to accept the highest bid and sell the Property subject to the Deed of Easement, Supplemental Restrictions and any other exiting easements.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Hillsborough, Somerset County, New Jersey, that the Property be sold to Briarwood Farms, Inc., for the sum of \$929,500.00 (\$845,000.00 bid price and \$84,500.00 Buyer's premium) on the following conditions:

1. That all of the actions taken by the Township Administrator, Attorney and Auctioneer are hereby ratified.
2. That the Township Attorney is hereby authorized to prepare the necessary closing documents to convey the Property and attend the closing.
3. That the Mayor and Clerk are hereby authorized to sign the necessary closing documents to convey the Property.
4. That the Property be sold "as is" and "where is".
5. That the Property be sold subject to the Deed of Easement, Supplemental Restrictions and any other exiting easements.
6. This Ordinance shall take effect in accordance with law.

**ATTEST:**

**HILLSBOROUGH TOWNSHIP COMMITTEE**

\_\_\_\_\_  
Kevin P. Davis, Clerk

By: \_\_\_\_\_  
Anthony Ferrera, Mayor

*Introduced: 11/10/08*

*Published: 11/20/08*

*Public Hearing: 12/9/08*

*Adopted: 12/9/08*

*Published: 12/18/08*