

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

September 16, 2010

The Marlboro Township Council held its regularly scheduled meeting on September 16, 2010 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President LaRocca opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 11, 2010; mailed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk. Notice of the time change was given to the above on May 10, 2010.

The Clerk called the Roll.

PRESENT: Councilman Cantor Council Vice President Marder, Councilwoman Mazzola, Councilman Metzger and Council President LaRocca.

Also present were: Mayor Jonathan L. Hornik, Louis Rainone, Esq., Business Administrator Jonathan Capp, Municipal Clerk Alida Manco and Deputy Municipal Clerk Deborah Usalowicz.

Council President LaRocca opened the Public Hearing on Ordinance # 2010-19 (Amending Chapter 295 - Sewers - Private Drain Inlet Retrofitting). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2010-333/Ord. # 2010-19 was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola, and passed on roll call vote of 5 - 0.

RESOLUTION # 2010-333

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2010-19

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 295, "SEWERS", OF THE CODE OF THE TOWNSHIP OF MARLBORO, BY CREATING AND ESTABLISHING A NEW ARTICLE V, "PRIVATE STORM DRAIN INLET RETROFITTING" TO REQUIRE RETROFITTING OF EXISTING STORM DRAIN INLETS TO PREVENT DISCHARGE INTO THE TOWNSHIP OF MARLBORO'S STORM SEWER SYSTEM AND NEW JERSEY STATE WATERS

which was introduced on August 24, 2010, public hearing held September 16, 2010, be adopted on second and final reading this 16th day of September, 2010.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President LaRocca opened the Public Hearing on Ordinance # 2010-20 (Amending Chapter 164 - Dumpsters - Regulations to Prevent Discharge into Storm Sewer System). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2010-334/Ord. # 2010-20 was introduced by reference, offered by Councilman Metzger, seconded by Council Vice President Marder, and passed on roll call vote of 5 - 0.

RESOLUTION # 2010-334

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2010-20

AN ORDINANCE DELETING CHAPTER 164 OF THE CODE OF THE TOWNSHIP OF MARLBORO, "DUMPSTERS", IN ITS ENTIRETY AND REPLACING SAME WITH A NEW CHAPTER 164, "DUMPSTERS", TO INCLUDE REGULATIONS TO PREVENT DISCHARGE INTO THE TOWNSHIP OF MARLBORO'S STORM SEWER SYSTEM AND NEW JERSEY STATE WATERS IN ACCORDANCE WITH REQUIREMENTS ISSUED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

which was introduced on August 24, 2010, public hearing held September 16, 2010, be adopted on second and final reading this 16th day of September, 2010.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Councilman Cantor recused himself from voting on the following resolution/ordinance and left the room.

Council President LaRocca opened the Public Hearing on Ordinance # 2010-21 (Amendment to Section 220-17 - Exemptions from fees). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2010-335/Ord. # 2010-21 was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 4-0 (Absent: Cantor).

RESOLUTION # 2010-335

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2010-21

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 220, "LAND USE AND DEVELOPMENT", ARTICLE II, "LAND USE PROCEDURES", SECTION 220-17, "EXEMPTIONS FROM FEES", OF THE CODE OF THE TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY

which was introduced on August 24, 2010, public hearing held September 16, 2010, be adopted on second and final reading this 16th day of September, 2010.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Councilman Cantor returned to the meeting.

Council President LaRocca opened the Public Hearing on Ordinance # 2010-22 (Authorizing Lease Midway Mobile/Hamilton Park). After the Public Hearing was held and closed, the following Res. # 2010-336/Ord. # 2010-22 was introduced by reference, offered by Council Vice President Marder, seconded by Council President LaRocca and passed on a roll call vote of 5-0.

RESOLUTION # 2010-336

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2010-22

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND THE MIDWAY MOBILE HOMEOWNERS' ASSOCIATION, INC., AS TO HAMILTON PARK

which was introduced on August 24, 2010, public hearing held September 16, 2010, be adopted on second and final reading this 16th day of September, 2010.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Res. # 2010-337/Ord. # 2010-23 (Conveyance of Development Easement B 155, L 13.03 - formerly McCarron Farm) was introduced by reference, offered by Council Vice President Marder and seconded by Council President LaRocca. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor with Councilman Cantor abstaining.

RESOLUTION # 2010-337

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2010-23

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO TO AUTHORIZE THE CONVEYANCE OF A DEVELOPMENT EASEMENT OVER THE PROPERTY KNOWN AS BLOCK 155, LOT 13.03, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY TO THE MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on October 7, 2010 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2010-23

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO TO AUTHORIZE THE CONVEYANCE OF A DEVELOPMENT EASEMENT OVER THE PROPERTY KNOWN AS BLOCK 155, LOT 13.03, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY TO THE MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD

WHEREAS, pursuant to The Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq., the Township of Marlboro has the power to acquire and/or sell any real property or interests therein for a public purpose; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13(b)(1) a municipality may convey an easement in any real property to any political subdivision, agency, department, commission, board or body corporate and politic of the State of New Jersey at private sale; and

WHEREAS, the Monmouth County Agriculture Development Board ("MCADB") desires to purchase a development easement ("Development Easement") on property Owned by the Township of Marlboro, more specifically identified as: Block 155, Lot 13.03 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, (the "Property"), such Development Easement being more specifically described as:

Township of Marlboro (formerly Estate of Marilyn McCarron): Block 155 Lot 13.03 in Marlboro Township, Monmouth County, New Jersey, comprising approximately 43 acres, with no exceptions, 1 single-family residence, and zero agricultural labor housing units (the "Restricted Premises").

WHEREAS, the Township Council of the Township of Marlboro has reviewed the applications for the purchase of

development easements as a condition of receiving State Agriculture Development Committee ("SADC") grant funds; and

WHEREAS, the Township Council of the Township of Marlboro is aware of the future restrictions that will be placed on the Property on property that is protected from development as a result of the conveyance of the Development Easement in accordance with the Right to Farm Act and the Agriculture Retention and Development Act; and

WHEREAS, the MCADB has established a policy requiring local cost share commitment for all easement purchases; and

WHEREAS, the certified market value of the Development Easement located within the Restricted Premises is \$40,000 per acre; however, due to the Township's bargain sale purchase of the Property containing the Restricted Premises in 2007, the purchase price of the Development Easement is expected to be \$14,633.98 per acre; and

WHEREAS, it is anticipated that the SADC will contribute sixty percent (60%) of the cost of the Development Easement acquisition through the Municipal Planning Incentive Grant Program; and

WHEREAS, the Township's anticipated contribution cost share would be sixteen (16%) of the Development Easement purchase price (estimated to be \$3,512.16 per acre); and

WHEREAS, the SADC may further adjust the per acre cost share basis due to elevated concentrations of arsenic on three (3) sample sites and old farm debris noted in the Site Investigation Report prepared by Birdsall Engineering on February 8, 2007 for the Township's fee simple purchase of the Property containing the Restricted Premises; and

WHEREAS, the Township's contribution will be deducted from the total consideration for the conveyance of the Development Easement; and

WHEREAS, no installment purchase is anticipated; and

WHEREAS, pursuant to N.J.A.C. 2:76-6.23(b)1, if the Township sells the Restricted Premises for more than the "after" value used to calculate the grant amount (\$22,000/acre or an estimated \$946,000 (based on 43 acres),

the Township shall reimburse the SADC, on a pro rata basis, up to the amount of the SADC grant; and

WHEREAS, the Township Council of the Township of Marlboro desires to convey the Development Easement to the MCADB and contribute to the purchase of same for the anticipated cost share amount of sixteen percent (16%) of the Development Easement purchase price, that is, an estimated \$3,512.16 per acre, such contribution to be deducted from the total consideration for the conveyance of the Development Easement to the MCADB.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, Monmouth County, New Jersey, that it hereby authorizes the conveyance of the Development Easement (as defined and described hereinabove) on a portion of the Restricted Premises (as defined and described hereinabove) to the Monmouth County Agriculture Development Board; and

BE IT FURTHER RESOLVED, that the Township shall contribute towards the Monmouth County Agriculture Development Board's acquisition of the Development Easement, for the Township's anticipated cost share amount of sixteen percent (16%) of the Development Easement purchase price, that is, an estimated \$3,512.16 per acre, which contribution shall be deducted from the total consideration for the Development Easement; and

BE IT FURTHER ORDAINED that two (2) certified copies of this Ordinance shall be sent to the Monmouth County Agriculture Development Board office and one (1) copy each shall be sent to the Marlboro Township Planning Board, Tax Assessor and Tax Collector; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Res. # 2010-338 (Bond Reduction Gordon Woods Estates) was introduced by reference, offered by Councilwoman Mazzola and seconded by Councilman Metzger. Township Engineer Ernest Peters was present and answered Council's questions. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-338

RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE GUARANTEES FOR THE SITE KNOWN AS GORDON WOODS ESTATES, BLOCK 307, LOT 9, TOWNSHIP OF MARLBORO, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request from H. Builders, Inc. for a reduction in the Township held Performance Guarantees in the form of a bond and cash deposit for site improvements ("Public Improvements") on the Site known as "Gordon Woods Estates" (the "Site"), property known as Block 307, Lot 9, on the Official Tax Maps of the Township of Marlboro, Monmouth County, State of New Jersey, posted by H. Builders, Inc. (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed the Township Engineer's report dated August 27, 2010, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the aforesaid report recommends that a partial reduction be made in the current bond and cash deposit amounts being held by the Township; and

WHEREAS, the Township Council desires to reduce the performance guarantee bond and cash deposit amounts in accordance with the recommendation of the Township Engineer's report dated August 27, 2010.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the performance guarantees in the form of a bond and cash deposit posted by the Developer, H. Builders, Inc., for the site known as

Gordon Woods Estates located on property known as Block 307, Lot 9, Township of Marlboro, New Jersey, shall be reduced as follows:

1. The Performance Guarantee Bond (Lexon Insurance Company, Bond No. 1014142), in the original amount of \$125,843.22 and present amount of \$107,690.58, shall be reduced by \$34,521.44, so that the remaining amount shall be \$73,169.14.
2. The Cash Deposit, in the original amount of \$13,982.58 and present amount of \$11,965.62 shall be reduced by \$3,835.72, so that the amount to remain shall be \$8,129.90; and

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the posting of any and all outstanding review and/or inspections fees required by the Planning Board and/or Township and the resolution of any valid homeowners' complaints; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. H. Builders, Inc.
- b. Lexon Insurance Company
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Chief Financial Officer
- f. Township Engineer
- g. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-339 (Cash Bond Release Bank of America - 80 Route 9 N) was introduced by reference, offered by Councilman Cantor and seconded by Councilman Metzger. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-339

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE  
FOR THE PROPERTY KNOWN AS BANK OF AMERICA, 80 ROUTE  
9 NORTH, BLOCK 268, LOT 62, MARLBORO TOWNSHIP, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for the release of Township held Performance Guarantees in the form of a cash deposit for site improvements ("Public Improvements") on the property known as BANK OF AMERICA, 80 Route 9 North, Block 268, Lot 62, Marlboro, New Jersey, (the "Site") posted by Wade Ray and Associates (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated September 7, 2010 regarding the completion of the Public Improvements at the Site, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends that the current Performance Guarantee, in the form of a cash deposit in the original and present amount of \$1,000.00 posted by the Developer and being held by the Township, be released in its entirety, conditioned upon the payment of all outstanding inspection fee charges to the time of bond release; and

WHEREAS, the Township Council now wishes to accept the recommendation of the Township Engineer concerning the aforesaid Performance Guarantee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the current Performance Guarantee for the Site (as defined and described hereinabove), cash deposit in the original and present amount of \$1,000.00 posted by the Developer (as defined and described hereinabove) and being held by the Township, be released in its entirety, conditioned upon the payment of all outstanding inspection fee charges to the time of bond release ; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Wade Ray and Associates Construction, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Chief Financial Officer

f. DeCotiis, FitzPatrick & Cole, LLP

Council then discussed a request by TD bank to eliminate the requirement for a two-year maintenance bond. Township Engineer Ernest Peters answered Council's questions. After discussion, Council President LaRocca motioned to amend Res. # 2010-340 (Bond Release TD (formerly Commerce) Bank - 46 Rt 520) to eliminate the maintenance bond requirement. The resolution as amended was then introduced by reference, seconded by Council Vice President Marder and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-340 (AS AMENDED)

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE  
GUARANTEES FOR THE PROPERTY KNOWN AS TD  
(Formerly COMMERCE) BANK, 46 ROUTE 520, BLOCK 176,  
LOTS 34-36, MARLBORO TOWNSHIP, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for the release of Township held Performance Guarantees in the form of a letter of credit and cash deposit for site improvements ("Public Improvements") on the property known as TD BANK, 46 Route 520, Block 176, Lots 34-36, Marlboro, New Jersey, (the "Site") posted by COMMERCE BANK (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated September 7, 2010 regarding the completion of the Public Improvements at the Site, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends that the current Performance Guarantees, in the form of a letter of credit, No. 1132551044 issued by Commerce Bank NA in the original amount of \$355,000 and the present amount of \$106,500.00 and cash deposit in the original amount of \$39,400.00 and present amount of \$11,820.00 posted by the Developer and being held by the Township, be released in their entirety, conditioned upon the payment of all outstanding inspection fee charges to the time of bond release.

WHEREAS, the Township Council now wishes to accept the recommendation of the Township Engineer concerning the aforesaid Performance Guarantees.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the current Performance Guarantees for the Site (as defined and described hereinabove), Letter of Credit No. 1132551044 issued by the Commerce Bank in the original amount of \$355,000.00 and present amount of \$106,500.00, and cash deposit in the original amount of \$39,400.00 and present amount of \$11,820.00 posted by the Developer (as defined and described hereinabove) and being held by the Township, be released in their entirety, conditioned upon the payment of all outstanding inspection fee charges to the time of bond release.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Bradford Bohler, Bohler Engineering
- b. Callie Poole, TD Bank
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Engineer
- f. Chief Financial Officer
- g. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-341 (Award of Bid: Snow Plowing) was introduced by reference, offered by Council Vice President Marder and seconded by Councilman Metzger. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-341

A RESOLUTION AWARDING CONTRACT TO TRIPLE C NURSERIES, L.J. PESCE, INC., PREMIUM GROWERS, INC., LUCAS CONSTRUCTION GROUP, INC. AND LUCAS BROTHERS, INC. FOR THE SUPPLY OF CONTRACT SNOW REMOVAL SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the Supply of Contract Snow Removal Services for the Township of Marlboro Department of Public

Works ("services"), and on August 3, 2010, received six (6) bids therefor; and

WHEREAS, the six (6) bids received are summarized as follows:

	Triple C	L.J. Pesce	Premium Growers	Lucas Construction Group	Lucas Bros.	AMC Indust.
Section 1		700.00				900.00
Section 2			1,046.94	1,080.00		
Section 3	674.79			540.00		
Section 4	659.85				645.00	
Section 5	659.85					
Section 6	899.80		874.00			
Section 7	899.80			720.00	860.00	
Section 8	439.90					
Section 9	539.85					

WHEREAS, the Township Administration and the Department of Public Works have reviewed the said bids received and have recommended that L.J. Pesce, Inc. be awarded the contract for the following items as the lowest responsible bidder for same:

	L.J. Pesce	Hours	Rate	# of Vehicles	Set up	Total
Section 1		40	175.00	4	900.00	28,900.00

WHEREAS, the Township Administration and the Department of Public Works have reviewed the said bids received and have recommended that Lucas Brothers, Inc. be awarded the contract for the following items as the lowest responsible bidder for same:

	Lucas Bros.	Hours	Rate	# of Vehicles	Set up	Total
Section 4		40	215.00	3	750.00	26,550.00

WHEREAS, the Township Administration and the Department of Public Works have reviewed the said bids received and have recommended that Lucas Construction Group, Inc. be awarded the contract for the following items as the lowest responsible bidder for same:

	Hours	Rate	# of Vehicles	Set up	Total
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Section 3	Lucas Constr.	40	180.00	3	750.00	22,350.00
Section 7	Lucas Constr.	40	180.00	4	1,000.00	29,800.00
						52,150.00

WHEREAS, the Township Administration and the Department of Public Works have reviewed the said bids received and have recommended that Premium Growers, Inc. be awarded the contract for the following items as the lowest responsible bidder for same:

		Hours	Rate	# of Vehicles	Set up	Total
Section 2	Premium Growers	40	174.49	6	1,350.00	43,227.60
Section 6	Premium Growers	40	218.50	4	950.00	35,910.00
						79,137.60

WHEREAS, the Township Administration and the Department of Public Works have reviewed the said bids received and have recommended that Triple C Nurseries be awarded the contract for the following items as the lowest responsible bidder for same:

		Hours	Rate	# of Vehicles	Set up	Total
Section 5	Triple C Nurseries	40	219.95	3	750.00	27,144.00
Section 8	Triple C Nurseries	40	219.85	2	500.00	18,088.00
Section 9	Triple C Nurseries	40	179.95	3	650.00	22,244.00
						67,476.00

WHEREAS, the Chief Financial Officer has certified that funds in the amount of \$69,253.40 are available in Account No. 0-01-119-288 for the services estimated for 2010; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that contracts be awarded for 2010-2011 contract snow plowing services for a term of one year as follows:

Vendor Name	Address	City	St	Zip	Total
L.J. Pesce, Inc.	PO Box 88	Holmdel	NJ	07733	28,900.00
Lucas Brothers, Inc.	80 Amboy Road	Morganville	NJ	07751	26,550.00
Lucas Construction Group, Inc.	173 Amboy Road	Morganville	NJ	07751	52,150.00

Premium Growers, Inc.	178 Highway 34	Holmdel	NJ	07733	79,137.60
	915 B Holmdel				
Triple C Nurseries	Rd.	Holmdel	NJ	07733	67,476.00
				Total	254,213.60
				2010	69,253.40
				2011	184,960.20

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, contracts with the L.J. Pesce Inc., Lucas Brothers, Inc., Lucas Construction Group, Inc., Premium Growers, Inc. and Triple C Nurseries, in accordance with this resolution, the bid specifications, and in a form to be approved by the Township Attorney; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. L.J. Pesce Inc.
- b. Lucas Brothers, Inc.
- c. Lucas Construction Group, Inc.
- d. Premium Growers, Inc.
- e. Triple C Nurseries
- f. Mayor Jonathan Hornik
- g. Township Business Administrator
- h. Township Chief Financial Officer
- i. Township Director of Public Works
- j. DeCotiis, FitzPatrick, Cole & Wisler, LLP

Council discussed Res. # 2010-342 (Award of Bid: Road Repaving Equipment Rental). After discussion, Council agreed to amend the resolution to change the numbers of dump trucks from 6 to 3. Councilman Metzger offered the resolution as amended, seconded by Councilman Cantor and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-342 (AS AMENDED)

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO LUCAS CONSTRUCTION GROUP, INC. FOR THE PROVISION OF RENTAL EQUIPMENT AND OPERATOR SERVICE FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro authorized the receipt of bids for the provision of rental equipment and

operator service for the Township of Marlboro Department of Public Works (the "Services") in connection with the 2010 road improvement program and on August 17, 2010 received one (1) bid therefor; and

WHEREAS, the one (1) bid received was as follows:

Lucas Construction Group,  
Inc.

Item	Equipment	Cost/Day	Estimated Units	Estimated Cost
	Milling			
1	Machine	4,250.00	2	8,500.00
2	Paver	1,250.00	0	0.00
3	Tandem Dump	750.00	3	2,250.00
4	Triaxle Dump	850.00	20	17,000.00
	Vibratory			
5	Roller	250.00	0	0.00
	Mobilization			
	Milling			
6	Machine	650.00	2	1,300.00
7	Paver	250.00	0	0.00
				29,050.00

WHEREAS, the Department of Public Works has reviewed the bid received and recommended that the Contract for the Services be awarded to Lucas Construction Group, Inc. as the lowest bidder, 173 Amboy Road, Morganville, New Jersey 07751, for a term of one year, for the total bid price amount of \$29,050.00; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in Account No. X-04-55-965-901 for the Services; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the bid for rental equipment and operator service for the Township of Marlboro Department of Public Works be and is hereby awarded to Lucas Construction Group, Inc., 173 Amboy Road, Morganville, NJ 07751 for a contract amount not to exceed \$29,050.00; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Lucas Construction Group, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Director, Dept. of Public Works
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-344 (Award of Bid: Emergency Water System Repairs) was introduced by reference, offered by Councilman Cantor and seconded by Council Vice President Marder and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-344

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO LUCAS CONSTRUCTION GROUP, INC. FOR THE PROVISION OF EMERGENCY WATER MAIN REPAIRS FOR THE TOWNSHIP OF MARLBORO WATER UTILITY DIVISION

WHEREAS, the Township of Marlboro authorized the receipt of bids for the provision of emergency water main repairs for the Township of Marlboro Water Utility Division (the "Services") and on August 24, 2010 received four (4) bids therefor; and

WHEREAS, the four (4) bids received are summarized as follows:

	Montana Construction, Inc.	Henkels & McCoy, Inc.	Lucas Construction Group, Inc.	B&W Construction Co.
Category I - Labor	100,000.00	62,684.00	52,004.00	88,002.00
Category II - Equipment	125,000.00	23,364.00	25,006.00	19,006.00
Category III - Materials and Other	33,000.00	33,000.00	33,000.00	33,000.00
Category IV - Mobilization/Demobilization	100,000.00	9,000.00	5,000.00	6,500.00
Total	358,000.00	128,048.00	115,010.00	146,508.00

WHEREAS, the Department of Public Works has reviewed the bids received and recommended that the Contract for the Services be awarded to Lucas Construction Group, Inc. as the lowest bidder, 173 Amboy Road, Morganville, New Jersey

07751, for the total bid price amount of \$115,010.00 per year; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in Water Capital Account No. X-06-55-900-901 for the Services; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the bid for Emergency Water Main Repairs for the Township of Marlboro Department of Public Works be and is hereby awarded to Lucas Construction Group, Inc., 173 Amboy Road, Morganville, NJ 07751 for a term of two (2) years for a contract amount not to exceed \$115,010.00 per year; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Lucas Construction Group, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Director, Dept. of Public Works
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-345 (Award of Contract - Maintenance Agreement for Police Communications Equipment) was introduced by reference, offered by Councilman Cantor and seconded by Council Vice President Marder. Discussion followed, during which Business Administrator Jonathan Capp answered Council's questions. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-345

A RESOLUTION AUTHORIZING CONTRACT WITH WPCS INTERNATIONAL INC. FOR THE MAINTENANCE OF PUBLIC SAFETY COMMUNICIATION SYSTEMS IN THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT

WHEREAS, the Township of Marlboro Department Police Department is in need of a contract for 24x7 service of Zetron and Eventide public safety communication systems("services"); and

WHEREAS, the Township has solicited competitive quotes from two(2) qualified vendors and received one

(1) response from the current vendor, WPCS International, Inc. for the period 3/1/10 - 2/28/11 for an amount not to exceed \$25,500.00; and

WHEREAS, the Police Department has reviewed the information received and has recommended that WPCS International, Inc. be awarded the contract based upon the quotation received; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account 0-01-0312-253 in the amount of \$25,500.00; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Police Department as set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, that a contract be awarded to WPCS International, Inc. whose address is Lakewood Operations, 1985 Swarthmore Ave., Ste 4, Lakewood, NJ 08701 for 24x7 maintenance of public safety communications systems in the Police Department for an amount not to exceed \$25,500.00 for the period 3/01/10 - 2/28/11.

The following Res. # 2010-346 (Award of Bid - Union Hill Road Improvements) was introduced by reference, offered by Councilwoman Mazzola, seconded by Council President LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-346

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT  
TO LUCAS CONSTRUCTION GROUP, INC. FOR THE  
IMPROVEMENTS TO UNION HILL ROAD FOR THE TOWNSHIP OF  
MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro received grants totaling \$585,000.00 for the repaving and reconstruction of Union Hill Road; and

WHEREAS, the Township of Marlboro authorized the receipt of bids for road improvements for the Township of Marlboro Department of Public Works (the "Services") and on

September 8, 2010 received ten (10) bids for Improvements to Union Hill Road therefor; and

WHEREAS, the ten (10) bids received were as follows:

<b>Lucas Construction Group</b>	<b>1,074,282.35</b>
P & A Construction	1,097,468.29
Black Rock Enterprises, LLC	1,107,174.97
MECO, Inc.	1,116,000.00
Lucas Brothers, Inc.	1,122,894.36
AMC Industries, LLC	1,138,498.53
DSC Construction DeFino	1,259,749.75
Contracting Co.	1,317,000.00
Earle Asphalt Co. Montana	1,326,813.13
Construction	1,883,925.04

WHEREAS, the Consulting Engineer reviewed the bids received and recommended that the Contract for the Services be awarded to Lucas Construction Group, Inc. as the lowest bidder, 173 Amboy Road, Morganville, New Jersey 07751, for the total bid price amount of \$1,074,282.35; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in Account No. X-04-55-967-901 for the Services; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the bid for Improvements to Union Hill Road for the Township of Marlboro Department of Public Works be and is hereby awarded to Lucas Construction Group, Inc., 173 Amboy Road, Morganville, NJ 07751 for a contract amount not to exceed \$1,074,282.35; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Lucas Construction Group, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator

- d. Township Director, Dept. of Public Works
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-347 (Award of Bid - 2010 Road Improvement Program) was introduced by reference, offered by Council Vice President Marder and seconded by Councilman Metzger. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-347

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO  
LUCAS BROTHERS, INC. FOR THE 2010 ROAD IMPROVEMENTS  
FOR THE MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro authorized the receipt of bids for road improvements for the Township of Marlboro Department of Public Works (the "Services") and on September 8, 2010 received eight (8) bids therefor; and

WHEREAS, the eight (8) bids received were as follows:

	Base Bid	with Add A	with Add B	with Add C	with Add D
<b>Lucas Brothers, Inc.</b>	<b>588,312.50</b>	<b>668,703.25</b>	<b>722,121.50</b>	<b>765,905.70</b>	<b>866,225.80</b>
Lucas Construction Group	599,828.45	675,669.90	726,876.50	769,835.80	869,839.55
Black Rock Enterprises, LLC	613,102.50	711,962.50	779,417.50	841,032.50	958,172.50
DeFino Contracting Co.	619,000.00	705,000.00	762,000.00	808,000.00	914,000.00
Manzo-Maraba	649,900.00	749,400.00	814,300.00	866,200.00	993,700.00
Della Pella Paving Intercounty Paving Assoc.	653,214.05	748,316.65	807,706.15	854,946.75	970,143.05
AMC Industries, LLC	654,404.40	759,699.90	837,085.00	899,717.90	1,031,285.40
	839,424.50	906,248.05	948,325.95	980,303.30	1,060,598.80

WHEREAS, the Township Engineer has reviewed the bids received and has advised that Lucas Brothers, Inc. is the low bidder regardless of the award or order of award of any of the additional bid items, and has recommended that the Contract for the Services be awarded to Lucas Brothers, Inc. as the lowest bidder, 80 Amboy Road, Morganville, New Jersey 07751; and

WHEREAS, the Base Bid price plus Addition A totals \$668,703.25 and the Chief Financial Officer has certified

that sufficient funds are available in Accounts X-04-55-965-901 and X-04-55-967-902 for the Services; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the bid for 2010 Road Improvements including Addition A for the Township of Marlboro Department of Public Works be and is hereby awarded to Lucas Brothers, Inc., 80 Amboy Road, Morganville, NJ 07751 for a contract amount not to exceed \$668,703.25; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Lucas Brothers, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Director, Dept. of Public Works
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-348 (Authorizing Application to the County Municipal Open Space Grant Program) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-348

A RESOLUTION AUTHORIZING APPLICATION TO THE  
COUNTY OF MONMOUTH FOR OPEN SPACE TRUST FUNDS

WHEREAS, the Monmouth County Board of Chosen Freeholders has approved an Open Space Trust Fund and established a Municipal Open Space Program to provide Program Grant funds in connection with municipal acquisition of lands for County park, recreation, conservation and farmland preservation purposes, as well as for County recreation and conservation development and maintenance purposes; and

WHEREAS, the Governing Body of the Township of Marlboro desires to obtain County Open Space Trust Funds in the amount of \$250,000.00 to fund the acquisition of the Smith Farm property, 403 Tennent Road, Block 267, Lot 42; and

WHEREAS, the total cost of the project including all matching funds is \$1,800,000.00; and

WHEREAS, the Township of Marlboro will be holder of any interest acquired with County Open Space Trust Funds.

NOW, THEREFORE, BE IT RESOLVED BY the Township Council of the Township of Marlboro that:

1. The Mayor is hereby authorized to (a) make an application to the County of Monmouth for Open Space Trust Funds, (b) provide additional application information and furnish such documents as may be required for the Municipal Open Space Grants Program and (c) act as the municipal contact person and correspondent of the above named municipality; and
2. The Township of Marlboro is committed to this project and will provide the balance of funding necessary to complete the project in the form of non-county matching funds as required in the Policy and Procedures Manual for the Program; and
3. If the County of Monmouth determines that the application is complete and in conformance with the Monmouth County Municipal Open Space Program and the Policy and Procedures Manual for the Municipal Grants Program adopted thereto, the municipality is willing to use the approved Open Space Trust Funds in accordance with such policies and procedures, and applicable federal, state, and local government rules, regulations and statutes thereto; and
4. Mayor Jonathan Hornik is hereby authorized to sign and execute any required documents, agreements, and amendments thereto with the County of Monmouth for the approved Open Space Trust Funds; and
5. This resolution shall take effect immediately.

The following Res. # 2010-349 (Change Order #2 and Authorizing Final Payment - Acceptance of Roadway & Drainage Improvements Station Road Phase I) was introduced by reference, offered by Councilman Metzger, seconded by Council Vice President Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-349

A RESOLUTION APPROVING CHANGE ORDER #2 TO THE EXISTING CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND STAR OF THE SEA CONCRETE CORP. AND AUTHORIZING FINAL PAYMENT AND ACCEPTANCE OF ROADWAY AND DRAINAGE IMPROVEMENTS- STATION ROAD-PHASE I

WHEREAS, by Resolution #2009-295 the Township of Marlboro authorized the award of a contract to Star of the Sea Concrete Corp. for roadway and drainage improvements- Station Road-Phase I (the "Project"); and

WHEREAS, by Resolution #2010-071, the Township of Marlboro approved Change Order No. 1 resulting in a decrease in the original contract amount of \$561,363.82 to \$561,265.87, a net decrease of \$97.95; and

WHEREAS, Change Order No. 2 has been requested resulting in a decrease in the previously modified contract amount of \$561,265.87 to \$545,675.87, a net decrease of \$15,590.00; and

WHEREAS, in a Letter dated August 9, 2010, the Township Engineer has recommended approval of Change Order No. 2, acceptance of the Project improvements, and issuance of final payment in the amount of \$15,137.32; and

WHEREAS, pursuant to the terms of the contract, Star of the Sea Concrete Corp. has provided a one-year maintenance bond in an amount equal to 15% of the final contract amount or \$81,851.38; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the Township Engineer's August 9, 2010 letter and is amenable to approving Change Order #2, accepting the Project improvements and issuing a final payment to Star of the Sea Concrete Corp. in the amount of \$15,137.32 in order that the Project be completed, such

Project being in the interests of the public health, safety and welfare.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that Change Order #2 to the existing contract with Star of the Sea Concrete Corp., be and is hereby approved, decreasing the previously modified contract total of \$561,265.87 to an adjusted contract total in an amount not to exceed \$545,675.87, a net decrease of \$15,590.00.

BE IT FURTHER RESOLVED, by the Township Council of the Township of Marlboro, that the Project improvements be and are hereby accepted, and that final payment in the amount of \$15,137.32 for work completed by Star of the Sea Concrete Corp. is hereby approved.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Star of the Sea Concrete Corp.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Engineer
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-350 (Authorizing Contract Amendment Birdsall - Mun. Complex Subdivision Map/Green Acres) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-350

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE  
PROFESSIONAL SERVICES CONTRACT BETWEEN BIRDSALL  
ENGINEERING, INC. AND THE TOWNSHIP OF MARLBORO  
FOR ENGINEERING SERVICES IN CONNECTION WITH GREEN  
ACRES FUNDING ISSUES

WHEREAS, Resolution 2010-140 was adopted on April 15, 2010 authorizing a contract with Birdsall Engineering, Inc. for "environmental and engineering services for certain Green Acres and Farmland Preservation Funding Issues" in an amount not to exceed \$18,800.00; and

WHEREAS, the Township requires additional professional engineering services for finalization of Recreation and Open Space Inventory (ROSI) approval in connection with Green Acres funding for Municipal projects; and

WHEREAS, the Township of Marlboro and Birdsall Engineering, Inc. have previously entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to extend the scope of services for an additional fee not to exceed \$2,000.00; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # T-15-56-859-815; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Birdsall Engineering, Inc. to provide the required additional Professional Services; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, Birdsall Engineering, Inc. has previously completed and submitted a Business Entity Disclosure Certificate certifying that Birdsall Engineering, Inc. has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that an Amendment to the Professional Services Contract between Birdsall Engineering, Inc. and the Township of Marlboro, to provide the additional Professional Services (as described and defined hereinabove), for an additional amount not to exceed \$2,000.00 be and is hereby authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Amendment to the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this Amendment to the Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$2,000.00; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution; and

BE IT FURTHER RESOLVED, that a copy of the Amendment to the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of this Amendment to the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Engineering, Inc.  
611 Industrial Way West  
Eatontown NJ 07724
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-351 (Change Meeting Location - October 21, 2010 - Marlboro Greens Clubhouse - 1 Ivy Hill Drive - 7 PM) was introduced by reference, offered by Council President LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-351

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Council meeting location for the regularly scheduled Council Meeting of October 21, 2010 be changed from Town Hall to the Marlboro Greens Clubhouse, 1 Ivy Hill Drive, Englishtown, N. J. 07726 at the usual time, 7 PM.

The following Res. # 2010-352 (MTMUA Payroll Account Cancellation) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-352

WHEREAS, the Township of Marlboro maintains an account for the payment of payroll related expenditures for the now diffused Marlboro Township Municipal Utilities Authority, and

WHEREAS, there remains a 8/31/10 balance in this account of \$5,199.55, and

WHEREAS, this account is no longer required by Township operations and the three check outstanding have been outstanding for a period of at least six months,

NOW, THEREFORE, BE IT RESOLVED, that the three outstanding checks listed below are hereby cancelled and the amount of \$281.54 in accrued unemployment insurance, disability insurance and family leave monies withheld are hereby cancelled to utility operations. The excess balance of \$4,741.45 is hereby transferred to operations and the Chief Financial Officer is authorized to close the account.

<u>Check Number</u>		<u>Amount</u>
12049	\$	62.24
12052		57.64
<u>12056</u>		<u>56.68</u>
Total	\$	176.56

The following Res. # 2010-353 (Authorizing Bond Sale) was introduced by reference, offered by Councilman Metzger and seconded by Council Vice President Marder. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2010-353

RESOLUTION OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY PROVIDING FOR THE ISSUANCE OF \$19,000,000 OF THE TOWNSHIP'S GENERAL OBLIGATION BONDS; PROVIDING FOR A SINGLE AND COMBINED ISSUE OF GENERAL IMPROVEMENT BONDS; AUTHORIZING THE SALE OF \$15,624,000 PRINCIPAL AMOUNT OF GENERAL IMPROVEMENT BONDS, SERIES 2010, \$840,000 PRINCIPAL AMOUNT OF WATER UTILITY BONDS, SERIES 2010, AND \$2,536,000 PRINCIPAL AMOUNT OF OPEN SPACE BONDS, SERIES 2010; AUTHORIZING ADVERTISEMENT OF A NOTICE OF SALE; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO SELL AND AWARD THE BONDS; DETERMINING THE FORM AND OTHER DETAILS OF THE BONDS; AND AUTHORIZING OTHER MATTERS RELATING THERETO

WHEREAS, the Township Council of the Township of Marlboro in the County of Monmouth, New Jersey (the "Township") has adopted the Bond Ordinances listed on the attached Appendix A-1, Appendix A-2, and Appendix A-3 (collectively, the "Bond Ordinances") authorizing the issuance of obligations of the Township for the purpose of financing the general improvements, the water improvements and the open space projects, as applicable, described in the Bond Ordinances; and

WHEREAS, the Township Council has determined to finance permanently a portion of the costs of the general improvement projects, the water projects and the open space projects undertaken pursuant to the Bond Ordinances by the issuance of \$19,000,000 principal amount of its general obligation bonds, consisting of \$15,624,000 principal amount of general improvement bonds, \$840,000 principal amount of water utility bonds, and \$2,536,000 principal amount of open space bonds, respectively, of the Township; and

WHEREAS, the Township has filed an application (the "Application") with the Local Finance Board in the Division

of Local Government Services in the Department of Community Affairs of the State of New Jersey (the "Local Finance Board") requesting approval of non-conforming maturity schedules in connection with the Township's issuance of said bonds; and

WHEREAS, the Local Finance Board meeting to consider the Township's Application, which was originally scheduled for September 8, was rescheduled to September 17, 2010; and

WHEREAS, the Township Council has determined to proceed with the public sale of said bonds for the purposes authorized in the Bond Ordinances, subject to the Local Finance Board's approval of the Application.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro in the County of Monmouth, New Jersey (not less than a majority of the full membership of the Township Council affirmatively concurring), as follows:

Section 1. Combination of General Improvement Bonds; Authorization of Sale. The principal amount of general improvement bonds authorized to be issued pursuant to the respective Bond Ordinances described in Appendix A-1 hereto are hereby combined into a single and combined issue of \$15,624,000 aggregate principal amount of General Improvement Bonds, Series 2010 (the "General Improvement Bonds"), and are authorized to be sold in accordance with the terms of this Resolution. The General Improvement Bonds will be issued as a separate series of bonds from the Water Utility Bonds, and the Open Space Bonds, as hereinafter defined.

The average period of usefulness for the general improvements financed by the General Improvement Bonds, taking into consideration the respective amounts of obligations presently authorized to be issued pursuant to the Bond Ordinances described in Appendix A-1 hereto and the period or average period of usefulness determined in the Bond Ordinances described in Appendix A-1 hereto, is 15.118 years.

Section 2. Authorization of Sale of Water Utility Bonds. \$840,000 aggregate principal amount of Water Utility Bonds, Series 2010 (the "Water Utility Bonds"), are authorized to be sold in accordance with the terms of this Resolution. The Water Utility Bonds will be issued as a

separate series of bonds from the General Improvement Bonds and the Open Space Bonds, as hereinafter defined.

The period of usefulness for the water improvements financed by the Water Utility Bonds, to be issued pursuant to the Bond Ordinances described in Appendix A-2 hereto, is 15 years.

Section 3. Authorization of Sale of Open Space Bonds. \$2,536,000 aggregate principal amount of Open Space Bonds, Series 2010 (the "Open Space Bonds"), are authorized to be sold in accordance with the terms of this Resolution. The Open Space Bonds will be issued as a separate series of bonds from the General Improvement Bonds and the Water Utility Bonds.

The period of usefulness for the open space projects financed by the Open Space Bonds, to be issued pursuant to the Bond Ordinances described in Appendix A-3 hereto, is 40 years.

Section 4. Public Sale of Bonds. The General Improvement Bonds, the Water Utility Bonds, and the Open Space Bonds (collectively, the "Bonds") shall be issued and sold at public sale in accordance with the provisions of the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented.

Section 6. Details of Bonds. The Bonds shall be dated their date of delivery, shall be in book-entry only form, shall bear interest from their date, payable semi-annually on April 1 and October 1 of each year, commencing April 1, 2011, at the rate or rates to be specified by the successful bidder, and shall mature, subject to prior redemption, on October 1, in the annual principal amounts and years as set forth below:

GENERAL IMPROVEMENT BONDS, SERIES 2010

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2012	\$200,000	2019	\$1,675,000
2013	265,000	2020	1,725,000
2014		2021	

	350,000		1,725,000
2015	350,000	2022	1,750,000
2016	360,000	2023	1,750,000
2017	1,100,000	2024	1,749,000
2018	1,125,000	2025	1,500,000

Total: \$15,624,000

WATER UTILITY BONDS, SERIES 2010

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2012	\$10,000	2019	\$80,000
2013	20,000	2020	80,000
2014	30,000	2021	90,000
2015	30,000	2022	90,000
2016	30,000	2023	100,000
2017	40,000	2024	100,000
2018	40,000	2025	100,000

Total: \$840,000

OPEN SPACE BONDS, SERIES 2010

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2012	\$125,000	2019	\$190,000
2013	150,000	2020	190,000
2014	150,000	2021	200,000
2015	150,000	2022	210,000
2016		2023	

	170,000		210,000
2017	180,000	2024	210,000
2018	190,000	2025	211,000

Total:        \$2,536,000

The foregoing maturity schedules for the Bonds, which are "non-conforming" under the Local Bond Law, have been submitted to the Local Finance Board for approval.

The Bonds shall contain such other terms and conditions as are specified in the Notice of Sale, approved in Section 6 hereof (the "Notice of Sale").

Section 6.        Redemption.

(A) The Bonds of each series maturing on or before October 1, 2020, are not subject to redemption prior to maturity.

(B) The Bonds of each series maturing on or after October 1, 2021, are subject to redemption prior to maturity at the option of the Township, as a whole on any date on or after October 1, 2020, or in part in part on any interest payment date on or after October 1, 2020, in such order of maturity as decided by the Township, at the redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest thereon to the date fixed for redemption.

Any Bond subject to redemption as aforesaid may be called in part, provided that the portion not called for redemption shall be in the principal amount of \$5,000 or any integral multiple of \$1,000 in excess thereof. If less than all of the Bonds of any series of a particular maturity are to be redeemed, Bonds of that maturity shall be selected by the Chief Financial Officer (or, if appointed pursuant to Section 14 hereof, the Paying Agent) by lot.

When any Bonds are to be redeemed, the Chief Financial Officer (or, if appointed pursuant to Section 14 hereof, the Paying Agent) shall give notice of the redemption of the Bonds by mailing such notice by first class mail in a sealed envelope postage prepaid to the registered owners of

any Bonds or portions thereof which are to be redeemed, at their respective addresses as they last appear on the registration books of the Township, at least thirty (30) but not more than sixty (60) days before the date fixed for redemption. Notice of redemption having been given as aforesaid, the Bonds, or portions thereof so to be redeemed, shall, on the date fixed for redemption, become due and payable at the redemption price specified therein plus accrued interest to the redemption date and, upon presentation and surrender thereof at the place specified in such notice, such Bonds, or portions thereof, shall be paid at the redemption price, plus accrued interest to the redemption date. On and after the redemption date (unless the Township shall default in the payment of the redemption price and accrued interest), such Bonds shall no longer be considered as outstanding.

During any period in which The Depository Trust Company (or any successor thereto) shall act as securities depository for the Bonds, the notices referred to above shall be given only to such depository and not to the beneficial owners of the Bonds. Any failure of such depository to advise any of its participants or any failure of any participant to notify any beneficial owner of any notice of redemption shall not affect the validity of the redemption proceedings.

Section 7. Approval of Notice of Sale. The Notice of Sale containing other terms and provisions of the Bonds and setting forth the conditions of the sale thereof, all of which are hereby approved, shall be substantially in the form attached to this Resolution as Appendix B and made a part hereof. The Township Clerk is hereby authorized and directed to advertise the Notice of Sale of the Bonds.

Section 8. Approval of Summary Notice of Sale. The Summary Notice of Sale containing other terms and provisions of the Bonds and setting forth the conditions of the sale thereof, all of which are hereby approved, shall be substantially in the form attached to this Resolution as Appendix C and made a part hereof.

Section 9. Publication of Notice of Sale. The Notice of Sale substantially in the form attached to this Resolution shall be published at least once in *Asbury Park Press*, a newspaper published in the County of Monmouth and circulating in the Township, and the Summary Notice of Sale

substantially in the form attached to this Resolution shall be published at least once in *The Bond Buyer*, a newspaper published in the City of New York and State of New York, carrying municipal bond notices and devoted primarily to the subject of state and municipal bonds. The advertisement of said Notice of Sale and Summary Notice of Sale in each such newspaper shall be published not less than seven (7) days prior to the sale date for the Bonds.

Section 10. Designation of Chief Financial Officer to Award Bonds; Delegation Regarding Postponement of Sale. Proposals for the purchase of the Bonds shall be received by the Chief Financial Officer on September 30, 2010, or on such other date as determined by the Chief Financial Officer, as shall be provided in the Notice of Sale and the Summary Notice of Sale. The Township Council hereby designates the Chief Financial Officer to sell and award the Bonds in accordance with this Resolution and the Notice of Sale. The Chief Financial Officer is hereby directed to report, in writing, to the Township Council at its first meeting after the sale of the Bonds as to the principal amount, interest rate and maturities of the Bonds sold, the price obtained and the name of the purchaser.

There is hereby delegated to the Chief Financial Officer the authority to postpone the public sale of the Bonds without re-advertisement in accordance with the provisions of the Notice of Sale. The public sale of the Bonds may not be postponed more than sixty (60) days without re-advertisement.

Section 11. Authorization for Official Statement. The proper Township officials and advisors are hereby authorized to prepare and distribute to the prospective purchasers of the Bonds a Preliminary Official Statement and a final Official Statement containing information relating to the Township, its financial condition and the terms of the Bonds and other material facts customarily included in official statements for general obligation bonds in the State of New Jersey. The Chief Financial Officer is hereby authorized to deem final the Preliminary Official Statement for purposes of Rule 15c2-12 of the Securities and Exchange Commission.

Section 12. Approval of Forms of Bonds. The forms of the Bonds, substantially as set forth in Appendix D attached hereto and made a part hereof, are hereby

approved. The Bonds shall be executed in the name of the Township by the manual or facsimile signature of the Mayor and the Chief Financial Officer and the seal of the Township, or a facsimile impression thereof, shall be affixed to the Bonds and attested by the manual signature of the Township Clerk.

Section 13. Appointment of Securities Depository. The Depository Trust Company, New York, New York ("DTC"), shall act as securities depository for the Bonds. The ownership of one fully registered bond for each maturity of each series of Bonds each in the aggregate principal amount of such maturity, will be registered in the name of Cede & Co., as nominee for DTC.

Pursuant to the book-entry only system, any person for whom a DTC Participant acquires an interest in the Bonds (the "Beneficial Owner") will not receive certificated Bonds and will not be the registered owner thereof. Ownership interests in the Bonds may be purchased by or through DTC Participants. Each DTC Participant will receive a credit balance in the records of DTC in the amount of such DTC Participant's interest in the Bonds, which will be confirmed in accordance with DTC's standard procedures. Receipt by the Beneficial Owners (through any DTC Participant) of timely payment of principal, premium, if any, and interest on the Bonds, is subject to DTC making such payment to DTC Participants and such DTC Participants making payment to Beneficial Owners. Neither the Township nor the Paying Agent will have any direct responsibility or obligation to such DTC Participants or the persons for whom they act as nominees for any failure of DTC to act or make any payment with respect to the Bonds.

The appropriate officers of the Township are hereby authorized to execute a Letter of Representation to DTC and such other documents as may be necessary or desirable in connection with DTC's services as securities depository.

DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the Township and discharging its responsibilities with respect thereto under applicable law. Under such circumstances, the Township shall designate a successor securities depository or shall deliver certificates to the beneficial owners of the Bonds registered in the names of the beneficial owners thereof.

Section 14. Paying Agent. The Chief Financial Officer is hereby authorized to select and to enter into an agreement with a Paying Agent to ensure that the Township can meet its obligations undertaken herein to the holders of the Bonds. The Chief Financial Officer may, however, elect not to select a Paying Agent for the Bonds, and may elect to select a Paying Agent at any time prior or subsequent to the issuance of the Bonds. However, the Chief Financial Officer shall select a Paying Agent upon any determination to cause the Bonds to be registered in the names of the beneficial owners thereof, as provided in Section 13 hereof.

Section 15. Tax Covenant. The Township hereby covenants with the holders from time to time of the Bonds that it will make no investment or other use of the proceeds of the Bonds or take any further action (or refrain from taking such action) which would cause the Bonds to be "arbitrage bonds" within the meaning of the Internal Revenue Code of 1986, as amended, or under any similar statutory provision or any rule or regulation promulgated thereunder (the "Code"), or would cause interest on the Bonds not to be excludable from gross income for federal income tax purposes, and that it will comply with the requirements of the Code and said regulations throughout the term of the Bonds.

Section 16. Pledge of Township. The full faith and credit of the Township is hereby pledged for the payment of the principal and interest on the Bonds. The Bonds shall be direct obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Township for the payment of the principal of and interest on the Bonds without limitation as to rate or amount.

Section 17. Continuing Disclosure. The form of the Continuing Disclosure Certificate in substantially the form attached hereto as Appendix E is hereby approved, and the execution of the Continuing Disclosure Certificate by the Chief Financial Officer of the Township is hereby authorized. The Township hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate executed by the Township and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from

time to time in accordance with the terms thereof. Notwithstanding any other provision of this Resolution, failure of the Township to comply with the Continuing Disclosure Certificate shall not be considered a default on the Bonds; however, any Bondholder may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Township to comply with its obligations under this Section.

Section 18. Further Action. The proper officers of the Township are hereby authorized and directed to take all such action as may be necessary to affect the issuance and delivery of the Bonds.

Section 19. Effective Date. This Resolution shall take effect upon Ordinance Nos. 2010-16 and 2010-17 taking effect as provided in the Local Bond Law and upon the Local Finance Board approving the non-conforming maturity schedules for the Bonds.

As the consent agenda, the following Resolutions were introduced by reference, offered by Council Vice President Marder, seconded Councilwoman Mazzola and seconded on a roll call vote of 5 - 0 in favor: Res. # 2010-354 (Raffle License - Mon. County Education Assoc. - Off Premise Merchandise), #2010-355 (Raffle License - Middlesex County Bar Assoc. - On Prem), Res. #2010-356 (Redemption Tax Sale Certs - Various) and Res. #2010-357 (Refunds for Overpayments - Various).

RESOLUTION # 2010-354

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 21-10/11 (Off Premise Merchandise) be and it is hereby granted to Monmouth County Education Association Philanthropic Fund, 28 Buckley Road, Marlboro, NJ 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on April 7, 2011 at 5 PM at 28 Buckley Road, Marlboro, NJ 07746.

RESOLUTION # 2010-355

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 22-10 (On Premise

Merchandise) be and it is hereby granted to Middlesex County Bar Foundation, 87 Bayard Street, New Brunswick, NJ 08901.

BE IT FURTHER RESOLVED that said Raffle will be held on October 4, 2010 from 8 AM - 8 PM at Bella Vista Country Club, 100 School Road East, Marlboro, NJ 07746.

RESOLUTION # 2010-356

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$2,559.96 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$2,559.96 to be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
09-63 57 Culford Pl.	178/2 C0057	US Bank Corp. Trust Services Tax Lien Service Group 2 Liberty Place 50 So.16 <sup>th</sup> St.-Ste. 1950 Philadelphia, PA 19102 Assessed Owner: Valerie Santangelo	1,075.16
09-64 315 Devon Pl.	178/2 C0315	US Bank Corp. Trust Services Tax Lien Service Group 2 Liberty Place 50 So.16 <sup>th</sup> St.-Ste. 1950 Philadelphia, PA 19102 Assessed Owners: Martin J. & Lynda A. Connell	1,484.80

TOTAL: \$2,559.96

RESOLUTION # 2010-357

WHEREAS, the attached list in the amount of \$11,231.29 known as Schedule "A", is comprised of amounts representing overpayments for 2010 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>2010 REFUND</u>
307	26	Wells Fargo Home Mtg. MAC X2302-04D, Tax Dept. 1 Home Campus Des Moines, IA 50328 Assessed Owner: David Rifkin	\$2,717.42
178	290 C0106	Rimma & Anatoly Rabkin 106 Nathan Drive Morganville, NJ 07751	2,770.06
295	11	Riley & Gutman 31 W. Main St., 2 <sup>nd</sup> Fl. Freehold, NJ 07728-6305 Former Assessed Owner: Thomas Lusko	2,168.61
206.06	18	Stephanie Riso 3 Crystal Court Manalapan, NJ 07726	3,575.20
TOTAL:			<u>\$11,231.29</u>

At 10:15PM, Council President LaRocca moved that the meeting go into executive session for reason of discussing litigation and contract negotiations. This was seconded by Councilman Metzger, and as there was no objection, the Clerk was asked to cast one ballot.

