

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

April 7, 2011

The Marlboro Township Council held its regularly scheduled meeting on April 7, 2011 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Marder opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regularly scheduled meetings of the Township Council of the Township of Marlboro was faxed and e-mailed to the Asbury Park Press, the Star Ledger and News Transcript on January 10, 2011; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building, filed in the office of the Municipal Clerk and placed on the township website and Channel 77.

The Clerk called the Roll.

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

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

Councilman LaRocca moved that the minutes of March 3, 2011 be approved. This was seconded by Councilwoman Mazzola and passed on a roll call vote 3 - 0 in favor, with Councilman Metzger abstaining (Absent: Cantor).

Councilman LaRocca moved that the minutes of March 24, 2011 be approved. This was seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

The public hearing on ordinance Ord. #2011-3 had been held March 3, 2011. The following Resolution #2011-113/Ord. #2011-3 (Bond Ordinance Water Capital Improvements) was introduced by reference, offered by Councilman Metzger and seconded by Councilman LaRocca. Council

President Marder allowed a resident to ask a question. Discussion followed, during which Business Administrator Jonathan Capp answered Council's questions. After discussion, the Resolution/Ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-113

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

ORDINANCE # 2011-3

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR IMPROVEMENTS TO THE WATER UTILITY SYSTEM IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$614,250 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$614,250 IN WATER UTILITY BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

which was introduced on February 17, 2011, public hearing held March 3, 2011, tabled to March 24, 2011, be adopted on second and final reading this 7th day of April, 2011.

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

ORDINANCE # 2011-3

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR IMPROVEMENTS TO THE WATER UTILITY SYSTEM IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$614,250 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$614,250 IN WATER UTILITY BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township"), as a general improvement. For the improvement or purpose described in Section 3 hereof, there is hereby appropriated the sum of \$614,250. No down payment is required in connection with the improvements or purposes for which obligations are authorized as

provided in Section 3 hereof as said purposes are deemed to be self-liquidating and the obligations authorized herein are deductible from the gross debt of the Township, as more fully explained in Section 6(e) of this bond ordinance.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$614,250 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds or notes, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3.(a) The improvement hereby authorized and the purpose for which the bonds or notes are to be issued are water meter replacement, well redevelopment and rehabilitation, preliminary expenses in connection with a GIS plan of the water system and improvements and major repairs to the water treatment plants and water distribution system, including, without limitation, replacement of water mains, and including all other work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. No part of the costs thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the improvement or purpose, within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$614,250, but that the net debt of the Township determined as provided in the Local Bond Law is not increased by this bond ordinance and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An amount not exceeding \$216,500 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the improvement or purpose.

(e) This bond ordinance authorizes obligations of the Township solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for a purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-46 and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

Section 7. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the Township is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited 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 obligations and the interest thereon without limitation of rate or amount.

Section 9. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 10. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

The foregoing bond ordinance is approved.

Council President Marder opened the Public Hearing on Ordinance #2011-5. As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2011-124/Ordinance #2011-5 (Exceed Municipal Budget Appropriation Limits and to Establish a Cap Bank) was introduced by reference, offered by Councilman LaRocca and seconded by Councilman Metzger. Discussion followed, during which Business Administrator Jonathan Capp answered Council's questions. After discussion, the resolution/ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-124

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

ORDINANCE # 2011-5

CALENDAR YEAR 2011

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK(N.J.S.A. 40A: 4-45.14)

which was introduced on February 28, 2011, tabled on March 24, 2011, public hearing held April 7, 2011, be adopted on second and final reading this 7th day of April, 2011.

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

Council President Marder opened the Public Hearing on the 2011 Municipal Budget as amended. As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2011-145 (Adoption of 2011 Municipal Budget) was introduced by reference, offered by Councilman LaRocca and seconded by Councilman Metzger. There was a discussion between Mayor Hornik, Council members, Business Administrator Jonathan Capp, Township Chief Financial Officer Ulrich Steinberg and Mr. Wersinger. Discussion followed, after which the resolution was passed on a roll call vote of 3 - 1 in favor, with Councilwoman Mazzola voting no (Absent: Cantor).

RESOLUTION # 2011-145

RESOLUTION CONFIRMING AMENDMENTS TO AND
ADOPTION OF THE 2011 MUNICIPAL BUDGET

WHEREAS, the 2011 Township of Marlboro Municipal Budget was introduced on February 28, 2011; and

WHEREAS, the Township concluded the process of refunding outstanding debt financed through the Monmouth County Improvement Authority on March 30, 2011 which resulted in savings of approximately \$47,990.00; and

WHEREAS, a budget amendment is required in order to pass the debt service savings achieved on to Marlboro taxpayers in the 2011 budget year and address issues raised following introduction; and

WHEREAS, the net effect of the budget amendment is a reduction in the amount to be raised by taxation of \$47,115.00; and

WHEREAS, an administrative technical change required by the Division of Local Government Services has been incorporated to reflect the revised rules for treatment of pension contributions under the spending CAP which is not reflected in the formal amendment, as follows:

Total In CAP appropriations:	\$26,783,871.00
Total Out of CAP appropriations:	\$5,225,305.53

; and

WHEREAS, the final 2011 Township of Marlboro Municipal Budget is \$474,201.52 under the State mandated spending CAP and \$904,987.00 under the State mandated Levy Cap.

WHEREAS, any and all changes that were necessary have been made to the final budget document as presented to this Governing Body for adoption.

NOW, THEREFORE, BE IT RESOLVED that the aforementioned amendments to the 2011 Township of Marlboro Municipal Budget have been noted and approved by the Township Council of the Township of Marlboro, Monmouth County, State of New Jersey and the 2011 Municipal budget in its final form be hereby adopted.

The following Resolution #2011-126/Ordinance #2011-8 (Amending Chapter 220 - Billboards) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-126

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

ORDINANCE # 2011-8

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 220, "LAND USE AND DEVELOPMENT", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS", SECTION 220-99, "SIGNS AND OUTDOOR ADVERTISING REGULATIONS", TO ADD A NEW SECTION 220-99(B)(14) ENTITLED "BILLBOARDS"

4be 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 May 5, 2011 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 # 2011-8

"LAND USE AND DEVELOPMENT", ARTICLE III, "ZONING: STANDARDS
AND REGULATIONS", SECTION 220-99, "SIGNS AND OUTDOOR
ADVERTISING REGULATIONS", TO ADD A NEW
SECTION 220-99(B)(14) ENTITLED "BILLBOARDS"

BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that Chapter 220 Land Use and Development, Article III Zoning Standards and Regulations, Section 220-99 Signs and Outdoor Advertising Regulations, is hereby amended to provide a new Section 220-99(B)(14) entitled Billboards as follows:

220-99(B)(14) Billboards

1. Purpose: The purpose of this section is to limit the location, form and placement of billboards to only specified areas of the Township and to ensure construction and placement is compatible with the need for a desirable visual environment, good civic design and arrangement, the well-being of residential areas, the safety of motorists and to prevent the location of facilities which may result in blight along transportation routes within the Township.

2. Conditional Use: Billboards shall be permitted as a conditional use in the C-3, C-4 and C-5 zones, but only on those lots with frontage on New Jersey State Highways 9 and 79, provided that the billboard and its location and installation adhere to the standards of this chapter and in accordance with the following conditions:

A. Billboards shall be located only on a lot with lot frontages on N.J.S.H. 9 and N.J.S.H. 79 in the C-3, C-4 and C-5 zones.

B. The billboard shall only be constructed as a ground sign and may exist as an additional conditional use or structure, concurrent with any other principal, accessory or other uses or structures on a lot, or a leased portion of a lot.

C. No billboard shall be located on a lot that is developed with any use, building, business or structure that is not permitted by this chapter, unless the use is a certified pre-existing non-conforming use, or structure, or the use of the structure has been previously approved by the appropriate Land Use Board. However, the location of a billboard on a lot that is developed with any use, building, business or structure that is a pre-existing non-conforming use, or that has been previously approved by the appropriate Land Use Board, shall not be considered the expansion or intensification of said use or uses; provided that the

placement and operation of the billboard does not substantially interfere with the operation of said existing use(s), building(s), business(es) or structure(s). For example, the location of the billboard shall not substantially interfere with internal vehicle circulation on the lot, nor substantially interfere with the delivery of any existing utilities, nor encroach into any designated environmentally sensitive areas. However, no billboard shall be permitted on any lot with a residential use.

D. No billboard shall be affixed to any building or mounted on any roof.

E. All parts of the billboard, including any support post or sign face, shall be setback not less than twenty (20) feet from the right-of-way line of N.J.S.H. 9 and/or 79 and not less than fifteen (15) feet from any other lot line.

F. Not more than one billboard shall be permitted on the lot.

G. Billboards shall be permitted on any lot where any other ground sign with an area of sixty (60) square feet or greater, as measured by the actual sign message area, exclusive of any decorative trim band, has been constructed or approved provided that the distance between the billboard and ground sign is not less than 200 feet.

H. No portion of any billboard shall be located within two hundred and fifty (250) feet of any residential zone district or residential use, as measured to the principal housing structure of said residential use.

I. The distance allowed from any billboard to any other bill board shall not be less than 1000 feet as measured in any direction along the same side of the street.

J. No Light Emitting Diode (LED) billboards, video billboards, blinking, pulsating, animated or moving billboards shall be permitted.

K. The sign face of the billboard shall not exceed 675 square feet.

L. No billboard shall exceed a height of 45 feet as measured from the top of the sign to the average grade of the footing location.

M. Any lighting illuminating the billboard shall be directed onto the advertising surface of the billboard and shall be adequately shielded to prevent visual impairment of motorists.

N. An applicant for a billboard shall comply with the Roadway Signs Outdoor Advertising Act (N.J.S.A. 27:1A-5, 27:1A-6, 27:5-5 et. seq.) as

well as any other applicable statute, laws and regulations related to billboards. Applicant shall provide proof of receipt of all other approvals and permits required to legally erect and operate the billboard to the Code Enforcement Officer prior to obtaining the sign permit from the Township.

O. The billboard sign shall not be erected unless approved by the New Jersey Department of Transportation, and applicant shall secure a permit for an off-premise billboard sign at the specific location being sought for approval.

P. Back to back and V configuration billboards are permissible.

Q. Billboards shall not contain pornographic or obscene material nor advertise tobacco products or any other advertisements deemed illegal by state and/or federal law.

R. Billboards as defined herein shall only be permitted as a conditional use within the Township of Marlboro in accordance with this Chapter. Billboards existing prior to adoption of this subsection may be repaired and maintained as required but may not be enlarged or moved from their foundation or support footings. No replacement of a billboard shall be permitted upon removal or demolition of an existing billboard except along those lots with frontage on N.J.S.H. 9 and N.J.S.H. 79 in the C-3, C-4 and C-5 zones.

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 only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid and effective.

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.

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

The following Resolution #2011-147 (Bond Release and Waiver of Performance Guarantees - Lucas Development LLC - 145 Amboy Road) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-147

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE
GUARANTEES AND WAIVING THE REQUIREMENT OF MAINTENANCE
GUARANTEES FOR THE SITE KNOWN AS LUCAS DEVELOPMENT,
LLC, BLOCK 178, LOT 296, #145 AMBOY ROAD,
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 Antonio Lucas for release of the Township held Performance Guarantees in the form of a bond and cash deposit for site improvements ("Public Improvements") on the Site known as "Lucas Development, LLC" (the "Site"), property known as Block 178, Lot 296, on the Official Tax Maps of the Township of Marlboro, Monmouth County, State of New Jersey, posted by Lucas Development, LLC (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed the Township Engineer's report dated March 29, 2011, 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 aforesaid report recommends that the current Performance Guarantee in the form of a Bond, Bond No. 5874992 issued by Safeco Insurance Company of America in the amount of \$97,307.00, with a current value of \$31,803.00, and cash deposit in the amount of \$10,812.00, with a current value of \$3,534.00 posted by the Developer and being held by the Township, be released in their entirety, conditioned upon the payment of any and all outstanding review and/or inspection fee charges to the time of the performance guarantee release. The posting of a two (2) year fifteen percent (15%) maintenance bond is hereby waived; and

WHEREAS, the aforesaid report recommends that the current Performance Guarantee in the form of a Bond, Bond No. 327-008-147 issued by Liberty Mutual Insurance Company in the amount of \$177,597.25 and letter of credit in the amount of \$19,733.03 posted by the Developer and being held by the Township, be released in their entirety, conditioned upon the payment of any and all outstanding review and/or inspection fee charges to the time of the performance guarantee release. The posting of a two (2) year fifteen percent (15%) maintenance bond is hereby waived; and

WHEREAS, the Township Council now wishes to take the following action regarding 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 above-described Performance Guarantee in the form of a Bond, Bond No. 5874992 issued by Safeco Insurance Company of America in the amount of \$97,307.00, with a current value of \$31,803.00, and cash deposit in the amount of \$10,812.00, with a current value of \$3,534.00 posted by the Developer and being held by the Township, be released in their entirety, conditioned upon the payment of any and all outstanding review and/or inspection fee charges to the time of the performance guarantee release. The posting of a two (2) year fifteen percent (15%) maintenance bond is hereby waived; and

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 above-described Performance Guarantee in the form of a Bond, Bond No. 327-008-147 issued by Liberty Mutual Insurance Company in the amount of \$177,597.25 and letter of credit in the amount of \$19,733.03 posted by the Developer and being held by the Township, be released in their entirety, conditioned upon the payment of any and all outstanding review and/or inspection fee charges to the time of the performance guarantee release. The posting of a two (2) year fifteen percent (15%) maintenance bond is hereby waived; and

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

- a. Lucas Development, LLC
- b. Safeco Insurance
- c. Liberty Mutual Insurance Company
- d. Mayor Jonathan L. Hornik
- e. Township Business Administrator
- f. Township Chief Financial Officer
- g. Township Engineer
- h. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-148 (Award of Contract - Engineering Services 2011 General Capital Program) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger, and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-148

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH TOWNSHIP ROAD IMPROVEMENTS

WHEREAS, pursuant to the Township's authorized 2011 capital plan, various road improvements are being undertaken within the Township ("the Project"); and

WHEREAS, the Township is need of design, bid phase and construction services in order to complete the required road improvements; and

WHEREAS, CME Associates has provided proposals dated March 25 and April 1, 2011 (the "Proposals") for such Professional Services in connection with the Project; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$184,000.00 for such Professional Services, as further described and set forth in CME's Proposal, attached hereto and made a part hereof; 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 # X-04-55-968-902; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposal; 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, CME has previously completed and submitted a Business Entity Disclosure Certificate certifying that CME Associates 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 a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH TOWNSHIP ROAD IMPROVEMENTS by way of its Township Engineers ("Professional Services"), at a fee not to exceed \$184,000.00 for such Professional Services, as further described and set forth in CME's Proposals dated March 25, 2011 and April 1, 2011, 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 Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this 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 \$184,000.00 for such additional Professional Services for the Project as described in the Proposal; 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 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 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. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-149 (Award of Contract Engineering Services 2010-2011 Water Capital Program) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger, and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-149

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH THE EVALUATION AND REHABILITATION OF WATER TREATMENT FACILITIES

WHEREAS, pursuant to the Township's authorized capital plan, engineering services are required for the evaluation and rehabilitation of the existing water treatment facilities ("the Project"); and

WHEREAS, CME Associates has provided proposals dated March 30, 2011 (the "Proposals") for such Professional Services in connection with the Project; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$40,000.00 for such Professional Services, as further described and set forth in CME's Proposals, attached hereto and made a part hereof; 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 # X-06-55-900-901; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposals; 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, CME has previously completed and submitted a Business Entity Disclosure Certificate certifying that CME Associates 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 a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH THE EVALUATION AND REHABILITATION OF WATER TREATMENT FACILITIES by way of its Township Engineers ("Professional Services"), at a fee not to exceed \$40,000.00 for such Professional Services, as further described and set forth in CME's Proposals dated March 30, 2011, 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 Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this 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 \$40,000.00 for such additional Professional Services for the Project as described in the Proposals; 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 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 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. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-150 (Reject and Rebid - T-shirts - Rec., Swim & Misc.) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-150

A RESOLUTION AUTHORIZING THE REJECTION OF BIDS FOR PROVISION OF T-SHIRTS FOR VARIOUS DEPARTMENTS WITHIN THE TOWNSHIP OF MARLBORO

WHEREAS, on March 15, 2011, bids were opened for the provision of T-shirts for various departments within the Township of Marlboro; and

WHEREAS, pursuant to N.J.S.A. 40A:11-13.2(d) the contracting unit may reject all bids in order to substantially revise the specifications for the goods or services; and

WHEREAS, the Township wishes to substantially revise the specifications for the goods or services and desires to reject all bids; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that all bids heretofore received for provision of T-shirts are hereby rejected pursuant to N.J.S.A. 40A:11-13.2(d).

BE IT FURTHER RESOLVED, that the Business Administrator is hereby authorized and directed to return the bid bond(s) or other security(ies) to the appropriate bidder(s).

The following Resolution #2011-151 (Recycling Tonnage Grant) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca, and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-151

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and indicate the assent of the Marlboro Township Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that Marlboro Township hereby endorses the submission of a Municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection and Energy and designates the Recycling Coordinator to ensure that the said Application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

The following Resolution #2011-152 (Authorizing Fireworks - St. Gabriel's Church) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-152

RESOLUTION AUTHORIZING THE ISSUANCE OF A FIREWORKS
DISPLAY PERMIT TO ST. GABRIEL'S ROMAN CATHOLIC CHURCH

WHEREAS, N.J.S.A. 21:3-1, et seq. regulates the sale, exposure for sale, use, distribution or possession of fireworks or pyrotechnics in the State of New Jersey so as to advance the interests of public health, safety and welfare of the people of the State of New Jersey; and

WHEREAS, upon satisfaction of the conditions set forth in N.J.S.A. 21:3-1, et seq., and more particularly those set forth in N.J.S.A. 21:3-3, the governing body of any municipality may, by resolution, approve the granting of a permit for said purposes to a qualified organization, when such display is to be handled by a competent operator in the manner approved by the Chief of the Police and the Fire Department of the municipality so as not to be hazardous to property or endanger any person or persons; and

WHEREAS, St. Gabriel's Roman Catholic Church ("St. Gabriel"), has applied for a permit to host a fireworks display as part of their annual carnival event on property owned by St. Gabriel's within the Township of Marlboro on May 13, 2011 (with a rain date of May 14, 2011), such fireworks display to be undertaken by St. Gabriel's operator, International Fireworks Mfg. Co., Inc., upon satisfaction of the conditions set forth in N.J.S.A. 21:3-1, et seq. and in accordance with all applicable New Jersey Administrative Code regulations promulgated in accordance therewith, as amended from time to time.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED that the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey does hereby grant approval to St. Gabriel's Roman Catholic Church to host a fireworks display on May 13, 2011 (with a rain date of May 14, 2011) for its annual carnival on property owned by St. Gabriel's within the Township of Marlboro, such fireworks display to be undertaken by St. Gabriel's operator, International Fireworks Mfg. Co., Inc. pursuant to N.J.S.A. 21:3-1, et seq., and more particularly N.J.S.A. 21:3-3, subject to the following terms and conditions:

1. Receipt of approval by the Chief of the Police and Fire Official in accordance with the terms set forth hereinabove;

2. The posting of adequate surety which may be cash, government bonds, personal bond, or other form of insurance in a sum of not less than Two Thousand Five Hundred Dollars (\$2,500.00), pursuant to N.J.S.A. 21:3-4 in a form acceptable to the Township Attorney; and

3. The furnishing of the necessary Certificates of Insurance to the Township in a form acceptable to the Township Attorney; and

4. The execution of a Hold Harmless Agreement in a form acceptable to the Township Attorney; and

5. The presentation of St. Gabriel's fireworks operator, International Fireworks Mfg. Co., Inc.'s Fire Safety Certificate (Rules); and

6. The presentation of St. Gabriel's fireworks operator, International Fireworks Mfg. Co., Inc.'s drivers' Safety Documents; and

7. Proof of issuance by St. Gabriel's fireworks operator, International Fireworks Mfg. Co., Inc., of its FAA Notification Letter; and

8. Proof from St. Gabriel's fireworks operator, International Fireworks Mfg. Co., Inc., of its Worker's Compensation and Employers Liability Policy; and

9. Receipt of a copy of the Fireworks Contract Agreement between St. Gabriel's and International Fireworks Mfg. Co., Inc.; and

10. Receipt of the Plot/Site Plan for the fireworks' display.

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized and directed to send copies of this resolution to the following:

- a. St. Gabriel's Roman Catholic Church
- b. International Fireworks Mfg. Co., Inc.
- c. The Chief of the Police and Fire Department.
- d. The Fire Prevention Bureau.
- e. Township Business Administrator

The following Resolution #2011-153 (Authorizing Shared Services Agreement Mon. County - Fixed Route Public Bus Transportation) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-153

AUTHORIZING A SHARED SERVICES AGREEMENT WITH THE COUNTY OF MONMOUTH FOR FIXED ROUTE PUBLIC BUS TRANSPORTATION WITHIN THE TOWNSHIP OF MARLBORO THROUGH JUNE 30, 2012 PURSUANT TO N.J.S.A. 40A:65-1 ET SEQ.

WHEREAS, the Board of Chosen Freeholders of the County of Monmouth (hereinafter, "the County") has established fixed route public bus transportation within the Township of Marlboro through June 30, 2012; and

WHEREAS, the Township of Marlboro wishes to enter into a Shared Services Agreement with the County for the provision of

the aforesaid transportation services to residents of Marlboro Township; and

WHEREAS, the Shared Services Act, N.J.S.A. 40A:65-1 et seq. authorizes local units (as defined in said Act), to enter into joint agreements for the provision of governmental services, including the transportation services contemplated herein by adoption of a resolution therefor; and

WHEREAS, the proposed Shared Services Agreement for the provision of such transportation services is on file in the Township Clerk's office in accordance with the provisions of N.J.S.A. 40A:65-5(b); and

WHEREAS, the Chief Financial Officer has certified that funds are available for this agreement in the amount of \$3,000.00 from Account Number 1-01- -145-288.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, that the Mayor and Township Clerk are hereby authorized and directed to execute and witness, respectively, the proposed Shared Services Agreement with the County of Monmouth for the provision of fixed route public bus transportation within the Township of Marlboro through June 30, 2012; and

BE IT FURTHER RESOLVED, that, pursuant to the Shared Services Act, N.J.S.A. 40A:65-1, et seq., such Agreement shall be filed with and open to the public for inspection at the offices of the Town Clerk, and such Agreement shall take effect upon the adoption of appropriate resolutions by all parties thereto; and

BE IT FURTHER RESOLVED, that, pursuant to N.J.S.A. 40A:65-4(b), a copy of the Shared Services Agreement shall be filed with the Division of Local Government Services in the Department of Community Services for informational purposes; and

BE IT FURTHER RESOLVED that a duly certified copy of this Resolution be forwarded to the following parties:

- a. County of Monmouth, Board of Chosen Freeholders
- b. Division of Local Government Services, Dept. of Community Services
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator

The following Resolution #2011-154 (Awarding Plenary Retail Distribution License) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-154

A RESOLUTION AWARDING A PLENARY RETAIL
DISTRIBUTION LICENSE TO MATTHEW R. STEIN

WHEREAS, in accordance with the provisions of Resolution # 2011-75, the Township of Marlboro authorized the acceptance of bids for One (1) Plenary Retail Distribution License and on March 15, 2011 at 10:00 a.m. received three (3) bids therefor; and

WHEREAS, in accordance with the established procedures, the bid was opened on March 22, 2011 at 10:00 a.m., at which time the three (3) bids were publicly announced as follows:

- (1) Matthew R. Stein for the amount of \$751,000.00;
- (2) Parul Patel for the amount of \$653,571.99; and
- (3) Jagdish and Yogendra Patel for the amount of \$555,555.55; and

WHEREAS, the Township Administration has reviewed the said bid received and recommended that same be awarded to Matthew R. Stein as the highest qualified bidder; and

WHEREAS, the Mayor and Township Council have indicated their desire to award one (1) Plenary Retail Distribution License to the highest qualified bidder Matthew R. Stein of 56 East 80th Street, New York, New York, for the sum of \$751,000.00, in accordance with the Bid Specifications issued by the Township; and

WHEREAS, the Mayor and the Township Council have indicated that they are amenable to awarding the one (1) Plenary Retail Distribution License to Matthew R. Stein of 56 East 80th Street, New York, New York, as the highest qualified bidder for the sum of \$751,000.00, in accordance with the Bid Specifications issued by the Township.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that, subject to compliance with the Alcoholic Beverage Control Statutes, N.J.S.A. 33:1-1 et seq, and the approval of the New Jersey Division of Alcoholic Beverage Control and the provisions of Resolution #2008-251, one (1) Plenary Retail Distribution License is hereby awarded to Matthew R. Stein of 56 East 80th Street, New York, New York, subject to the following terms and conditions:

(a) Payment of the balance of the bid by certified check made payable to the "Township of Marlboro" by June 30, 2011. Failure to make timely payment of such balance shall, at the option of the Township, result in voiding of the license award and forfeiture of the successful bidder's deposit whereupon the Township may award the license to the remaining highest qualified bidder or determine to take no action;

(b) Payment of the State License Application Fee;

(c) Payment of the Annual Municipal Retail License Fee;

(d) Satisfactory outcome of further municipal background checks to investigate the source of funds used to purchase the license;

(e) Receipt of favorable State and/or Federal criminal background checks; and

(f) Compliance with the publication, hearing and Resolution requirements under *N.J.A.C. 13:2-2.1 et seq.*

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

- a. Matthew R. Stein
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-155 (Authorizing Purchase of Tickets for Recreation Fee-based Programs) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-155

RESOLUTION AUTHORIZING THE PURCHASE OF TICKETS FOR
MARLBORO DEPARTMENT OF RECREATION FEE-BASED PROGRAMS

WHEREAS, the Department of Recreation organizes numerous trips to a variety of destinations for program participants; and

WHEREAS, the trip destinations include theaters, indoor and outdoor amusement facilities, restaurants and parks; and

WHEREAS, program participants register for the trip and the Department of Recreation purchases tickets based upon the demand for a particular trip; and

WHEREAS, participants pay a fee to register for these programs; and

WHEREAS, the Department of Recreation estimates various trips and associated fees for the 2011 program year in an amount not to exceed \$150,000.00; and

WHEREAS, the funding for these trips is generated from user fees and will be available from Recreation Trust Account # T-17-56-867-817.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the Township Council of the Township of Marlboro, hereby authorizes the Department of Recreation to register program participants for various fee based programs as described above in an amount not to exceed \$150,000.00.

BE IT FURTHER RESOLVED, should schedule changes occur which do not result in an increased expenditure, the schedule changes may be adopted administratively.

As the Consent Agenda, the following resolutions were introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor): Res. #2011-156 (Refunds for Overpayments - Various), Res. #2011-157 (Redemption Tax Sale Certs. - Various), Res. #2011-158 (Tax Court Judgment Refund - B. 180, L. 38 - Weiss), Res. #2011-159 (Tax Court Judgment Refund - B. 180, L. 29 - Friedman), and Res. #2011-160 (Bingo License - Temple Rodeph Torah).

RESOLUTION # 2011-156

WHEREAS, the attached list in the amount of \$141.71 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>
412	122	Michael & Jessy Friedman 25 Crossridge Circle Marlboro, NJ 07746	\$ 141.71

RESOLUTION # 2011-157

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$69,176.79 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 \$69,176.79 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>
09-40 4 Cross Ln.	380/23	US Bank CUST for CCTS Capital, LLC Tax Lien Service Group 2 Liberty Place 50 So.16 th St.,Ste.1950 Philadelphia, PA 19102 Assessed Owner: Rosaria Falica(Est. of)	24,322.43
10-16 35 Stony Hill Dr.	192/4	US Bank CUST for Pro Capital I 50 So.16 th St.,Ste.1950 Philadelphia, PA 19102 Assessed Owner: Dafna Greenstein	867.07
10-33 18 Warbler Rd.	412.03/9	US Bank CUST for Pro Capital I 50 So.16 th St.,Ste.1950 Philadelphia, PA 19102 Assessed Owner: Nancy Zinn	774.75

10-51	349/3	Soheha	705.03
30 Amherst Rd.		P.O. Box 9416	
		Trenton, NJ 08650	
		Assessed Owners:	
		Donald & Renee L. Dancer	
10-78	212/4	Frank J. Festa, Jr.	825.71
16 Lawton Rd.		P.O. Box 97	
		Scotch Plains, NJ	
		07076-0097	
		Assessed Owners:	
		Herbert U. & Barbara Caravella	
10-119	176/7 C0492	Josef Hoffmann	723.47
492 Tivoli Ct.		326 Shady Lane	
		Trenton, NJ 08619	
		Assessed Owners:	
		Artur Tsaturyan &	
		S. Mushkarova	
10-142	408/12	Royal Tax Lien	36,555.58
23 Colts Run		Services, LLC	
		115 West Avenue	
		Suite 300	
		Jenkintown, PA 19046	
		Assessed Owner:	
		Summit House Inc.	
10-150	193.02/3	Brian Walsh	1,186.00
6 Drakes Hill Ct.		111 Sandalwood Dr.	
		Marlboro, NJ 07746	
		Assessed Owners:	
		Evan N. & Jennifer Pickus	
10-111	108/20	Nithi Services LLC	3,216.75
8 Wicker Pl.		20 Almadera Dr.	
		Wayne, NJ 07470	
		Assessed Owner:	
		Elaine Nunez	
		TOTAL:	<u>\$69,176.79</u>

RESOLUTION # 2011-158

WHEREAS, the Tax Court of New Jersey has granted a judgment for the 2010 taxes in the amount of \$4,197.44 on Block 180 Lot 38, located at 16 Evan Drive, assessed to Susan Weiss,

WHEREAS, taxes for the year 2010 have been paid in full on the above-mentioned block & lot,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$4,197.44 as stated above.

RESOLUTION # 2011-159

WHEREAS, the Tax Court of New Jersey has granted a judgment for the 2010 taxes in the amount of \$4,249.90 on Block 180 Lot 39, located at 14 Evan Drive, assessed to Willette and Bruce Friedman,

WHEREAS, taxes for the year 2010 have been paid in full on the above-mentioned block & lot,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$4,249.90 as stated above.

RESOLUTION #2011-160

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Bingo License BL: 1-2011 be and it is hereby granted to Temple Rodeph Torah, 15 Mohawk Drive, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Bingo will be held on May 3, 2011 from 7:00PM to 10:00PM at the Temple Rodeph Torah, 15 Mohawk Drive, Marlboro, New Jersey 07746

The following Resolution #2011-161 (Appointments to Zoning Board of Adjustment) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 3 - 0 in favor, with Councilwoman Mazzola abstaining (Absent: Cantor).

RESOLUTION # 2011-161

RESOLUTION APPOINTING ZONING BOARD
OF ADJUSTMENT MEMBERS

WHEREAS, Section 4-90 of the Code of the Township of Marlboro created the Marlboro Township Zoning Board of Adjustment pursuant to the authority granted by N.J.S.A. 40:55D-69; and

WHEREAS, Section 220-8 of the Code of the Township of Marlboro provides that the Township Council shall appoint members of the Zoning Board of Adjustment; and

WHEREAS, the Township Council wishes to appoint IBRAHIM NABOULSI to serve as a member of the Zoning Board of Adjustment, to fill the unexpired term of Keith Goff as Alternate #1, expiring December 31, 2012; and

WHEREAS, the Township Council wishes to appoint STACEY DE GRANDE to serve as a member of the Zoning Board of Adjustment, to fill the unexpired term of Marc Ellenberg as Alternate #2, expiring December 31, 2011.

NOW, THEREFORE BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

That it hereby appoints IBRAHIM NABOULSI and STACEY DE GRANDE to serve as members of the Marlboro Township Zoning Board of Adjustment in the positions specified above, and for the terms indicated above.

The following Resolution #2011-163 (May - Bike Month in Marlboro) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2011-163

DECLARING MAY "BIKE MONTH IN MARLBORO"

WHEREAS, for more than a century, the bicycle has been an important part of the lives of many Americans, and today residents of all ages throughout New Jersey engage in bicycling because it is a viable and environmentally sound form of transportation, an excellent form of fitness and provides quality family recreation; and

WHEREAS, the Township of Marlboro was awarded Sustainable Jersey Community certification for its efforts to be more environmentally-friendly; and

WHEREAS, riding a bicycle is a feasible alternative to driving a car especially for short trips which are the most polluting (i.e. to work, transit stations, schools, or shopping); and

WHEREAS, the education of cyclists and motorists as to the proper and safe operation of bicycles is important to ensure the safety and comfort of all users of township streets; and

WHEREAS, the League of American Bicyclists, a national non-profit bicycling safety and education association, has declared the month of May to be National Bike Month for each of the last fifty-five (55) years, and has done so again in 2011; and

WHEREAS, it is important to emphasize safe bicycle use, including the use of helmets, and strict observance of traffic laws; and

WHEREAS, National Bike Month provides an opportunity to increase public awareness of the many benefits of bicycling, to promote bicycle safety, and to encourage bicycle riding through organized activities;

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Marlboro in the County of Monmouth that the month of May is hereby declared NATIONAL BIKE MONTH in the Township of Marlboro and the Township Council urges all residents to recognize the importance of bicycle safety and to be more aware of cyclists on our streets and highways.

At 9:20PM, Councilman LaRocca moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Councilman Metzger, and the following Resolution #2011-162 (Closed Session) was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor). Recess was called, and the executive session resumed at 9:35 PM.

RESOLUTION # 2011-162

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 7th day of April, 2011 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 10 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 9:40 PM, Councilman Metzger moved that the meeting be opened. This was seconded by Councilwoman Mazzola, and as there was no objection, the Clerk was asked to cast one ballot.

The following Resolution #2011-164 (Authorizing Settlement and Execution of a Mutual Release Agreement - Bond Safeguard Insurance Co.) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, LaRocca).

RESOLUTION # 2011-164

A RESOLUTION AUTHORIZING THE SETTLEMENT AND EXECUTION OF
A MUTUAL RELEASE AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO
AND BOND SAFEGUARD INSURANCE COMPANY REGARDING THE
PERFORMANCE GUARANTEES FOR THE DEVELOPMENT KNOWN AS CRINE WEST

WHEREAS, Crine West, LLC is the successor developer ("Successor Developer") of a residential development located in Marlboro Township known as "Crine West" ("Development") from Kara at Crine West, LLC (the Original Developer), by way of an order of the United States Bankruptcy Court, District of New Jersey, dated October 16, 2007; and

WHEREAS, on October 1, 2003, the Marlboro Township Planning Board granted Final Major Subdivision approval to the Original Developer for the Crine West Development under Docket No. PB-751-99 ("Approval"); and

WHEREAS, the Original Developer entered into a Developer's Agreement with the Township dated August 10, 2004, pursuant to which the Original Developer (and any successor developer) agreed to make public site improvements at the Development as required by the Approval; and

WHEREAS, pursuant to N.J.S.A. 40:55D-53 and as a condition of the Approval and Developer's Agreement, the Township required the Original Developer (and any successor developer) to post performance guarantees for the completion of the public site improvements at the Development, as identified on a Performance Bond Estimate issued by the Township Engineer on December 19, 2003; and

WHEREAS, performance guarantees were posted in the form of two (2) performance bonds issued by Bond Safeguard Insurance Company ("Bond Safeguard"), Bond # 5006836 in the amount of \$986,740.00 and Bond #5006837 in the amount of \$2,364,108.55, which were reduced by Resolution #2005-449 to the respective amounts of \$434,165.60 and \$1,040,207.76; and

WHEREAS, performance guarantees were also posted in the form of cash bonds in the following amounts: Cash Bond #1 for the original amount of \$109,637.78 and Cash Bond #2 in the original amount of \$262,678.73, for a total amount of \$372,616.51, which was reduced by Resolution #2005-449 to the current total cash bond amount of \$163,819.27; and

WHEREAS, the Original Developer filed a petition for bankruptcy prior to completion of the public site improvements at the Development, whereupon the Township of Marlboro made demand upon Bond Safeguard to undertake completion of the public site improvements at the Development; and

WHEREAS, Bond Safeguard neither completed the public site improvements, nor tendered the full remaining amounts of the performance bonds, whereupon the Township filed litigation against Bond Safeguard seeking to compel Bond Safeguard to complete the public site improvements or bear the costs of same (the "Litigation"); and

WHEREAS, the Township entered into an Agreement with the Successor Developer dated October 27, 2007, whereby the Successor Developer agreed to complete all public site improvements at the Development pursuant to the posted performance guarantees, cash and bonds, and whereby any monies recovered from the litigation are to be paid over to the Successor Developer, less certain expenses incurred by the Township; and

WHEREAS, the Township entered into an Agreement with Successor Developer and Amboy National Bank dated November 27, 2007, wherein the parties agreed that the Township would pay the Successor Developer and Amboy National Bank any monies recovered in the Litigation attributable to the completion of the public site improvements at the Development for any deficiency or difference between the cost of installing said improvements and the cash portions of the performance guarantees, which was to be remitted to the Successor Developer; and

WHEREAS, the public site improvements at the Development have been completed by the Successor Developer; and

WHEREAS, the Township and Bond Safeguard have agreed to amicably settle this dispute and desire to enter into a Mutual Release Agreement whereby the Township shall release Bond Safeguard from its liability under Bonds #5006836 and #5006837, upon receipt of payment by Bond Safeguard in the amount of \$650,000.00 and Bond Safeguard shall release the Township from Bond Safeguard's claims against the cash performance guarantees being held by the Township; and

WHEREAS, in accordance with the Agreement with Successor Developer and Amboy National Bank dated November 27, 2007, the Township shall pay to the Successor Developer and Amboy National Bank any proceeds from the litigation, less litigation costs incurred by the Township; and

WHEREAS, of the \$650,000.00 to be paid to the Township, the Township shall retain the amount of \$51,341.47, to cover the fees and costs it expended or incurred relating to the Litigation; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the terms of the proposed settlement between the Township and Bond Safeguard for the terms set forth above and has reviewed the terms of the proposed Mutual Release Agreement thereto and desires to settle the dispute in an amicable matter in order to avoid the expenditure of further time and monies in litigation, and deems such settlement to be in the best interests of the Township of Marlboro.

NOW, THEREFORE, BE IT RESOLVED, by Township Council of the Township of Marlboro, Monmouth County, New Jersey, that it hereby authorizes terms of the settlement between the Township of Marlboro and Bond Safeguard Insurance Company, and the Mutual Release Agreement, in a form substantially similar to that attached hereto; and

BE IT FURTHER RESOLVED, that the Mayor and Township Clerk are hereby authorized to execute and witness the proposed Mutual Release Agreement; and

BE IT FURTHER RESOLVED, that, in accordance with the terms of the Agreement with Crine West, LLC and Amboy National Bank dated November 27, 2007, the Township shall pay to the Successor Developer Crine West, LLC and Amboy National Bank the amount of \$598,658.53, which represents the amount of the settlement proceeds, \$650,000.00, less the amount of \$51,341.47, expended by the Township for litigation costs in its action against Bond Safeguard Insurance Company and shall pay over to the Successor Developer Crine West, LLC and Amboy National Bank the remaining cash performance guarantee in the principal amount of \$163,819.27, plus any accrued interest; and

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

- a. Bond Safeguard Insurance Company
- b. Crine West, LLC
- c. Amboy National Bank
- d. Mayor Jonathan L. Hornik
- e. Township Business Administrator
- f. DeCotiis, FitzPatrick & Cole, LLP

At 9:45PM, Councilman Metzger moved that the meeting be adjourned. This was seconded by Council President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

MINUTES APPROVED: May 19, 2011

OFFERED BY: METZGER	AYES: 4
SECONDED BY: LA ROCCA	NAYS: 0
	ABSTAIN: CANTOR

ALIDA MANCO,
MUNICIPAL CLERK

RANDI MARDER,
COUNCIL PRESIDENT