

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

September 12, 2013

The Marlboro Township Council held its regularly scheduled Council Meeting on September 12, 2013 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 the regularly scheduled 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 7, 2013; 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 Cantor, Council Vice President Marder, Councilwoman Mazzola, Councilman Metzger and Council President LaRocca.

Also present were: Township Attorney Louis N. Rainone, Business Administrator Jonathan Capp, Municipal Clerk Alida Manco and Deputy Municipal Clerk Deborah Usalowicz.

Councilwoman Mazzola moved that the minutes of July 18, 2013 be approved. This was seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

Councilwoman Mazzola moved that the minutes of August 1, 2013 be approved. This was seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor, with Council Vice President Marder abstaining.

The following Resolution #2013-273/Ordinance #2013-15 As Amended (Amend Section 220-140 - Standards for Sheds) was introduced by reference, offered by Councilman Cantor,

seconded by Councilman Metzger, and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2013-273

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

ORDINANCE # 2013-15 (As Amended)

AN ORDINANCE AMENDING SECTION 220-140 OF THE CODE OF THE TOWNSHIP OF MARLBORO AMENDING THE STANDARDS FOR SHEDS AS ACCESSORY STRUCTURES

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 10, 2013 at 7:00 p.m. at the Greenbriar at Marlboro Clubhouse, 21 Clubhouse Lane, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2013-15 (AS AMENDED)

AN ORDINANCE AMENDING SECTION 220-140 OF THE CODE OF THE TOWNSHIP OF MARLBORO AMENDING THE STANDARDS FOR SHEDS AS ACCESSORY STRUCTURES

BE IT ORDAINED, that Section 220-140 of the Code of the Township of Marlboro entitled "Accessory Buildings and Structures" is hereby amended and supplemented to amend section 220-140(E) entitled "Location" amending the provisions establishing specific setback standards to be solely applicable to sheds which are placed on a property as an accessory structure as follows:

2) The setbacks for sheds that are placed on a property as an accessory structure and are not larger than one hundred fifty (150) square feet and not taller than eleven (11') feet in height and which only require the issuance of a zoning permit shall be a minimum of five (5') feet from the rear and side property lines provided that no such shed may be longer than twelve (12) feet that is adjacent to any side or rear setback. Not more than one such shed shall be permitted to be placed on the property.

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 valid 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 #2013-274/Ordinance #2013-18 (Amending Section 220-18 - Stormwater Management Fees) was introduced by reference, offered by Councilwoman Mazzola and seconded by Council Vice President Marder. Council President LaRocca opened the Public Hearing on the ordinance. As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2013-274/Ordinance #2013-18 was passed on a roll call vote of 5 - 0.

RESOLUTION # 2013-274

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

ORDINANCE # 2013-18

AN ORDINANCE AMENDING CHAPTER 220: LAND USE AND DEVELOPMENT, ARTICLE II: LAND USE PROCEDURES TO AMEND AND RENAME SECTION 220-18 AS STORM WATER MANAGEMENT MAINTENANCE FEES

which was introduced on July 13, 2013, public hearing held on September 12, 2013, be adopted on second and final reading this 12th day of September, 2013.

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 held for the purpose of receiving comments on the application to the County of Monmouth for Open Space Trust Fund under the Monmouth County Municipal Open Space Grants Program. The application is for a grant to construct a ball field on the property known as Marlboro Country Park, located along Masepe Trail, adjacent to the Marlboro Swim Club within the Township of Marlboro. As there was no one who wished to speak, the Public Hearing was closed.

The following Resolution #2013-275 (Authorizing Application to Monmouth County for Open Space Trust Funds) was introduced by

reference, offered by Council Vice President Marder, seconded by Councilman Cantor, and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2013-275

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 construct a ball field on the property known as the Marlboro Country Park, located along Masepe Trail, adjacent to the Marlboro Swim Club, within the Township of Marlboro (Block 255, Lot 55); and

WHEREAS, the total cost of the project including all matching funds is \$503,300.00; and

WHEREAS, the Township of Marlboro is the owner of and controls the project site.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL 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 Resolution #2013-276/Ordinance #2013-19 (Confirming and Readopting Ord. 2013-17 - Authorizing Guaranty by Marlboro Township for Payment of Principal and Interest on Capital Equipment Lease Revenue Bonds of MCIA) was introduced by reference, offered by Councilman Cantor, seconded by Councilman Metzger, and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2013-276

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

ORDINANCE # 2013-19

ORDINANCE CONFIRMING AND READOPTING ORDINANCE NO. 2013-17 OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AUTHORIZING THE GUARANTY BY THE TOWNSHIP OF MARLBORO, NEW JERSEY FOR PAYMENT OF PRINCIPAL AND INTEREST ON THE CAPITAL EQUIPMENT LEASE REVENUE BONDS, SERIES 2013 (MARLBORO PROJECT) OF THE MONMOUTH COUNTY IMPROVEMENT AUTHORITY

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 September 26, 2013 at 7:00 p.m. at the Rosemont Clubhouse, 246 Everton Blvd., Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2013-19

ORDINANCE CONFIRMING AND READOPTING ORDINANCE NO. 2013-17 OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AUTHORIZING THE GUARANTY BY THE TOWNSHIP OF MARLBORO, NEW JERSEY FOR PAYMENT OF PRINCIPAL AND INTEREST ON THE CAPITAL EQUIPMENT

LEASE REVENUE BONDS, SERIES 2013 (MARLBORO PROJECT) OF THE
MONMOUTH COUNTY IMPROVEMENT AUTHORITY

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

Ordinance No. 2013-17 of the Township of Marlboro, in the County of Monmouth, New Jersey, finally adopted on August 1, 2013, is hereby readopted and confirmed without amendment, and said ordinance shall read as follows:

Section 1. Pursuant to Section 80 of the County Improvement Authorities Law, N.J.S.A. 40:37A-44 et. seq., the Township of Marlboro, New Jersey (the "Municipality") is hereby authorized to unconditionally and irrevocably guaranty the punctual payment of the principal of and the interest on the Capital Equipment Lease Revenue Bonds, Series 2013 (Marlboro Project) (the "Bonds") of The Monmouth County Improvement Authority (the "Authority") Outstanding (as that term is defined in the following described resolution) under the resolution of the Authority entitled "Capital Equipment Lease Revenue Bond Resolution (Marlboro Project)" (the "Bond Resolution") to be adopted in a form approved by counsel to the Municipality. The Authority plans to issue the Bonds to finance the acquisition and subsequent leasing of certain capital equipment to the Municipality pursuant to a lease and agreement to be entered into by the Authority and the Municipality (the "Lease"). Such guaranty shall be given in accordance with the guaranty agreement (the "Guaranty Agreement") between the Municipality and the Authority in substantially the form submitted to this Municipality, a copy of which is on file in the office of the Clerk of the Municipality, with such changes as may be approved by counsel to the Municipality. The Mayor is hereby authorized to execute the Guaranty Agreement on behalf of the Municipality in substantially such form as submitted hereto and with such changes as may be approved by the Mayor, and the Clerk of the Municipality is hereby authorized to attest such signature affixing the seal of the Municipality. All representatives, officials and employees of the Municipality are hereby authorized to enforce and to implement the Guaranty Agreement.

Section 2. The following additional matters are hereby determined, declared, recited and state:

- (1) The maximum principal amount of the Bonds of the Authority hereby and hereunder to be guaranteed as to payment of principal and interest shall not exceed the sum of the amount necessary to acquire the Municipality's equipment as set forth in Schedule A which will be subject to the Lease and to pay the Municipality's share of the

costs of issuance, but in no event shall such principal amount exceed \$223,000.

(2) The Bonds shall mature within eleven years of the date of issue.

(3) The Bonds shall remain Outstanding to their respective stated maturity dates and the guaranty authorized herein shall remain effective until all Bonds shall have been paid in full in accordance with their terms notwithstanding the occurrence of any other event.

(4) The guaranty authorized herein may be made and this ordinance may be adopted notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the Local Bond Law, N.J.S.A. 40A:2-1, et. seq., but the principal amount of any Outstanding Bonds shall be included after their issuance in the gross debt of the Municipality for the purpose of determining the indebtedness of the Municipality under or pursuant to the Local Bond law. The principal amount of the Bonds included in the gross debt of the Municipality shall be deducted from the gross debt of the Municipality under and all for all the purposes of the Local Bond Law (a) from and after the time of issuance of the Bonds until the end of the fiscal year beginning next after the acquisition of the equipment to be financed from the proceeds of the Bonds and (b) in any Annual Debt Statement filed pursuant to the Local Bond law as of the end of such fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the Authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal of and the interest on all such Bonds, all bonds of the Municipality issued as provided under N.J.S.A. 40:37A-79 and all bonds of the Authority issued under the County Improvement Authorities Law.

Section 3. Upon payment of the principal of and the interest due on the Bonds by the Authority or by the defeasance of the Bonds pursuant to the Bond Resolution, the guaranty authorized herein will cease to exist and the gross debt of the Municipality shall be reduced to the extent that such Bonds cease to be Outstanding under the Bond Resolution.

Section 4. This ordinance shall take effect 20 days after the first publication thereof after final adoption in accordance with the County Improvement Authorities Law and the Local Bond Law.

The following Resolution #2013-277 (Place to Place Transfer - Worthwhile Inc. T/A Cambridge Spirits) was introduced by reference, offered by Council Vice President Marder, seconded by Council President LaRocca, and was passed on a roll call vote of 4 - 0 in favor with Councilman Cantor abstaining.

RESOLUTION # 2013-277

A RESOLUTION OF THE TOWNSHIP OF MARLBORO AUTHORIZING A PLACE TO PLACE TRANSFER OF PLENARY RETAIL DISTRIBUTION LICENSE NUMBER 1328-44-016-002 BY WORTHWHILE, INC T/A CAMBRIDGE SPIRITS TO 280 ROUTE 9 AND UNION HILL ROAD, MORGANVILLE, NEW JERSEY

WHEREAS, application was made to the Township of Marlboro ("Township") by Worthwhile Inc, T/A Cambridge Spirits ("Applicant") for a place-to-place transfer of Plenary Retail Distribution License Number 1328-44-016-002 ("License") presently held by Worthwhile Inc, T/A Cambridge Spirits which is to be sited at 280 Route 9 and Union Hill Road, Morganville, N.J. (the "Premises"); and

WHEREAS, the Applicant has disclosed, and the appropriate Township officials have reviewed, information contained in the report of the Police Department concerning this place to place transfer application; and

1. The submitted application form is complete in all respects;
2. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or Division-approved conditions; and
3. The Applicant has requested and the Township has agreed that the place to place transfer of the license authorized herein shall not be effective until November 15, 2013; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the application and all supporting documentation and finds it appropriate to approve the place to place transfer of the aforesaid plenary retail distribution license.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the application by Worthwhile Inc, T/A Cambridge Spirits for a place to place transfer of Plenary

Retail Distribution License Number 1328-44-016-002 to 280 Route 9 and Union Hill Road, Morganville, New Jersey be and is hereby is approved subject to the conditions set forth hereinbelow:

1. The approval of the Division of Alcoholic Beverage Control to the place-to-place transfer of the aforesaid license to 280 Route 9 and Union Hill Road, Morganville, New Jersey if required.
2. That, prior to the use of the aforesaid license for the sale, service or consumption of alcoholic beverages on the premises, the licensee notify the Code Enforcement Officer of the Township of Marlboro in order that said officials shall make an inspection of the premises and issue a determination of the maximum permitted occupancy of the premises pursuant to applicable Township ordinances.
3. That the licensee comply with the aforesaid maximum occupancy of the premises as determined by the Code Enforcement Officer of the Township of Marlboro.
4. Subject to final clearance from all appropriate law enforcement agencies.
5. The place to place transfer of the license shall not be effective until November 15, 2013.

BE IT FURTHER RESOLVED that the license transferred herewith shall be subject to suspension or revocation for a violation of any of the aforesaid conditions pursuant to N.J.S.A. 33:1-32; and

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

- a. Worthwhile, Inc t/a Cambridge Spirits
- b. Township Administrator
- c. Township Building Department
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

As the consent agenda, the following resolutions were introduced by reference, offered by Councilman Metzger seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor: Res. #2013-278 (Authorizing Sustainable Jersey Grant Application), Res. #2013-279 (Authorizing Grant Application - NJDOT - Texas Road), Res. #2013-280 (Authorizing Grant Application - NJDOT - Route 79/Station Road - Bicycle Path Improvements),

Res. #2013-281 (Confirming Contract for Removal of Sludge from Sediment Lagoons at Harbor Road Filtration Plant), Res. #2013-282 (Authorizing Budget Amendment USDA NRCS Grant), Res. #2013-283 (Award of Bid - Improvements to Recreation Center Gym Floor), Res. #2013-284 (Authorizing One Year Contract Renewal - Snow Removal Services), Res. #2013-285 (Authorizing Application for HDSRF Grant for Block 253, Lot 36.02 - Municipal Complex), Res. #2013-286 (Award of Bid - Metal Wardrobe Lockers (2012 Capital 106-1), Res. #2013-287 (Authorizing Acceptance of Improvements and Final Payment 2012 Road Program), Res. #2013-288 (Authorizing Application for Reimbursement of Costs of Hepatitis B Inoculations from NJ Dept of Health), Res. #201-289 (Authorizing Change Order Electrical Upgrades to Wells #3 and #4) and Res. #2013-290 (Redemption Tax Sale Certs - Various).

RESOLUTION # 2013-278

A RESOLUTION AUTHORIZING A GRANT APPLICATION
FROM THE SUSTAINABLE JERSEY SMALL GRANTS PROGRAM

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, Marlboro Township strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, Marlboro Township is instituting greening and sustainability initiatives within the community, specifically, for use in the development of sustainable land use planning and transportation under the guidelines of Form Based Code Zoning; and

WHEREAS, the Marlboro Township Planning Board has adopted as part of the Sustainability Element of the Master Plan the use of Form Based Code in the Village Center;

WHEREAS, Marlboro Township is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and Sustainable Jersey has created a grant program called the Sustainable Jersey Small Grants Program;

WHEREAS, the Township Council of the Township of Marlboro has determined that it would be in the best interests of the Township to apply for a Sustainable Jersey Small Grant.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Marlboro Township will authorize the submission for the aforementioned Sustainable Jersey Grant for grant funds in the amount of \$10,000 to support the Township of Marlboro's efforts to draft and codify the ordinance required for Form Based Code Zoning.

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

1. Sustainable Jersey
2. Business Administrator

Township of Marlboro

RESOLUTION # 2013-279

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Improvements to Texas Road - Phase I project.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Marlboro formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2014-Marlboro Township-00354 to the New Jersey Department of Transportation on behalf of the Township of Marlboro.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Marlboro and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Township of Marlboro

RESOLUTION # 2013-280

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of

Transportation for the Route 79 - Station Road
Bicycle Path Improvements project.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Township of Marlboro formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as BIKE-2014-Marlboro Township-00038 to the New Jersey Department of Transportation on behalf of the Township of Marlboro.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Marlboro and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

RESOLUTION # 2013-281

A RESOLUTION CONFIRMING CONTRACT WITH SPECTRASERV, INC. FOR LAGOON CLEANING AND SLUDGE REMOVAL AT THE HARBOR ROAD FILTRATION PLANT FOR THE DEPARTMENT OF PUBLIC WORKS WATER UTILITY DIVISION

WHEREAS, the New Jersey Department of Environmental Protection (DEP) requires lagoon cleaning and the removal of sludge from all sediment lagoons every three years; and

WHEREAS, the Township of Marlboro requires lagoon cleaning and the removal of sludge from the four sediment lagoons located at the Harbor Road filtration plant; and

WHEREAS, the Water Utility Division solicited quotes from qualified vendors and received one response; and

WHEREAS, the Township of Marlboro authorized the sole respondent, Spectraserv, Inc., to perform the required services at the proposed cost of twenty-four (\$0.24) cents per gallon per an estimated 70,000 gallons of material to be removed for a total estimated cost of \$16,800.00; and

WHEREAS, the amount of material actually removed, 123,000 gallons was substantially more than the initial estimate, for a total of \$29,520.00; and

WHEREAS, given that the vendor had already mobilized and material was in the process of being removed, authorization was given by the Qualified Purchasing Agent to remove and dispose of all of the material necessary; and

WHEREAS, by R. 2013-070 the Township Council authorized the

Qualified Purchasing Agent to award contracts up to \$25,000.00;
and

WHEREAS, N.J.S.A. 40A:11-9 permits governing bodies to authorize the Qualified Purchasing Agent to award contracts up to \$36,000.00; and

WHEREAS, the Township Council wishes to confirm the determination of the Qualified Purchasing Agent to award the contract for lagoon cleaning and the removal of sludge from the four sediment lagoons located at the Harbor Road filtration plant to Spectraserv, Inc. whose address is 75 Jacobus Avenue, Kearny, New Jersey 07032 in an amount not to exceed \$29,520.00; and

WHEREAS, funds have been certified by the Chief Financial Officer in accounts 06-215-11-03A-500288 and 06-215-12-10A-500288.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, hereby confirms the contract with Spectraserv, Inc. in the amount of \$29,520.00 for lagoon cleaning and the removal of sludge from the four sediment lagoons located at the Harbor Road filtration plant.

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

- a. Business Administrator
- b. Chief Financial Officer
- c. Director of Public Works

RESOLUTION # 2013-282

RESOLUTION REQUESTING APPROVAL OF ITEMS OF
REVENUE AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to

approve the insertion of an revenue in the budget of the year 2013 in the sum of \$72,150.00, which has been received by the municipality from the United States Department of Agriculture for the "2013 Natural Resources Conservation Service (NRCS) Grant".

Section 2

BE IT FURTHER RESOLVED that the amount of \$72,150.00 be hereby appropriated under the caption "2013 Natural Resources Conservation Service (NRCS) Grant".

RESOLUTION # 2013-283

A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT TO ADVANTAGE SPORT USA, INC. FOR IMPROVEMENTS TO RECREATION CENTER GYM FLOOR FOR THE TOWNSHIP OF MARLBORO RECREATION DEPARTMENT

WHEREAS, the Township of Marlboro as part of its 2012 capital program (145-3) authorized the replacement of the Recreation gym floor; and

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for IMPROVEMENTS TO RECREATION CENTER GYM FLOOR, and on August 29, 2013, received two (2) bids, as follows:

	Base Bid	Addition Item 'A'	Total
Advantage Sport USA, Inc., Winooski, VT 08404	74,947.00	5,000.00	79,947.00
North Eastern Hardwood Floors, Inc., West Berlin, NJ 08091	81,902.00	1,500.00	83,402.00

; and

WHEREAS, the bid was comprised of a base bid and Addition Item A; and

WHEREAS, it has been determined that the submission of the lowest bidder, ADVANTAGE SPORT USA, INC. is responsive as detailed in an August 29, 2013 memo submitted by the Township Engineer; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Township Engineer to award the bid 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 ADVANTAGE SPORT USA, INC., whose address is 1 Tigan Street, Winooski, VT 05404 in an amount not to exceed \$79,947.00

for IMPROVEMENTS TO RECREATION CENTER GYM FLOOR; and

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, a contract with ADVANTAGE SPORT USA, INC. in an amount not to exceed \$79,947.00; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified that sufficient funds in the amount of \$79,947.00 are available for the aforesaid contract in Capital Account 04-215-12-08E-145288; and

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

- a. ADVANTAGE SPORT USA, INC.
- b. Township Administration (via RIM)
- c. Director of Public Works
- d. Township Engineer
- e. Chief Financial Officer

RESOLUTION # 2013-284

A RESOLUTION AWARDDING YEAR 2 OF CONTRACT TO L.J. PESCE, INC., LUCAS CONSTRUCTION GROUP, INC., PREMIUM GROWERS, INC., AND TRIPLE C NURSERIES FOR THE SUPPLY OF CONTRACT SNOW REMOVAL SERVICES FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro 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 October 18, 2012 (R. 2012-366) authorized the award of contracts to the lowest responsible bidders as follows:

	2013-14
L.J. Pesce	31,320.00
Lucas Construction Group	56,650.00
Premium Growers	86,486.00
Triple C Nurseries	148,207.90
	322,663.90

WHEREAS, the bid specifications included the option to renew said contracts for one two-year or two one-year extensions on the same terms and conditions at the exclusive option of the Township; and

WHEREAS, the Department of Public Works recommends that the Township extend the contracts for an additional year for the period of October 1, 2013 through September 30, 2014 at the 2012 bid unit prices, as follows:

	2013	2014	TOTAL
L.J. Pesce	7,660.00	23,660.00	31,320.00
Lucas Construction Group	13,600.00	43,050.00	56,650.00
Premium Growers	21,008.00	65,478.00	86,486.00
Triple C Nurseries	36,046.20	112,161.70	148,207.90
	78,314.20	244,349.70	322,663.90

WHEREAS, the Chief Financial Officer has certified that funds in the amount of \$78,314.20 are available in Account No. [01-201-26-119-288105](#) for the services estimated for 2013; and

WHEREAS, funds for the 2014 contract amount will be certified by the Chief Financial Officer at the time the 2014 budget is adopted.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that contracts be awarded for contract snow plowing services for an additional term of one year through September 30, 2014 as follows:

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, contracts with L.J. Pesce Inc., PO Box 88, 19 Windswept Rd., Holmdel, NJ 07733, Lucas Construction Group, Inc., 173 Amboy Road, Morganville, NJ 07751 Premium Growers, Inc., 178 Highway 34, Holmdel, NJ 07733; and Triple C Nurseries, PO Box 306, 915 B Holmdel Rd, Holmdel, NJ 07733, 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 Construction Group, Inc.
- c. Premium Growers, Inc.
- d. Triple C Nurseries
- e. Township Business Administrator
- f. Township Chief Financial Officer
- g. Township Director of Public Works

RESOLUTION # 2013-285

RESOLUTION AUTHORIZING APPLICATION FOR GRANT FUNDING TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (NJDEP) THROUGH THE HAZARDOUS DISCHARGE SITE REMEDIATION FUND (HDSRF)

WHEREAS, the State of New Jersey Department of Environmental Protection (NJDEP) through the Hazardous Discharge Site

Remediation Fund (HDSRF) has grants available to municipalities for the purpose of funding preliminary assessments, site investigations, remedial investigations and/or remedial action to determine the existence of hazardous discharge conditions on properties; and

WHEREAS, the Township of Marlboro has completed preliminary assessment, site investigation, remedial investigation and remedial action activities with respect to the property located at 1979 Township Drive, also known as Block 253, Lot 36.02; and

WHEREAS, the Township has completed Phases I and II of Municipal Complex Park project under a matching grant from NJ Green Acres and is in the process of completing Phase III at this location; and

WHEREAS, the Township is committed to the redevelopment of the property for purposes of expanding recreation opportunities for Marlboro residents.

NOW, THEREFORE, BE IT RESOLVED THAT the Municipal Council of the Township of Marlboro hereby authorizes application to be made to the NJDEP through the HDSRF for funding the preliminary assessment, site investigation remedial investigations and remedial action activities pertaining to the property located at 1979 Township Drive, also known as Block 253, Lot 36.02.

RESOLUTION # 2013-286

A RESOLUTION AWARDDING CONTRACT TO T&B SPECIALTIES, INC. FOR THE PROVISION OF METAL WARDROBE LOCKERS FOR THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT

WHEREAS, the Township of Marlboro as part of its 2012 capital program (106-1) authorized certain facility improvements; and

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the PROVISION OF METAL WARDROBE LOCKERS FOR THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT, and on August 27, 2013, received three (3) bids, as follows:

Company	Location	Bid Amount
T&B Specialties, Inc.	Jackson, NJ	\$ 57,099.50
Diversified Storage Solutions, Inc.	Norristown, PA	\$ 70,569.00
Storage Systems USA	Phillipsburg, NJ	\$ 77,950.00

; and

WHEREAS, following a review of the bids, as described in a memo dated August 29, 2013 from the Chief of Police, it has been

determined that the submission of the apparent lowest bidder for the PROVISION OF METAL WARDROBE LOCKERS FOR THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT is responsive; and

WHEREAS, the Police Department has recommended the award of contract to T&B SPECIALTIES, INC., the apparent lowest bidder; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Chief of Police 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 T&B SPECIALTIES, INC., whose address is 479 Wright DeBow Road, Jackson, NJ 08527 in an amount not to exceed \$57,099.50 for the PROVISION OF METAL WARDROBE LOCKERS FOR THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT; and

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness a contract with T&B SPECIALTIES, INC., 479 Wright DeBow Road, Jackson, NJ 08527 in accordance with this resolution, the bid specifications, and in a form to be approved by the Township Attorney.

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified that sufficient funds in the amount of \$57,099.50 are available for the aforesaid contract in Capital Account 04-215-12-08B-122288.

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

- a. T&B SPECIALTIES, INC.
- b. Township Business Administrator (via RIM)
- c. Township Chief of Police
- d. Township Chief Financial Officer

RESOLUTION # 2013-287

A RESOLUTION APPROVING CLOSE OUT CHANGE ORDER TO THE EXISTING CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND JADS CONSTRUCTION, INC. AND AUTHORIZING FINAL PAYMENT AND ACCEPTANCE OF 2012 MARLBORO ROAD PROGRAM AND DRAINAGE IMPROVEMENTS

WHEREAS, by Resolution #2012-290 the Township of Marlboro authorized the award of a contract to Jads Construction, Inc. for the 2012 Marlboro Road Program and Drainage Improvements project(the "Project"); and

WHEREAS, Closeout Change Order has been requested resulting in a decrease in the original contract amount of \$212,107.50 to

\$172,134.00, a net decrease of \$39,973.50; and

WHEREAS, in Letter dated August 26, 2013, the Township Engineer has recommended approval of the Closeout Change Order, acceptance of the Project improvements, and issuance of final payment in the amount of \$9,760.47; and

WHEREAS, pursuant to the terms of the contract, Jads Construction, Inc. has provided a one-year maintenance bond in an amount equal to 15% of the final contract amount or \$25,820.00; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the Township Engineer's August 26, 2013 letter and is amenable to approving Closeout Change Order, accepting the Project improvements and issuing a final payment to Jads Construction, Inc. in the amount of \$9,760.47 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 Closeout Change Order to the existing contract with Jads Construction, Inc., be and is hereby approved, decreasing the original contract total of \$212,107.50 to \$172,134.00, a net decrease of \$39,973.50.

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 \$9,760.47 for work completed by Jads Construction, Inc. is hereby approved.

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

- a. Jads Construction, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Engineer
- d. Township Chief Financial Officer

RESOLUTION # 2013-288

RESOLUTION AUTHORIZING THE TOWNSHIP OF MARLBORO TO APPLY FOR REIMBURSEMENT OF COSTS OF HEPATITIS B INOCULATIONS FROM THE NEW JERSEY DEPARTMENT OF HEALTH AND SENIOR SERVICES

WHEREAS, the New Jersey Department of Health and Senior Services has announced that funds are available from the Hepatitis Inoculation Fund for the reimbursement of costs of hepatitis B inoculations for certain emergency medical technicians, firefighters and police officers; and

WHEREAS, each municipality may receive up to \$5,000 in reimbursement for the cost of protecting its emergency medical technicians, firefighters and police officers against hepatitis B; and

WHEREAS, payments of funds to municipalities will be based on the collection of state forfeiture recoveries from confiscated property that had been involved in illegal activity; and

WHEREAS, the Township wishes to apply for reimbursement from the New Jersey Department of Health and Senior Services for up to the maximum amount of funding available.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the Township is hereby authorized to submit an application to the New Jersey Department of Health and Senior Services and execute an agreement for reimbursement from the Hepatitis Inoculation Fund.

RESOLUTION # 2013-289

A RESOLUTION APPROVING CHANGE ORDER NO. 1 TO THE EXISTING CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND DEMAIO ELECTRICAL COMPANY, INC. FOR ELECTRICAL UPGRADES TO WELLS #3 and #4

WHEREAS, by Resolution #2013-163 the Township of Marlboro authorized the award of a contract to DEMAIO ELECTRICAL COMPANY, INC. for electrical upgrades to wells #3 and #4 (the "Project"); and

WHEREAS, Change Order No. 1 has been requested resulting in an increase in the original contract amount of \$128,400.00 to \$142,286.98, a net increase of \$13,886.98; and

WHEREAS, in Letter dated August 23 ,2013, the Township's Consulting Engineer, CME Associates, has recommended approval of Change Order No. 1, as the supplementary work could not have reasonably been effectuated by a separately bid contract without unduly disrupting the basic work, or without imposing adverse cost consequences on the Township; and

WHEREAS, the Township Council of the Township of Marlboro has reviewed the Township Consulting Engineer's August 23, 2013 letter and is amenable to approving Change Order No. 1 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 No. 1 to the existing contract with DEMAIO ELECTRICAL COMPANY,

INC., be and is hereby approved, increasing the original contract total of \$128,400.00 to \$142,286.98, a net increase of \$13,886.98.

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

- a. DEMAIO ELECTRICAL COMPANY, INC.
- b. Township Administrator
- c. Township Engineer
- d. Township Chief Financial Officer

RESOLUTION # 2013-290

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$ 115,471.40 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 \$ 115,471.40 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>
2013-139 3 Woodpecker Way	412.07/42	US BANK CUST FOR PRO CAP II 50 S. 16 TH ST. Suite 1950 Philadelphia, PA 19102 Assessed Owner: Zydel, Walter J. & Patricia	1,275.68
2013-096 4 Emerson Drive	288/14	US BANK C/F NJ Boardwalk, LLC LB#005191 P.O. Box 945191 Cincinnati, OH 45264 Assessed Owner: Wolf, Steven & Cyndi	1,418.62
2013-020 20 Ellis Court	147/32.18	US BANK C/F NJ Boardwalk, LLC LB#005191 P.O. Box 945191 Cincinnati, OH 45264 Assessed Owner: Marra, Gaetano & Marra, Richard	51,888.74
2013-126 53 Orange Drive	396/1/C0053	Alan Yeung 438 Boulder Drive Morganville, NJ 07751 Assessed Owner: Bezenyan, Lana	672.08

2013-068	207/7	DBW TL HOLDCO 2013	37,206.87
192 Route 79 North		P.O. Box 823845 Philadelphia, PA 19182 Assessed Owner: Renaissance Health C/O J. Paytas	
10-155	412.04/12	BJI Financial Group Inc.	1,156.07
40 Kingfisher Court		111 Sandalwood Drive Marlboro, NJ 07746 Assessed Owner: Bolton, Dianna & Barbara	
11-55	412.04/12	Brian Walsh	1,919.70
40 Kingfisher Court		111 Sandalwood Drive Marlboro, NJ 07746 Assessed Owner: Bolton, Dianna & Barbara	
10-60	305/41	US Bank Cust. For Lien Logic	18,436.91
32 Calgary Circle		Fund I, LLC 50 th S. 16 th Street Ste. 1950 Philadelphia, PA 19102 Assessed Owner: Feinstein, Marica	
2013-046	176/7/C0815	US BANK CUST FOR PRO CAP I	1,496.73
815 Mariposa Court		50 S. 16 TH ST. Suite 1950 Philadelphia, PA 19102 Assessed Owner: Zydel, Walter J. & Patricia	
			TOTAL: \$ 115,471.40

At 7:55PM, Council Vice President Marder moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Councilman Metzger, and the following resolution #2013-291 (Closed Session) was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2013-291

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 12th day of September, 2013 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, potential 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 25 minutes.

Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action will be taken following the executive session.

At 8:20PM, Council President LaRocca moved that the meeting be opened. This was seconded by Council Vice President Marder and as there was no objection, the clerk was asked to cast one ballot.

The following Resolution #2013-292 (Denying Bond Release Highland Meadows, LLC A/K/A/Highland Pointe Sections 2B and 3) 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 # 2013-292

A RESOLUTION DENYING THE RELEASE OF PERFORMANCE GUARANTEES FOR
HIGHLAND MEADOWS, LLC, A/K/A HIGHLAND POINTE SECTIONS 2B AND 3
MARLBORO NEW JERSEY

WHEREAS, on May 5, 2011, the Township Council of the Township of Marlboro denied the request for release of Performance Guarantees for Highland Meadows, LLC A/K/A Highland Pointe Section 2B and 3 by Resolution Number 2011-167 which was defeated; and

WHEREAS, the Performance Guarantees were in the form of two (2) bonds (section 2B bond number S03693 in the original amount of Six Hundred Forty Thousand One Hundred Nineteen Dollars [\$640,119.00] and present amount of One Hundred Ninety Two Thousand Thirty Five Dollars and Seventy Cents [\$192,035.70] and section 3 bond number S03692 in the original amount of Six Hundred Thousand Eight Hundred Twenty Dollars [\$600,820.00] and present amount of One Hundred Eighty Thousand Two Hundred Forty Six Dollars [\$180,246.00] and two (2) cash deposits section 2B original cash deposit in the amount of Seventy One Thousand One Hundred Twenty Four Dollars [\$71,124.00] and present amount of Twenty One Thousand Three Hundred Thirty Seven Dollars and Twenty Cents [\$21,337.20] and section 3 original cash deposit in the amount of Sixty Six Thousand Seven Hundred Fifty Eight Dollars [\$66,758.00] and present amount of Twenty Thousand Twenty Seven Dollars and Forty Cents [\$20,027.40]) posted by Highland Meadows, LLC and being held by the Township and the request for release of the Performance Guarantees was not in the format required by N.J.S.A.40:55D-53(d)(1) of the Municipal Land Use Law ("MLUL") and was considered informally by the Township Council and was defeated after reviewing a report from the Township Conflict

Engineer dated December 22, 2009, revised January 6, 2010 and April 6, 2011; and

WHEREAS, the Township Council of the Township of Marlboro based its decision not to release the Performance Guarantees in part on a geotechnical report of the condition of the roadways within the covered development prepared by Birdsall Engineering; and

WHEREAS, The Geotechnical Report provided an objective, verified analysis and explanation of the deficiencies in the roadway construction and the proper means for correction of the defective work. As that report explained,

There is numerous cracking in a transverse direction throughout the roadways located within Phases 2B and 3 of the development. The cracks range from $\frac{1}{4}$ of an inch to $1\frac{1}{4}$ inches in width. An asphalt sealer had been applied to all the cracks; however there was evidence of current and/or recent movement in the cracks.

In addition to the cracking, areas of depressed pavement were also observed throughout the roadways. Several fresh asphalt patches were observed in the roadways along with several sections of new sidewalk. These areas were typically located above the storm sewers. Our probes indicated that the in-situ fill soils were generally in a loose condition to depths ranging from 6 to 7 feet below the existing surface grades. Finally, our laboratory analysis of the in-situ soils indicated that portions of the soils contained a high percentage of silt and clay soils (greater than 15% by weight passing a standard No. 200 Sieve).

Based on our findings, we have the following conclusions:

1. In general, the pavement did not meet the requirements of the approved subdivision/development plans. The pavement detail on the drawings indicates a total pavement thickness of 7 inches. In general, the in-place pavement ranged from 4.5 to 6.5 inches in thickness which is not in compliance with the approved drawings. Please note that one location had a pavement thickness of 7.5 inches. In addition, the base course of asphalt at geoprobes GP-7 and GP-8 appeared to be in relatively poor condition.

2. The drawings indicate that the pavement should be installed on stable subgrade materials. Our laboratory analysis of the in-situ soils indicates that a portion of the soils contain high percentages of silt and clay soils (greater than 15% by weight passing a standard No. 200 Sieve). Further, relatively high moisture levels were observed in the in-situ soils. These soils are typically more susceptible to increased movement during freeze/thaw cycles, which can produce the type of cracking that has been observed within the asphalt pavement.

3. The fill soils encountered in our probes was generally in a loose condition. This is indicative of poor backfill procedures that were utilized during the installation of the underground utilities. This is evident by the numerous depressions observed within the roadway, as well as the patches of new asphalt and sidewalk that had been installed in areas that had previously experienced a varying degree of settlement. Please note that the settlement of the backfill may allow for additional stress on the joints for the various utilities. While not part of this investigation, it may be prudent to video tape the storm and sanitary sewer lines to determine if there are any cracks and/or separations in the joints. This condition could contribute to the type of sink holes observed at the location of geoprobes GP-1 and GP-7.

In order to minimize and/or eliminate the cracking, we recommend the following procedure:

1. Remove the surface course of asphalt within Phases 2B and 3 of the development.
2. Saw cut the base course asphalt in the areas of known utility locations.
3. After removal of the base course, remove the upper 2 to 3 feet of fill. Compact the exposed subgrade to a dense and unyielding consistency. Re-install the excavated material in a controlled compacted fashion to the required subgrade elevations, provided the material is at moisture content suitable for compaction and contains less than 15% by weight passing No. 200 Sieve.
4. Install base course asphalt within the saw cut areas.
5. A pavement membrane consisting of Miratak or approved equal should be installed over all visible cracks in the base course, as well as the utility trench repair locations. All cracks in the pavement should be filled with an asphalt sealer prior to the installation of the membrane.
6. Install surface course over the entire area.
7. We recommend that a qualified geotechnical engineer be present during the subgrade repairs.

WHEREAS, the Legal Counsel to the Township has advised that the roadways remain an item that is covered by the Performance Guarantees; and

WHEREAS, the Geotechnical Report provided an objective analysis and explanation of the deficiency in the roadway construction subject to the Performance Guarantees and recommended removal and replacement of the base course and surface course of asphalt for the roadways that are subject to the Performance Guarantees.

WHEREAS, at the May 5, 2011 hearing on the proposed Performance Guarantee release the Township Council of the Township of Marlboro heard from the following residents regarding the roadways covered by and subject to the Performance Guarantees:

1. Michael Sherman, 114 Rolling Hills Drive who complained about the conditions of the roadways and requested that the roads should be properly repaired and not patched as was being done.

2. Richard Foster, 116 Rolling Hills Drive who advised that the roads have been an issue in this development since at least 1998 and requested that the Township require that the Developer fix the roads not just patch the roads before the Performance Guarantees are released.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro makes the following finding of fact regarding the request for release of Performance Guarantees for Highland Meadows, LLC A/K/A Highland Pointe, Section 2B and 3;

1. The roadways in the subject development did not meet the requirements of the approval subdivision/development plans.

2. The pavement and roadways were NOT installed on stable subgrade materials.

3. Poor backfill procedures were utilized during the installation of underground utilities.

4. The proposed partial patch and repair of the existing roadways is NOT satisfactory.

5. The removal, repair and replacement recommended by the Geotechnical Report is necessary to preserve the public health, safety and welfare for this bonded improvement.

THEREFORE, BE IT FURTHER RESOLVED by the Township Council of the Township of Marlboro that the Performance Guarantees for Highland Meadows, LLC A/K/A Highland Pointe, Section 2B and 3 shall not be released until the roadways within the development are repaired and/or replaced to the satisfaction of the Township's Geotechnical Engineers at which point the matter shall be returned to the Governing Body for further consideration.

