

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

November 7, 2007

The Marlboro Township Council held its re-scheduled meeting on November 7, 2007 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Cantor opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the re-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 October 19, 2007; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilwoman Morelli, Councilman Pernice, Council Vice President Rosenthal, Councilwoman Tragni and Council President Cantor. Councilwoman-elect Marder was also present.

Also present were: Deputy Mayor Paul Abelow, David Clark, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Councilman Pernice moved that the minutes of September 27, 2007, be approved. This motion was seconded by Councilwoman Tragni and the minutes were passed on a roll call vote of 5 - 0 in favor.

Councilman Pernice moved that the minutes of Oct. 4 and Oct. 18, 2007, be approved. This motion was seconded by

Councilwoman Tragni and the minutes were passed on a roll call vote of 5 - 0 in favor.

The following Res. # 2007-356/Ord. # 2007-23 (Amend Chapter 84 - Implementing Agreement Northpointe) was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilwoman Morelli. Discussion followed during which Dave Clark, Esq. explained the provisions of the ordinance and answered Council's questions. After discussion, the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-356

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

ORDINANCE # 2007-23

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO REZONE CERTAIN LOTS TO THE MULTI-FAMILY DISTRICT IV (MFD-IV) ZONE IN ACCORDANCE WITH THE SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP AND OHAD ASSOCIATES, LLC

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 December 6, 2007 at 8:00 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 # 2007-23

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO REZONE CERTAIN LOTS TO THE MULTI-FAMILY DISTRICT IV (MFD-IV) ZONE IN ACCORDANCE WITH THE SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP AND OHAD ASSOCIATES, LLC

WHEREAS, Ohad Associates, LLC ("Ohad") is the owner of Block 143, Lots 1.02 and 12 in Marlboro Township ("Township"), New Jersey (the "Property"); and

WHEREAS, Ohad filed an application with the Planning Board for Amended Preliminary Site Plan approval (the "Amended Site Plan Application") on or about June 27, 2003 seeking amended approvals for the Northpointe ("Northpointe") project on the Property, which application was denied by resolution adopted on June 16, 2004 and published on June 19, 2004 by the Planning Board; and

WHEREAS, on July 30, 2004, Ohad filed a "Complaint In Lieu of Prerogative Writs and Under Mt. Laurel II" against the Planning Board, in the Superior Court of New Jersey, Law Division, Monmouth County seeking to have the Court overturn and reverse the Planning Board's denial of Ohad's earlier application for Amended Site Plan Approval for the Northpointe project, and to grant the full relief sought by Ohad in its Complaint in connection with the same; and

WHEREAS, on or about September 9, 2004, in accordance with N.J.A.C. 5:91-4.1, Ohad further filed a formal objection with COAH to the Affordable Housing Plan ("Objection") and in response to Ohad's objection with COAH, the Township of Marlboro and Ohad engaged in mediation and good faith negotiations as required by COAH through N.J.A.C. 5:91-7.1, et seq.; and

WHEREAS, as a result of the mediation process, Ohad and the Township reached a proposed settlement (the "Settlement") and the Township adopted a Resolution authorizing the Settlement and executed an Agreement with Ohad memorializing the terms of the Settlement; and

WHEREAS, pursuant to the Agreement, the Township is obligated to rezone the Property.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Subsection 84-29(B) is hereby amended and supplemented to rezone Block 143, Lot 1.02 from the Multi-Family District (MFD) Zone to the Multi-Family District IV (MFD-IV) Zone and to rezone Block 143, Lot 12 from the R-60 Residential District to the MFD-IV Zone District to be developed as the Northpointe multi-family residential housing project; and

BE IT FURTHER ORDAINED, that a new Subsection 84-48.6 MFD-IV Multi-Family District IV shall be added to read as follows:

§ 84-48.6 MFD-IV Multi-Family District IV

The following regulations shall apply in the Multi-Family District IV:

- A. Permitted principal uses: clustered townhouses (sometimes herein referred to as "units"), as defined under § 84-4, and garden apartments (sometimes herein referred to as "units"), as defined under § 84-4, and estate homes (sometimes herein referred to as "units"), as defined under § 84-4.
- B. Permitted accessory uses: noncommercial swimming pools, tennis courts and other recreational facilities for the exclusive use of residents and their guests, off-street parking facilities and, in association with units, noncommercial parking garages for the exclusive use of site residents only.
- C. For any units to be developed in this district, the following regulations and provisions shall apply:
- (1) Minimum lot size. No building which is intended or designed to be used, in whole or in part, as a unit herein shall be erected or constructed upon a lot containing an area of less than 10 acres.
 - (2) With respect to clustered townhouses and buildings containing low- and moderate-income units only, the distance between two adjacent buildings side to side shall not be less than 30 feet. With respect to garden apartments, the average distance between two adjacent buildings shall not be less than one and one-half (1 1/2) times the height of the taller adjacent building, but in no instance shall the distance be less than 30 feet. With respect to estate homes, the distance between two adjacent buildings side to side shall not be less than 10 feet. With respect to clustered townhouses, the distance between two adjacent buildings rear to rear shall not be less than 50 feet and side to rear shall not be less than 30 feet. With respect to estate homes, the distance between two adjacent buildings rear to rear shall not be less than 50 feet and side to rear shall not be less than 25 feet.
 - (3) Density. No more than eight (8) units shall be permitted per gross acre.
 - (4) Rooms. Each separate dwelling unit shall contain separate bedroom, separate bathroom, separate living room and separate kitchen facilities, which kitchen facilities shall be located separate and apart from other rooms. A bedroom shall be construed as any separate room, other than a dining room, kitchen or bathroom.

- (5) Lot coverage. The maximum lot coverage of buildings shall be 20%.
- (6) Open space. The minimum percent of the required open space of the total area of the tract shall be not less than 40%.
- (7) Building plan. Building elevations and floor plans for each typical unit shall be required.
- (8) Height. The height of the habitable part of the building shall not exceed three stories, and the total height of the building shall not exceed 35 feet. No basement units shall be permitted.
- (9) Sound control. All units shall be designed and constructed with a soundproofing barrier between adjoining units with a sound transmission as tested by the American Society for Testing and Materials (E-90).
- (10) Energy conservation. Where practical, all units shall be oriented to the greatest extent feasible so as to maximize sun exposure as per the guidelines published by the New Jersey Department of Community Affairs.
- (11) Recreational facilities. Both active and passive recreational facilities shall be provided with the approval of the Planning Board. Recreational requirements, as set forth by the Planning Board, shall be met and developed with facilities suitable to serve the residents of the dwelling units. Said facilities shall be located so as not to be detrimental to adjacent property owners by virtue of noise, light, glare or any other objectional features emanating therefrom.
- (12) Minimum frontage. Minimum road frontage shall be 400 feet.
- (13) Parking. All parking facilities shall have adequate screening and landscaping.
- (14) Setbacks. There shall be a front yard setback of at least 50 feet and side and rear yard minimum setbacks of 40 feet from streets. The minimum setbacks from private roads and interior parking areas (curbline) shall be 25 feet.
- (15) Buffer and landscaping. All areas of a development not used for the construction of buildings, roads, accessways, parking areas or sidewalks shall be fully landscaped. Where a

development boundary line abuts a lot in a residential zone, which lot is not owned by the developer, there shall not be cut, uprooted, destroyed or taken away any existing trees, shrubbery or other planting within the area of 60 feet inside the boundary line of the development abutting a residential lot. If no adequate trees, shrubs or planting exists in the sixty-foot area in the natural state of the premises before the development, the area shall be provided with an adequate approved planting plan to provide a belt of screening within the sixty-foot area in accordance with § 84-63 of this chapter. Where a development boundary line abuts a lot in a multifamily district residential zone, the sixty-foot area described above shall be reduced to 40 feet.

- (16) Interior roads. All roads and other accessways within the development shall be private roads constructed, paved and curbed to a width of not less than 30 feet. All private roads shall have a minimum radius at the center line of the road of 50 feet and a minimum curb return radius at intersections of 25 feet. A minimum center line tangent of at least 50 feet shall be introduced between reverse curves on all such roads. Driveways serving more than one estate home shall be private roads constructed, paved and curbed to a width of not less than 24 feet, with a maximum length of 200 feet (measured from the private road curblines to the beginning of the turnaround area) and a minimum turnaround area of not less than fifty by fifty (50 x 50) feet. At the developer's option, public roads may be installed to Township standards. All such construction, paving and curbing shall be completed in accordance with the Subdivision Regulations of Marlboro Township.
- (17) Parking. No parking shall be permitted on any road or accessway within the development. All parking shall be confined to the areas specially designated on the site plan for that purpose. Parking spaces of nine by eighteen (9 x 18) feet for each car shall be required to the extent of 2.35 spaces per unit. If garages are provided, each garage may be counted for the equivalent of one parking space for the purpose of this provision.
- (18) Principal buildings.
- (a) No principal building shall:

[1] Be designed for or occupied by more than 24 families.

[2] Exceed 170 feet in length in its longest dimension; provided, however, that buildings containing townhouse units only may exceed the foregoing length so long as they do not contain more than six units.

[3] Provide fewer than two exterior exposures, each of which shall be properly placed so as to provide thorough ventilation for each unit.

[4] Allow or contain outside television antennas. All television antenna equipment shall be built into the building to eliminate individual antennas being upon the roof. This subsection shall not apply to a common antenna tower.

[5] Allow any air-conditioning unit to project more than six inches from the face of the wall of the building on which it is installed.

[6] Provide less than 700 cubic feet of storage for each unit in the building.

(b) Roof design and construction must be other than a flat roof.

(c) The elevation and setbacks should be varied.

(19) Utilities. For all developments, the applicant for the site plan approval shall arrange with the serving utility for the underground installation of the utilities distribution supply of the applicable standard terms and conditions incorporated as a part of its tariff on file with the State of New Jersey Board of Public Utility Commissioners and shall submit to the Planning Board prior to the granting of site plan approval a written instrument from each serving utility which shall evidence full compliance with the provisions of this subsection; provided, however, that sites which abut existing streets where overhead electric or telephone distribution supply lines have therefor been installed on any portion of the streets involved may be supplied with electric and telephone service from the overhead lines of extensions, but the service connections from the utilities' overhead lines shall be installed underground.

(20) Application fees concerning the Mt. Laurel II proposals (low- and moderate-income housing units only) shall be waived. Application fees for the balance of the project shall apply.

- (21) Fire walls. There shall be a fire wall between each unit.
- (22) Detention/retention facilities. Notwithstanding anything contained elsewhere in this Chapter 84, in those instances in which adjacent conditions [such as existing retention basin(s)] impact upon the design and/or location of drainage facilities, the Board may, in its discretion, permit:
- (a) The top of the excavation or the toe of the outside slope to be set back 25 feet from an adjoining property line of a lot on which there is multifamily residential use.
 - (b) The edge of the design high water for detention/retention basins to be set back 50 feet from existing or proposed dwelling units.
 - (c) The top of the excavation or the toe of the outside slope to be set back 25 feet from the edge of the pavement from adjoining roads.
 - (d) Wet detention/retention basins.
- (23) A clubhouse shall be provided at a minimum of ten (10) square feet of clubhouse floor area per residential unit.
- (24) Parking requirements for clubhouses and pools shall be one (1) parking space per 360 square feet of clubhouse and/or pool area.

- D. Affirmative devices requirements. All requirements contained in § 84-48A of this chapter shall apply in the MFD-IV Zone, except that a minimum of 19% of all units proposed to be constructed on-site shall be affordable to moderate- and low-income households as defined by the United States Department of Housing and Urban Development and the Council on Affordable Housing (COAH). Additionally, one (1) Regional Contribution Agreement (RCA) unit shall be funded by the developer in accordance with applicable regulations of the COAH for every 21 market rate units proposed. If the calculation of the number of required RCA units results in a fraction of a RCA unit, any fraction of 0.5 or greater shall be rounded up to the next whole number and any fraction less than 0.5 shall be rounded down to the preceding whole number.
- E. The requirements found in the Marlboro Township Code at §84-94D(8) to locate trees of 9 inch cal. or more shall be waived provided that the applicant submits representative samplings that are found to be acceptable by the Planning Board.

- F. The requirements found in the Marlboro Township Code at §84-30D(24)E requiring maximum lawn grades of 4:1 shall be waived and a ratio of 3:1 shall be provided instead.
- G. The requirements found in the Marlboro Township Code at §84-104J(8) requiring high water design of basins 100 feet from proposed dwelling shall be waived and a requirement of 50' shall be provided instead.
- H. For existing stormwater basins, the requirements found in the Marlboro Township Code at §84-104J(9) requiring a basin setback to Right of way 25' shall be waived and a basin setback Right of way of 0' shall be provided instead.
- I. The requirements found in the Marlboro Township Code at §84-30(F) regarding stream corridor buffer setbacks shall not apply within the MFD-IV Zone District.
- J. The requirements found in the Marlboro Township Code at §84-59D(1) regarding pool size are not applicable within the MFD-IV Zone District. However, a minimum of six (6) square feet of pool area per unit shall be required.

BE IT FURTHER ORDAINED that this ordinance is effective upon and subject to COAH's approval and grant of substantive certification to the Township's Affordable Housing Plan and to the inclusion of the Northpointe development within that Plan; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions to be 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 Res. # 2007-357/Ord. # 2007-24 (Amend Recreation Fees - 2008) was introduced by reference, offered by Councilwoman Tragni and seconded by Council Vice President

Rosenthal. After discussion, the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-357

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

ORDINANCE # 2007-24

AN ORDINANCE AUTHORIZING CERTAIN AMENDMENTS AND ADDITIONS TO THE RECREATION COMMISSION 2008 RECREATION FEE SCHEDULE PURSUANT TO CHAPTER 117 "RECREATIONAL FACILITIES" OF THE CODE OF THE TOWNSHIP OF MARLBORO

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 December 6, 2007 at 8:00 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 # 2007-24

AN ORDINANCE AUTHORIZING CERTAIN AMENDMENTS AND ADDITIONS TO THE RECREATION COMMISSION 2008 RECREATION FEE SCHEDULE PURSUANT TO CHAPTER 117 "RECREATIONAL FACILITIES" OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro Recreation Commission is currently required to establish fees for all recreational programs established by the Recreation Commission and the Township Council is currently required to authorize such fees on an annual basis; and

WHEREAS, the Recreation Commission has provided the Mayor and Administration with a Memorandum setting forth the recommended fees for certain programs offered by the Recreation Commission for 2008 along with a 2008 justified Fee Schedule for the proposed fees; and

WHEREAS, pursuant to this Ordinance, the Township Council and the Recreation Commission desire to adopt the following fees pursuant to Chapter 117 "Recreational Facilities" of the Code of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, in the County of Monmouth and State of New Jersey, that pursuant to Section 117-2 "Schedule of fees for recreational programs" of Chapter 117 "Recreational Facilities" of the Code of the Township of Marlboro, the following fees are hereby authorized by the Township Council for 2008 for the following programs offered by the Recreation Commission:

Summer Camp Registration Fee	\$500 per session
Summer Camp Activity Fee	\$250 per session
Teen Camp Registration Fee	\$250 per session
Teen Camp Activity Fee	\$600 per session
Lacrosse Programs (all grades)	Not to exceed \$100;
and	

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

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

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

The following Res. # 2007-358 (Transfers) was introduced by reference, offered by Councilman Pernice and seconded by Council Vice President Rosenthal. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-358

RESOLUTION AUTHORIZING BUDGET TRANSFERS
DURING LAST TWO MONTHS OF THE FISCAL YEAR

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriation transfers during the last two (2) months of the fiscal year, when it has been determined that it is necessary to expend for any of the purposes specified in the budget an amount in excess of the sum appropriated therefore and

where it has been further determined that there is an excess in any appropriation over the above the amount deemed to be necessary to fulfill the purpose of such appropriation,

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Calendar Year 2007 Municipal Budget as follow:

From:

Snow Removal S&W	56,000.00
Group Insurance	50,000.00
Police S&W	50,000.00
Engineering S&W	10,000.00
Liability Insurance	10,000.00
Worker's Compensation Insurance	4,100.00

To:

Zoning S&W	1,500.00
Zoning OE	10,000.00
Gasoline	50,000.00
Planning S&W	500.00
Vehicle Maintenance S&W	8,500.00
Electricity	50,000.00
Street Lighting	33,000.00
Telephone	15,000.00
Sewer OE	1,600.00
Engineering OE	10,000.00

Totals \$180,100.00 \$180,100.00

The following Res. # 2007-359 (Authorize RFPs - Revaluation) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilman Pernice. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-359

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF PROPOSALS FROM REVALUATION FIRMS FOR THE REVALUATION OF ALL REAL PROPERTY FOR ASSESSMENT PURPOSES IN THE TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro has been ordered by the County of Monmouth Board of Taxation and the New Jersey Division of Taxation to complete a revaluation of all real

property for assessment purposes in the Township of Marlboro (the "Revaluation Project"); and

WHEREAS, the Township Council now desires to authorize the acceptance of proposals from qualified revaluation firms to perform the required professional services associated with the Revaluation Project.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Business Administrator be and hereby is authorized to accept proposals from qualified revaluation firms to perform the required professional services associated with the Revaluation Project.

The following Res. # 2007-360 (Authorizing Settlement Tax Appeal - B. 176, L. 5.02) was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilwoman Tragni. Discussion followed, after which the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-360

RESOLUTION AUTHORIZING SETTLEMENT OF THE 2006 AND
2007 TAX APPEALS INVOLVING BLOCK 176, LOT 5.02, KNOWN
AS 12 ROUTE 9 IN THE TOWNSHIP OF MARLBORO

WHEREAS, an appeal of the 2006 and 2007 real property tax assessment of Block 176, Lot 5.02, 12 Route 9, in the Township of Marlboro have been filed; and

WHEREAS, said property is owned by Regal Cinemas, Inc.; and

WHEREAS, settlement of the 2006 and 2007 appeal is in the best interest of the Township; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of Marlboro, in the County of Monmouth, and State of New Jersey, as follows:

1. Settlement of the tax appeal filed with the Tax Court of New Jersey challenging the assessed valuation of Block 176, Lot 5.02 is hereby authorized as follows:

Block 269, Lot 4.01; 280 Route 9

<u>YEAR</u>	<u>ORIGINAL ASSESSMENT</u>	<u>PROPOSED ASSESSMENT</u>
2006	\$3,163,400	\$2,368,000
2007	\$2,847,100	\$2,220,400

2. This settlement is conditioned upon the taxpayer waiving any interest due on the refund of taxes.

3. The Tax Assessor is hereby authorized to apportion the value between the land and improvements for each settlement.

4. All municipal officials are hereby authorized to take whatever actions may be necessary to implement the terms of this Resolution.

5. This Resolution shall take effect immediately.

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

- a. Fred Semrau of Dorsey & Semrau
- b. Township Administrator
- c. Township Tax Assessor
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

The following Res. # 2007-361 (Authorizing Refund Planning Board Fee) was introduced by reference, offered by Councilman Pernice and seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-361

RESOLUTION AUTHORIZING REFUND
OF PLANNING BOARD APPLICATION FEE

WHEREAS, an application fee in the amount of \$250.00 was posted by Antonio Castillo; and

WHEREAS, following a review of the file it was determined that the applicant did not need to appear before the Planning Board; and

WHEREAS, the Planning Board has recommended that a refund in the amount of \$250.00 be made to Antonio Castillo.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the amount of \$250.00 be refunded to Antonio Castillo for the payment of an application fee.

Discussion followed on Res. #2007-342, after which Councilwoman Morelli moved that the resolution be changed to Reject and Rebid - Steel Dump Bodies) which was seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-342

BE IT RESOLVED by the Township Council of the Township of Marlboro that all bids heretofore received for

TWO (2) REPLACEMENT FIVE/SEVEN CUBIC YARD STEEL
DUMP TRUCKS AND RELATED EQUIPMENT

are hereby rejected and the Business Administrator is authorized and directed to return the bid bond or other security to the appropriate bidder.

BE IT FURTHER RESOLVED that the Business Administrator be and she is hereby authorized and directed to advertise for open, competitive bids for

TWO (2) REPLACEMENT FIVE/SEVEN CUBIC YARD STEEL DUMP TRUCKS
AND RELATED EQUIPMENT

as required by law.

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilman Pernice, seconded by Council Vice President Rosenthal and passed on a roll call vote of 5 - 0 in favor: Res. #2007-362 (Redemption Tax Sale Certs. - Various), Res. #2007-363 (Disabled Person Deduction - B. 172, Lot 23), Res. #2007-364 (Veteran Deductions - Various), Res. #2007-365 (Change Order No. 2 - Robertsville Road Reconstruction), Res. #2007-366 (Change Order No. 1 - Asphalt Contract), Res. #2007-367 (Amendment to Raffle License Solomon Schechter (Change Date for Casino Night), Res. #2007-

368 (Raffle License Monmouth County Education Assoc.
 Philanthropic Fund (Off Premise Merchandise) and Res. #2007-
 369 (Raffle License St. Gabriel's Church (50/50 On Premise)).

RESOLUTION # 2007-362

WHEREAS, the rightful owners of several
 properties have redeemed tax sale certificates totaling
 \$151,931.42 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 \$131,931.42
 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIEN HOLDER</u>	<u>AMOUNT</u>
05-15	172/33	Crusader Lien Services	\$49,729.14
	142 Amboy Road	179 Washington Avenue Jenkintown, PA 19046	
07-14	151/3	Fidelity Tax, LLC	37,424.35
	421 Hwy 79 South	P.O. Box 5707 Fort Lauderdale, FL 33310	
07-18	193.05/2	Crusader Lien Services	37,625.34
	2 Hemingway Court	179 Washington Avenue Jenkintown, PA 19046	
07-29	417/19.18	NASDOM, LLC	6,265.92
	American Way	1527 E. 35 Street Brooklyn, NY 11234	
07-30	180/31	Plymouth Park Tax Services	20,886.67
	42 Nikki Court	P.O. Box 2288 Morristown, NJ 07962-2288	
		TOTAL:	<u>\$151,931.42</u>

RESOLUTION # 2007-363

WHEREAS, a Disabled Person deduction in the amount of \$125.00 has been allowed for the year 2007 for Block 172, Lot 23, located on 273 Spring Valley Road,

WHEREAS, the Disabled Person, Mrs. Summerbell, is a 50% owner of this property, she is entitled to half the usual \$250.00 deduction,

WHEREAS, taxes for the year 2007 have been paid in full on the above-referenced 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 \$125.00 as noted above.

RESOLUTION # 2007-364

WHEREAS, Veteran deductions totaling \$500.00 have been granted as per the attached Schedule "A" for the year 2007,

WHEREAS, taxes for the year 2007 have unpaid balances as per the attached Schedule "A",

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to apply these deductions to the respective taxpayers as per Schedule "A".

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNERS</u>	<u>AMOUNT</u>
193.12	29	Bruce & Mila Thelen	\$250.00
122	Scarborough Way	122 Scarborough Way Marlboro, NJ 07746	
380	25	John & Ida Balda	250.00
43	Peasley Drive	43 Peasley Drive Marlboro, NJ 07746	
TOTAL:			<u>\$500.00</u>

RESOLUTION # 2007-365

A RESOLUTION AUTHORIZING CHANGE ORDER #2 TO THE CONTRACT
AWARDED TO LUCAS BROTHERS, INC. FOR THE PROVISION

OF IMPROVEMENTS TO ROBERTSVILLE ROAD FOR THE
MARLBORO TOWNSHIP ENGINEERING DEPARTMENT

WHEREAS, by Resolution #2006-388, the Township of Marlboro awarded a goods and services contract to Lucas Brothers, Inc., 80 Amboy Road, Morganville, NJ 07751 for the provision of improvements to Robertsville Road for the Marlboro Township Engineering Department for a total contract amount of \$174,825.00 (the "Contract"); and

WHEREAS, by Resolution #2007-346, the Township of Marlboro authorized Change Order #1 for an increase in the amount of \$9,570.00; and

WHEREAS, Lucas Brothers, Inc. was required to provide additional services in the amount of \$9,805.00 and supplemental items in the amount of \$44,475.00 for a total cost of \$54,280.00; and

WHEREAS, Lucas Brothers, Inc. was also required to reduce the quantity of certain items for a total reduction of \$31,875.00; and

WHEREAS, the Township Engineer has recommended that the Township Council authorize Change Order #2 to the Contract, thereby increasing the total contract amount to \$206,800.00; and

WHEREAS, pursuant to N.J.A.C. 5:30-11.1, *et seq.*, change orders that do not, in the aggregate, exceed 20% of the original contract amount, can be authorized by the governing body without additional public bidding.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that the Mayor is authorized to execute Change Order #2 to the Contract between the Township of Marlboro and Lucas Brothers, Inc., 80 Amboy Road, Morganville, NJ 07751 increasing the total contract amount to \$206,800.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for Change Order #2, which is attached hereto, and that sufficient funds are available for said change order from Account Number G-07-41-204-399; and

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

- a. Lucas Brothers, Inc., Morganville, NJ
- b. Director of Public Works
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP.

RESOLUTION # 2007-366

A RESOLUTION AUTHORIZING CHANGE ORDER #1 TO THE CONTRACT AWARDED TO TRAP ROCK INDUSTRIES, INC. FOR THE PROVISION OF ASPHALT (I-4 & I-5) IN CONNECTION WITH THE 2007 ROAD PROGRAM FOR THE MARLBORO TOWNSHIP DEPARTMENT OF PUBLIC WORKS (DPW)

WHEREAS, by Resolution #2007-118, the Township of Marlboro awarded a goods and services contract to Trap Rock Industries, Inc., P.O. Box 419, Kingston, NJ 08528 for the provision of asphalt (I-4 & I-5) in connection with the 2007 Road Program for the Marlboro Township Department of Public Works for a total contract amount of \$60,000.00 (the "Contract"); and

WHEREAS, Trap Rock Industries, Inc. was required to provide additional material for a total cost of \$11,000.00; and

WHEREAS, the Director of Public Works has recommended that the Township Council authorize Change Order #1 to the Contract for \$11,000.00, thereby increasing the total contract amount to \$71,000.00; and

WHEREAS, pursuant to N.J.A.C. 5:30-11.1, *et seq.*, change orders that do not, in the aggregate, exceed 20% of the original contract amount, can be authorized by the governing body without additional public bidding.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that the Mayor is authorized to execute Change Order #1 to the Contract between the Township of Marlboro and Trap Rock Industries, Inc., P.O. Box 419, Kingston, NJ 08528 increasing the total contract amount to \$71,000.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for Change Order #1, which is attached hereto, and that sufficient funds are available for said change order from Capital Account Number X-04-55-960-960; and

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

- a. Trap Rock Industries, Inc., Kingston, NJ
- b. Director of Public Works
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP.

RESOLUTION # 2007-367

BE IT RESOLVED by the Township Council of the Township of Marlboro that an amendment to Raffle License # RL:18-07 be and it is hereby granted to Solomon Schechter Day School of Greater Monmouth County, 22 School Road East, Marlboro, New Jersey 07746 to allow a change of date, from Nov 1, 2007 to Nov. 29, 2007 from 7 - 11 PM.

RESOLUTION # 2007-368

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 20-07/08 (Off Premise Merchandise) be and it is hereby granted to Monmouth County Education Association Philanthropic Fund, 28 Buckley Road, Marlboro, NJ 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on April 3, 2008 at 5 PM at 28 Buckley Road, Marlboro, NJ 07746.

RESOLUTION # 2007-369

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 21-07 (On Premise 50/50) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on the following dates and times:

Nov. 24, 2007 Hourly - 11AM - 4PM
Dec. 8, 2007 Hourly - 11AM - 4PM
Dec. 15, 2007 Hourly - 11AM - 4PM
Dec. 22, 2007 Hourly - 11AM - 4PM

at 100 North Main Street, Marlboro, N. J. 07746.

Council President Cantor asked that the agenda be amended to add the following Res. # 2007-370 (Authorizing Agreement Crine West) which was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilwoman Tragni. After discussion, the resolution was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2007-370

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN MARLBORO TOWNSHIP AND CRINE WEST,LLC REGARDING THE INSTALLATION OF CERTAIN SITE IMPROVEMENTS REQUIRED BY THE DEVELOPERS AGREEMENT FOR THE CRINE WEST SUBDIVISION

WHEREAS, Kara at Crine West, LLC ("Kara") entered into a Developers Agreement with the Township of Marlboro requiring, among other things, the installation of certain site improvements at the properties commonly known as the Crine West Subdivision (the "Site Improvements") and posted certain performance bonds and a cash bond with the Township to secure Kara's performance of the Site Improvements; and

WHEREAS, Kara filed a petition for bankruptcy prior to completing the Site Improvements; and

WHEREAS, the Township filed litigation against Bond Safeguard Insurance Company and Service Insurance Company (collectively, the "Bonding Companies") seeking to compel the Bonding Companies to undertake and to complete the Site Improvements; and

WHEREAS, despite the filing of this litigation, the Bonding Companies have failed to voluntarily undertake or to complete the Site Improvements; and

WHEREAS, Crine West, LLC ("Crine") obtained title to properties within the Crine West Subdivision pursuant to an

Order of the United States Bankruptcy Court, District of New Jersey which authorized Kara to sell these properties free and clear of all liens, claims, interests and encumbrances; and

WHEREAS, Crine has agreed to assume the responsibility to undertake and to complete the Site Improvements, at its sole cost and expense, so long as the Township agrees to reimburse Crine for this work from the cash bond presently held by the Township and from any funds recovered by the Township through its litigation with the Bonding Companies; and

WHEREAS, the Township Council finds that it is in the best interests of the Township and its citizens to ensure that the Site Improvements be promptly completed and installed in a good and workmanlike fashion.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the terms and conditions set forth in the attached Agreement between the Township and Crine are hereby approved; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute the Agreement in a form substantially similar to the Agreement that is attached hereto and to execute any other documents necessary to effectuate the terms of this Agreement; and

BE IT FURTHER RESOLVED, that any and all payments to Crine for completion of the Site Improvements shall be subject to approval by the Township Council prior to disbursement of such payments; and

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

- a. Township Administrator
- b. Cyndi Bleier, Esquire of Amboy National Bank
- c. Robert McDaid of Renaissance of Crine West, LLC
- c. Gluck Walrath, LLP.

At 9:30PM, Councilman Pernice moved that the meeting be adjourned. This was seconded by Councilwoman Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: December 17, 2007

OFFERED BY: Morelli AYES: 5

SECONDED BY: Pernice NAYS: 0

ALIDA MANCO,
MUNICIPAL CLERK

JEFF CANTOR,
COUNCIL PRESIDENT