

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

November 10, 2010

The Marlboro Township Council held a Special Meeting on November 10, 2010 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President LaRocca opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this special meeting of the Township Council of the Township of Marlboro was faxed and e-mailed to the Asbury Park Press, the Star Ledger and News Transcript on November 4, 2010; posted on the Bulletin Board of the Municipal Building; filed in the office of the Municipal Clerk and posted on the township website and on Channel 77. The purpose of the special meeting was to take action on any items properly brought before the Township Council at that time.

The Clerk called the Roll.

PRESENT: Councilman Cantor (7:35PM), Council Vice President Marder, Councilwoman Mazzola and Council President LaRocca. Councilman Metzger was absent.

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

Council Vice President Marder moved that the minutes of October 21, 2010 be approved. This motion was seconded by Council President LaRocca on a roll call vote of 4 - 0 in favor. (Absent: Metzger).

The following Res. # 2010-397 (Dedicating a Portion of a Tributary of Big Brook in Honor of Dr. Paul Kovalski) was introduced by reference, offered by Councilman Cantor and

seconded by Council Vice President Marder and was passed on a roll call vote of 4 - 0 in favor (Absent: Metzger). On behalf of Council, Councilman Cantor presented Dr. Kovalski with a plaque dedicating Big Brook stream near Vanderburg Road as the "Dr. Paul Kovalski Tributary". Mayor Hornik thanked Dr. Kovalski for his commitment and preservation of Big Brook.

RESOLUTION # 2010-397

A RESOLUTION OF THE MAYOR AND TOWNSHIP COUNCIL OF
THE TOWNSHIP OF MARLBORO AUTHORIZING THE DEDICATION
OF A TRIBUTARY OF BIG BROOK STREAM NEAR VANDERBURG
ROAD AS THE "DR. PAUL KOVALSKI TRIBUTARY"

WHEREAS, the area of Marlboro Township known as "Big Brook" located near Vanderburg Road is one of the top fossil sites in the Eastern United States; and

WHEREAS, lifetime resident and local fossil hunter Dr. Paul Kovalski has spent many years teaching our community about Marlboro Township's prehistoric creatures, creating "Dinosaur Day" eleven years ago to celebrate Earth Day and to bring recognition to our community's nationally recognized fossil site; and

WHEREAS, Dr. Kovalski has worked hard to preserve the Big Brook area to protect one of the nation's most important fossil sites; and

WHEREAS, in recognition of Dr. Kovalski's service to the community, including serving as a member of the Township Council, his dedication to fossil preservation and the preservation of all of our Township's natural marvels, the Township Council of the Township of Marlboro desires to dedicate a tributary of the Big Brook Stream near Vanderburg Road in Dr. Kovalski's name.

NOW THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the Mayor and Township Council of the Township of Marlboro hereby authorize the dedication of a tributary of Big Brook Stream located near Vanderburg Road as the "Dr. Paul Kovalski Tributary" in honor of Dr. Kovalski's efforts to promote the preservation of our community's natural resources; and

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

- a. Dr. Paul Kovalski
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-360/Ord. #2010-25 (Lease of Monopole for Police Communications) was introduced by reference, offered by Councilman Cantor and seconded by Council Vice President Marder. Business Administrator Jonathan Capp explained the ordinance. There was a brief question and answer session between Council President LaRocca and Police Chief Bruce Hall. After discussion, the resolution/ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-360

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

ORDINANCE # 2010-25

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO IN THE COUNTY OF MONMOUTH, NEW JERSEY, AUTHORIZING A SINGLE SITE LICENSE AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND DIAMOND TOWERS II LLC TO INSTALL AND OPERATE A WIRELESS COMMUNICATION FACILITY AND ANTENNAE AND AUTHORIZING A CO-LOCATION SUBLEASE AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND SPRINT SPECTRUM, L.P. TO INSTALL, OPERATE AND MAINTAIN THE MARLBORO TOWNSHIP POLICE DEPARTMENT'S UNMANNED RADIO COMMUNICATIONS EQUIPMENT

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 9, 2010 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2010-25

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO IN THE COUNTY OF MONMOUTH, NEW JERSEY, AUTHORIZING A SINGLE SITE LICENSE AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND DIAMOND TOWERS II LLC TO INSTALL AND OPERATE A WIRELESS COMMUNICATION FACILITY AND ANTENNAE AND AUTHORIZING A CO-LOCATION SUBLEASE AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND SPRINT SPECTRUM, L.P. TO INSTALL, OPERATE AND MAINTAIN THE MARLBORO TOWNSHIP POLICE DEPARTMENT'S UNMANNED RADIO COMMUNICATIONS EQUIPMENT

WHEREAS, the Township of Marlboro ("Township") desires to enter into a Single Site License Agreement with Diamond Towers II LLC ("Diamond Towers") in order to install, operate and maintain a wireless communications facility and antennae ("Communications Facility") located at Wilson Avenue, Matawan, New Jersey (the "Premises") for use by the Marlboro Township Police Department and other Township emergency services in order to preserve the health, safety and welfare of the citizens of the Township of Marlboro, Monmouth County, New Jersey; and

WHEREAS, Diamond Towers has agreed to enter into a Single Site License with the Township for the above purposes, for a term of two (2) years, with an option for one an additional one (1) year renewal term, for compensation in the amount of Three Hundred Dollars and 00/100 (\$300.00) per month, such annual compensation to be increased by four percent (4%) for each renewal term entered upon; and

WHEREAS, the Premises wherein the Township desires to place the Communications Facility is leased to Sprint Spectrum, L.P. ("Sprint") and contains Sprint's 11.5' by 20' equipment shelter ("Equipment Shelter"); and

WHEREAS, the Township further desires to lease a 2' by 2' space within Sprint's Equipment Shelter to install, operate and maintain its Police Department's unmanned radio communications equipment and appurtenances (the "Emergency Radio Equipment") for use by the Marlboro Township Police Department and other Township emergency services in order to preserve the health, safety and welfare of the citizens of the Township of Marlboro, Monmouth County, New Jersey; and

WHEREAS, Sprint has agreed to enter into a Co-Location Sub-Lease Agreement with the Township for the installation, operation and maintenance of the Township's Emergency Radio Equipment for a term of two (2) years, with an option for one an additional one (1) year renewal term, for minimal compensation therefor; and

WHEREAS, the Township of Marlboro has determined that it would serve a public purpose for it to enter into a Single Site License with Diamond Towers for the purpose of installing, operating and maintaining the Communications Facility and entering into a Co-Location and Sub-Lease Agreement with Sprint for the purposes of installing, operating and maintaining the Township's Emergency Radio Equipment for the terms described hereinabove; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township of Marlboro is authorized to adopt an Ordinance for the preservation of public health, safety and welfare; and

WHEREAS, pursuant to N.J.S.A. 40A:12-5(a), the Township of Marlboro is authorized to enter into a Lease Agreement.

NOW, THEREFORE BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that:

- (1) The Single Site License Agreement between the Township of Marlboro and Diamond Towers II LLC to install, operate and maintain a wireless communications facility and antennae ("Communications Facility") for use by the Marlboro Township Police Department and other Township emergency services, at the Premises located at Wilson Avenue, Matawan, New Jersey ("Premises") for a term of two (2) years, with an option for one an additional one (1) year renewal term, for compensation in the amount of Three Hundred Dollars and 00/100 (\$300.00) per month, such annual compensation to be increased by four percent (4%) for each renewal term entered upon, be and is hereby authorized; and
- (2) The Co-Location Sub-Lease Agreement between the Township of Marlboro and Sprint

Spectrum, L.P. permitting the lease of a 2' by 2' space within Sprint Spectrum, L.P.'s ("Sprint") 11.5' by 20' equipment shelter ("Equipment Shelter") located at the Premises, to install, operate and maintain its Police Department's unmanned radio communications equipment and appurtenances (the "Emergency Radio Equipment") for use by the Marlboro Township Police Department and other Township emergency services for a term of two (2) years, with an option for one an additional one (1) year renewal term, for minimal compensation therefor, be and is hereby authorized; and

BE IT FURTHER ORDAINED, that the Mayor and Clerk are hereby authorized to execute and witness, respectively, the Single Site License Agreement and Co-Location Sub-Lease Agreement, copies of which are on file in the Office of the Township Clerk; and

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

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

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

The following Res. # 2010-398/Ord. #2010-27 (Authorizing Execution of Quitclaim Deeds - Properties known as Block 360, Lot 25.23 and Block 360, Lot 49) was introduced by reference, offered by Councilwoman Mazzola and seconded by Council Vice President Marder. Discussion followed, during which Louis Rainone, Esq. answered Council's questions. After discussion, the resolution/ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-398

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

ORDINANCE # 2010-27

AN ORDINANCE AUTHORIZING THE EXECUTION OF QUITCLAIM DEEDS BETWEEN THE TOWNSHIP OF MARLBORO AS SUCCESSOR-IN-INTEREST TO K.G. PROPERTIES, INC. AND ARNOLD AND ELISSA WADLER TO RELINQUISH CONDITIONAL RIGHTS YED BY AGREEMENT AS TO PROPERTIES KNOWN AS BLOCK 360, LOT 25.23 AND BLOCK 360, LOT 49, MARLBORO, NEW JERSEY

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 9, 2010 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2010-27

AN ORDINANCE AUTHORIZING THE EXECUTION OF QUITCLAIM DEEDS BETWEEN THE TOWNSHIP OF MARLBORO AS SUCCESSOR-IN-INTEREST TO K.G. PROPERTIES, INC. AND ARNOLD AND ELISSA WADLER TO RELINQUISH CONDITIONAL RIGHTS CONVEYED BY AGREEMENT AS TO PROPERTIES KNOWN AS BLOCK 360, LOT 25.23 AND BLOCK 360, LOT 49, MARLBORO, NEW JERSEY

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

WHEREAS, the Township of Marlboro ("Township") is the owner of property known as Block 360, Lot 25.23 on the Official Tax Map of the Township of Marlboro, Monmouth County, State of New Jersey (the "Property One"), by acquisition from K. Hovnanian, successor-in-interest to K.G. Properties, Inc.; and

WHEREAS, Arnold L. Wadler and Elissa I. Wadler, husband and wife, (the "Wadler Party") are the owners of property known as Block 360, Lot 49 on the Official Tax Map

of the Township of Marlboro, Monmouth County, State of New Jersey (the "Property Two"); and

WHEREAS, K.G. Properties, Inc., entered into an agreement dated July 1, 1986, with the Wadler Party (the "Agreement"), which Agreement conditionally conveyed portions of the Property One to the Wadler Party and portions of Property Two to K.G. Properties, Inc., and which Agreement was recorded in the Monmouth County Clerk's Office on July 14, 1986 in Deed Book 4671 at Page 655 subject to subdivision approval which has not been obtained; and

WHEREAS, the Wadler party is desirous that the interests granted by the Agreement be extinguished; and

WHEREAS, the Township, the current owner of Property One and successor-in-interest to the Agreement, is amenable to relinquishing the conditional rights granted by the Agreement.

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:

1. The relinquishment of the rights granted to both parties in the Agreement (as described and defined hereinabove) be and is hereby authorized and approved; and

2. The Mayor and Township Clerk are hereby authorized and directed execute and witness, respectively, a Quitclaim Deed (and any other documents necessary) to Arnold L. Wadler and Elissa I. Wadler, in substantially the same form as that attached hereto and made a part hereof as Exhibit "A", which Quitclaim Deed shall relinquish any interest that the Township may have in and to the Property known as Block 360, Lot 49, Marlboro, New Jersey to Arnold L. Wadler and Elissa I. Wadler; and

3. The Township shall accept a Quitclaim Deed from Arnold L. Wadler and Elissa I. Wadler, to the Township of Marlboro, in substantially the same form as that attached hereto and made a part hereof as Exhibit "B", which Quitclaim Deed shall relinquish any interest that the Arnold L. Wadler and Elissa I. Wadler may have in and to the Property known as Block 360, Lot 25.23, Marlboro, New Jersey to the Township of Marlboro; and

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

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

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

The following Res. # 2010-399/Ord. #2010-28 (Amending Section A403-4(4) - Use of EG Cablecasting) was introduced by reference, offered by Council Vice President Marder, and seconded by Council President LaRocca. Discussion followed, during which Louis Rainone, Esq. answered Council's questions, After discussion, the resolution /ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-399

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

ORDINANCE # 2010-28

AN ORDINANCE AMENDING ORDINANCE A403-4(C)
CONCERNING THE USE OF EG CABLECASTING

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 9, 2010 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2010-28

AN ORDINANCE AMENDING ORDINANCE A403-4(C)
CONCERNING THE USE OF EG CABLECASTING

BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that Chapter A403, Cable Television Channel, Municipal, Section A403-4, Channel, Sub-Section A403-4(C), EG Cablecasting, as follows:

§ A403-4(C)

EG Cablecasting will not be used for political purposes; however, EG Cablecasting is permitted to broadcast regular or special public meetings of the Township Council. Although EG Cablecasting cannot be used as a vehicle to specifically promote the passage of any particular legislation, public referendum, or act proposed by the governing body or any board of education, such items may be aired as a matter of course during any regular or special public meeting of the Township Council. No political candidates, whether local, county, state, or federal, are permitted to appear on the EG Cablecasting, except if they are inadvertently included in a group shot, or are the Mayor, a member of the Township Council, or a member of the public, attending and participating in a regular or special public Township Council meeting. This rule shall be effective from the moment they are selected until after the formal election date. Political candidacy also covers incumbents running for political election. No individual or organization may appear specifically for the sole purpose of acting on the behalf of any candidate or to espouse any legislation or referendum issue. However, the broadcast of any person acting on behalf of any candidate or who espouses any legislation or referendum issue during the course of a regular or special public Township Council meeting is permitted. Nothing in this section shall be deemed to prevent the Mayor or a member of the Township Council appearing on the EG Cablecasting for any official governmental purpose or for any purpose associated with the normal day to day functions of the Township Government. These regulations are not in effect for PEG Cablecasting, which falls under public access regulations; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this

Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

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. # 2010-400 (Contract Amendment CME - Design Improvements to Pleasant Valley Road at Willow Brook) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-400

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

WHEREAS, the Township Engineer has notified this office of an emergent situation concerning streambank and roadside erosion on Pleasant Valley Road at the Willow Brook; and

WHEREAS, in accordance with N.J.S.A. 40A:11-6, the Township immediately initiated the design of a stream bank stabilization method and submission of an emergency permit application to the New Jersey Department of Environmental Protection; and

WHEREAS, CME Associates has provided a proposal dated October 19, 2010 (the "Proposal") for such Professional Services in connection with the Project; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such

Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$39,000.00 for such Professional Services, as further described and set forth in CME's Proposal, attached hereto and made a part hereof; and

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

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # X-04-55-967-902; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposal; and

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

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

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to provide engineering design and construction management services ("Professional Services"), at a fee not to exceed

\$39,000.00 for such Professional Services, as further described and set forth in CME's Proposal dated October 19, 2010 ("Proposal"), be and is hereby authorized; and

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

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$15,000.00 for such additional Professional Services for the Project as described in the Proposal; and

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

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

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

- a. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Res. #2010-401 (Bond Release - Lucas Holdings - B. 172, L. 40.07) was introduced by reference, offered by Council Vice President Marder, seconded by Council President LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-401

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES
FOR THE SITE KNOWN AS LUCAS HOLDINGS, BLOCK 172,
LOT 40.07, TOWNSHIP OF MARLBORO, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request from Antonio Lucas for release of the Township held Performance Guarantees in the form of a Bond and Letter of Credit for site improvements ("Public Improvements") on the Site known as "Lucas Holdings" (the "Site"), property known as Block 172, Lot 40.07, on the Official Tax Maps of the Township of Marlboro, Monmouth County, State of New Jersey, posted by Lucas Holdings, LLC (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed the Township Engineer's report dated October 18, 2010, regarding the completion of the Public Improvements at the Site, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the aforesaid report recommends that the current Performance Guarantee in the form of a Bond No. B1070299 issued by Selective Insurance Co. of America in the amount of \$280,058.42 and a Letter of Credit in the amount of \$31,117.60 posted by the Developer, issued by NJ Community Bank, and being held by the Township, be released in their entirety, conditioned upon the payment of any and all outstanding review and/or inspection fee charges to the time of the performance guarantee release and the posting of a two (2) year fifteen percent (15%) maintenance bond in the amount of \$38,897.00; and

WHEREAS, the Township Council now wishes to take the following action regarding the aforesaid Performance Guarantee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the above-described Performance Guarantee in the form of a Bond No. B1070299 issued by Selective Insurance Co. of America in the amount of \$280,058.42 and Letter of Credit in the amount of \$31,117.60 posted by the Developer and being held by the Township, be released in their entirety, conditioned upon

the payment of any and all outstanding review and/or inspection fee charges to the time of the performance guarantee release and the posting of a two (2) year fifteen percent (15%) maintenance bond in the amount of \$38,897.00; and

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

- a. Lucas Holdings, LLC
- b. Selective Insurance Co. of America
- c. NJ Community Bank
- d. Mayor Jonathan L. Hornik
- e. Township Business Administrator
- f. Township Chief Financial Officer
- g. Township Engineer
- h. DeCotiis, FitzPatrick & Cole, LLP

The following Res. #2010-402 (Authorizing Discharge of Affordable Housing Agreement & Repayment Note & Mortgage - 815 Mariposa Ct - Unit 116B) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman Cantor and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-402

A RESOLUTION OF THE MARLBORO TOWNSHIP TOWN COUNCIL
AUTHORIZING A DISCHARGE OF AN AFFORDABLE HOUSING AGREEMENT
AND A REPAYMENT NOTE AND MORTGAGE DATED SEPTEMBER 10, 2004,
AND RECORDED NOVEMBER 3, 2004, WHICH WAS FILED AGAINST A
PROPERTY LOCATED AT 815 MARIPOSA COURT, UNIT 116B,
MARLBORO, NEW JERSEY, WHICH AT THE TIME WAS OWNED BY LESLIE
KEHOE BUT IS NOW PRESENTLY OWNED BY NICOLE K. VENITO

WHEREAS, a residential unit commonly known as 815 Mariposa Court, Unit 116B, Marlboro, New Jersey ("the Property"), is an affordable unit located in the Pointe De Jardin condominium complex and its affordability controls are governed by the provisions of New Jersey's Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and the substantive and procedural rules of the Council on Affordable Housing (N.J.A.C. 5:96-1 and 5:97-1 et seq.); and

WHEREAS, Leslie Kehoe became the record owner of the Property by way of a purchase of same on or about September

10, 2004, for a stated consideration amount of \$90,196.00; and

WHEREAS, as part and parcel of the foregoing purchase Leslie Kehoe executed an Affordable Housing Agreement and a repayment note and mortgage with the foregoing documents being signed on or about September 10, 2004, in favor of the Department of Community Affairs which is an agency and an instrumentality of the Township of Marlboro; and

WHEREAS, the repayment note and mortgage was subsequently recorded in the Monmouth County Clerk's Office on November 3, 2004, in Mortgage Book 8412 Page 5949 et seq.; and

WHEREAS, the Affordable Housing Agreement was subsequently recorded by the Monmouth County Clerk in Deed Book 8412 Page 5917 et seq., on November 3, 2004; and

WHEREAS, the Property was then transferred to Nicole K. Venito (the current owner of the Property), by deed from Leslie Kehoe, dated June 20, 2007, and recorded July 3, 2007, in Deed Book 8662, Page 1222 et seq., for a stated consideration of \$97,556.00; and

WHEREAS, despite the sale and transfer of the Property from Leslie Kehoe to Nicole K. Venito both the Affordable Housing Agreement and the repayment note and mortgage executed by Leslie Kehoe in 2004 still remain of record; and

WHEREAS, the foregoing Affordable Housing Agreement and the repayment note and mortgage from Leslie Kehoe should have been discharged at the time of the deed transfer to Nicole K. Venito; and

WHEREAS, Nicole K. Venito continues to own the Property yet the foregoing Affordable Housing Agreement and the repayment note and mortgage executed by Leslie Kehoe on or about September 10, 2004, remain in effect; and

WHEREAS, the Marlboro Township Council finds that there is good cause for the release of the foregoing Affordable Housing Agreement and the repayment note and mortgage for the reasons sets forth herein and because of the change in ownership from Leslie Kehoe to Nicole K. Venito;

NOW THEREFORE BE IT RESOLVED that the Honorable Mayor Jonathan L. Hornik is hereby authorized to sign the attached discharge of Affordable Housing Agreement and discharge of the repayment note and mortgage on the Property as aforesaid;

BE IT FURTHER RESOLVED that subsequent to Mayor Hornik=s signature of said discharge of the foregoing Affordable Housing Agreement and the repayment note and mortgage as to the Property, the discharge will be recorded in the Monmouth County Clerk's Office;

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

- a. Mayor Jonathan L. Hornik;
- b. Township Business Administrator, Jon Capp;
- c. Thomas P. Howley, Municipal Housing Liaison;
- d. Township Attorney, DeCotiis, Fitzpatrick & Cole, LLP;
- e. Leslie Kehoe;
- f. Alan Gottlieb, Esq.; and
- g. Kenneth W. Biedzynski, Affordable Housing Special Counsel.

The following Res. #2010-403 (Authorizing Developer Agreement - Marlboro Commons) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman Cantor and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-403

A RESOLUTION AUTHORIZING EXECUTION OF A DEVELOPER AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND MARLBORO COMMONS, L.L.C. IN CONNECTION WITH MAJOR SUBDIVISION AND SITE PLAN APPROVAL FOR THE SITE LOCATED ON BLOCK 270, LOTS 9, 10, 11 AND 12, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY, (THE INTERSECTION OF U.S. HIGHWAY ROUTE 9 AND MONMOUTH COUNTY ROUTE 520)

WHEREAS, On February 17, 2010 the Planning Board of the Township of Marlboro ("Planning Board") adopted a resolution granting Major Subdivision and Preliminary Site Plan and Bulk Variance Relief Approval with Waivers for

Marlboro Commons, L.L.C. ("Developer") and on June 16, 2010 the Planning Board adopted a resolution granting Major Subdivision and Final Site Plan and Bulk Variance Relief Approval with Waivers for the development of property known as Block 270, Lots 9, 10, 11 and 12, on the Official Tax Map of the Township of Marlboro, Monmouth County New Jersey, which is located at the intersection of U.S. Highway Route 9 and Monmouth County Route 520; and

WHEREAS, the Planning Board resolutions conditioned the approval upon the Developer entering into a Developer Agreement with the Township of Marlboro and posting all the necessary performance guarantees; and

WHEREAS, the Developer Agreement has been negotiated by the parties, and the negotiation and preparation of same shall be paid for from Developer's escrow account held by the Township of Marlboro; and

WHEREAS, the necessary performance guarantees, cash deposits and insurance certificates shall be subject to the review and approval of the Township Attorney.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, that the Mayor and Township Clerk be and are hereby authorized to execute the Developer Agreement with Developer, Marlboro Commons, L.L.C. for the Preliminary and Final Major Subdivision and Site Plan and bulk Variance Relief Approval with Waivers granted by the Marlboro Township Planning Board for the site known as Block 270, Lots 9, 10, 11 and 12 on the Official Tax Map of the Township of Marlboro, Monmouth County New Jersey, which is located at the intersection of U.S. Highway Route 9 and Monmouth County Route 520, the negotiation and preparation of which shall be paid for from the Developer's escrow account held by the Township of Marlboro; and

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

- a. Marlboro Commons, L.L.C.
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Res. #2010-404 (Authorizing on-line auction of Surplus Property - Gov Deals) was introduced by reference, offered by Councilman Cantor, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-404

A RESOLUTION AUTHORIZING THE SALE OF SURPLUS
MUNICIPAL PERSONAL PROPERTY NOT NEEDED FOR
PUBLIC USE BY PUBLIC ON-LINE AUCTION

WHEREAS, pursuant to N.J.S.A. 40A:11-36, a municipality may, by resolution, authorize the sale of its personal property not needed for public use; and

WHEREAS, the Department of Community Affairs, Division of Local Government Services ("DCA") has issued Local Finance Notice 2008-9 ("LFN-2008-9") which permits a municipality to sell its personal property not needed for public use on-line; and

WHEREAS, LFN-2008-9 sets forth procedural guidelines regarding the use of a on-line public auction for the sale of such municipal personal property not needed for public use; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro deem that it is in the best interests of the Township of Marlboro to sell the Township's personal property not needed for public use using the on-line auction process set forth in LFN-2008-9; and

WHEREAS, govdeals.com is one of the internet based vendors approved by the DCA to carry out on-line auctions of municipal property not needed for public use.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that:

1. The Township hereby determines that its personal property described on Exhibit "A" attached hereto and made a part hereof and entitled "Surplus Property of the Township of Marlboro" and dated November 10, 2010 is personal property no longer needed for public use by the Township of Marlboro; and
2. The Township further determines that such surplus personal property listed on Exhibit "A" shall be sold by auction on-line by govdeals.com; and
3. The sale of such surplus property listed on Exhibit "A" shall be conducted pursuant to the procedures set forth in Local Finance Notice 2008-9; and
4. The terms and conditions of the Agreement between the Township of Marlboro and govdeals.com are available for public viewing at the website of govdeals.com and on file in the Clerk's Office of the Township of Marlboro; and
5. The Mayor or Business Administrator and Township Clerk are hereby authorized to execute and witness, respectively, the On-Line Auction Agreement and any other documents required to effectuate the sale of the Township's surplus personal property described in Exhibit "A"; and
6. The Township Clerk shall, pursuant to the terms of N.J.S.A. 40A:11-36, publish a legal newspaper advertisement informing the public as to the nature of the surplus property being sold and how to obtain more information on the internet based sale in the official newspaper of the Township of Marlboro as follows:
 - a. An announcement of the auction and that the item(s) shall be sold on-line;
 - b. the internet address for the sale being advertised;
 - c. the date and time of the auction and a general description of the surplus personal property intended to be sold, however specific information

for particular items, such as the VIN number for vehicles, is not required is not required in the newspaper advertisement; and

- d. a statement that bidders must pre-register with the approved internet based vendor and the internet address with registration information.

7. Pursuant to N.J.S.A. 40A:11-36, sales shall be held not less than seven (7) nor more than fourteen (14) days after the latest publication of the advertisement.

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

- a. govdeals.com
- b. Mayor Jonathan Hornik
- c. Business Administrator
- d. Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP
- f. Division of Local Government Services,
Department of Community Affairs

EXHIBIT "A"
DATED NOVEMBER 10, 2010

TOWNSHIP OF MARLBORO
NOTICE OF SALE OF SURPLUS MUNICIPAL PERSONAL
PROPERTY

NOTICE IS HEREBY GIVEN that the Township of Marlboro will be conducting an internet auction of surplus equipment utilizing the GovDeals website beginning December 1, 2010 and ending on various dates stated on the GovDeals website for items slated for auction. All bidders and other participants of this auction must agree that they have read and fully understand the Online Sales - Terms and Conditions listed on the website and agree to be bound thereby.

Website Host: GovDeals at www.govdeals.com. Click advance search under the search box, select New Jersey from the drop down menu, then select Marlboro Township from the seller drop down menu.

Inspection: Call Danny Schick at 732-536-0200, ext. 1213, to schedule an appointment.

Registration is not required for viewing the website but is required for placing bids. Please see the website for instructions on registering.

Terms of Auction: All sales are final, sold "as is", "where is"; no warranties or guarantees, expressed or implied. The Township reserves the right to reject any bid or bidder and remove any item from auction.

Transactions: Payment must be made electronically through the GovDeals website. Acceptable forms of payment are: PayPal, Wire Transfer, Visa, Master Card, American Express and Discover. NO CASH, CHECKS OR MONEY ORDERS WILL BE ACCEPTED.

Removal: Within ten business days from the time an date of the Buyers Certificate, buyers must provide their own vehicles, equipment and manpower. A \$10.00 per day storage fee will assessed beginning the 11th day.

<u>Vehicle Year</u>	<u>Make</u>	<u>Model</u>	<u>Vin #</u>	<u>Mileage</u>	<u>Condition</u>	<u>Vehicle #</u>	<u>CASE #</u>
1988	Ford	Econoline E350	1FDKE30M4JHC17323		Poor		
1988	Dodge	250 4x4	1B7JW24Y2JS697580		Poor		
1992	Dodge	Dakota	1B7FL26X8NS587710		Poor		
1994	Dodge	Van B350	2B7KB31Z7RK185385		Poor		
1998	CMA	Trailer	4YUUF1028WB000647		U/K		
1990	Dodge	Van	2B4FK4535LR682203		Poor	9007	
1993	Dodge	Dakota	1B7FLZ6X6P5280054		Poor	9310	
1993	Dodge	Dakota	1B7FLZ6X4P5280053		Poor	9311	
1994	Dodge	2500 4x4	1B7KF26Z2RS549936		Poor	9401	
1987	International	S1900 Dump	1HTLDTVN3HH611448		Poor	8705	
1987	Chevy	Pick up	1GCCS14R4H2237211		Poor		07-020160
1999	Dodge	Intrepid	2B3HD46RZXH695495	95495	Poor	9906	
1999	Dodge	Intrepid	2B3HD46R4XH695496	95496	Poor	9907	
1999	Dodge	Intrepid	2B3HD46R6XH695497	95497	Poor	9908	
2007	Ford	Crown Vic	2FAFP71W97X108748	89500	Poor	0705	
2 Office Trailers			Old Police Training		Poor		
TOOLS	Condition	Make	Model				
Air Compressor	Poor						

Generator	Poor					
Riz Recycling Machine	Poor					
Smithco Line Striper	Poor	Smithco				
Toro Sprinkler Controller	Poor	Toro				
Smithco Rider Line Striper	Poor	Smithco Top Line				
Exercise Bike	Poor	Schwin				
J.D Flail Mower	Poor	3pt Hitch Flail Mower				
4 Stil Bllowers	Poor	Stihl	BR 400			
Chain Saw	Poor	Stihl	O44			
Circular Saw	Poor	Makita				
Filters		Toro	Park Master Reel Mower			
Belt		Toro	Park Master Reel Mower			
Flair Mower Hoops + Parts		J.D.	1-P57925 & P57926			
Walk Behind Tractor + Plow	Poor	Gravely	Walk behind+snow plow			
Lighting Control Cabinet		Musco				
6 Burer stove + oven	Poor	Garland Propane				
Extend a pole chainsaw	Poor	Gas Powered	Pruner			
Chain Saw	Poor	Craftsman	16 inch			
4 5 draw lateral filing cabinet	Poor					
IT						
Computers,printers,monitors	Outdated					
DVD Players	Outdated					
2 Cameras	Outdated					
Phone + Docking Station		Verizon XV6800			used	
10 Keyboard+Mouse Holders	New				No Use	
14 Palm Pilots+Cases	Used	Belkin	Zire 31 Chargers Included		No use	
2 Typewriters	u\k					
4Foot Hi Diving Board			Aluminum board&iron frame		No use	
Aniques		Location				
Various Fireplace Mantles		Dimeos Property				
Kenmore Wash Machine		Dimeos Property				
Sliding Wood Door		Dimeos Property		8x7.2		
All Wood Flooring		Dimeos Property	Wood Planks lengths vary	1x9.25	Roughly 2600 sq ft used	
All window+door molding		Dimeos Property	Crown Casing			
Recreation	Condition	Make	Model			

Tv	USED	RCA					
Tv	USED	Hitachi					
Tv	USED	Samsung	Celebrity				
Tv	USED	Samsung	TC9140M				
Tv	USED	Mitsubishi	MGA				
VHS	USED	Emerson					
VHS	USED	Emerson	VCP664				
Phone	USED	Meridian					
CD Player	USED	Gemeni	CD-12				
Stereo Radio & Tv	USED	AM/FM	SR3000				

The following Res. #2010-405 (Authorizing Agreement General Insurance Coverages) was introduced by reference, offered by Councilman Cantor, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-405

A RESOLUTION AUTHORIZING THE RENEWAL OF MEMBERSHIP
IN THE MONMOUTH MUNICIPAL JOINT INSURANCE FUND

WHEREAS, the Township of Marlboro ("Municipality") is a member of the Monmouth Municipal Joint Insurance Fund ("Fund"); and

WHEREAS, said renewed membership terminates as of December 31, 2010 unless renewed earlier by agreement between the Municipality and the Fund; and

WHEREAS, the Municipality desires to renew said membership.

WHEREAS, the Monmouth County Joint Insurance Fund has issued an endorsement to the policy effective January 1, 2011; and

WHEREAS, the Municipality desires to accept the endorsement for the 2011 year for the terms and conditions set forth in the annexed Schedule "A".

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Township of Marlboro agrees to renew its membership in the Monmouth Municipal

Joint Insurance Fund and to be subject to the Bylaws, Rules and Regulations, coverages and operating procedures thereof of as presently existing or as modified from time to time by lawful act of the Fund.

2. The Mayor and Clerk are hereby authorized to execute the agreement to renew membership annexed hereto and made a part hereof and to deliver same to the Monmouth Municipal Joint Insurance Fund evidencing the Municipality's intention to renew its membership.

The following Res. #2010-406 (Authorization to Bid - Demolition of Structures) was introduced by reference, offered by Council Vice President Marder, seconded by Council President LaRocca on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-406

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Business Administrator is hereby authorized and directed to advertise for open competitive bids for the following said work, and/or materials as required by law:

DEMOLITION OF STRUCTURES

The following Res. #2010-407 (Chapter 159 - Bulletproof Vests Grant) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Cantor and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-407

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 several items of revenue in the budget of the year 2010 in the sum of \$6,367.00, which items are now available as a revenue from the New Jersey Division of Criminal Justice Body Armor Replacement Fund. The items of revenue are the 2009 Body Armor Grant for \$584.25 and the 2010 Body Armor Grant for \$5,782.75.

Section 2

BE IT FURTHER RESOLVED that the amounts of \$584.25 and \$5,782.75 are hereby appropriated under the captions "2009 Body Armor Grant" and "2010 Body Armor Grant" respectively.

The following Res. #2010-408 (Budget Transfers) was introduced by reference, offered by Council Vice President Marder, seconded by Council President LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-408

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 2010 Municipal Budget as follow:

From:

Tax Collection S&W	15,000.00
Group Insurance	15,000.00

To:

Snow Removal S&W	30,000.00
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Totals	30,000.00	30,000.00
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The following Res. #2010-409 (Authorizing Request for Proposals for Various Professional Services for 2011) was introduced by reference, offered by Council Vice President Marder, seconded by Council President LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-409

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Business Administrator is hereby authorized and directed to solicit Requests for Qualifications (RFQ) to be awarded pursuant to a fair and open process in accordance with NJSA 19:44A-20.5 et seq. for the following positions:

- Township Attorney
- Township Auditor
- Township Engineer
- Township Planner
- Labor Attorney
- Bond Counsel
- Special Affordable Housing Counsel
- Township Prosecutor
- Public Defender
- Ethics Committee Attorney
- Planning Board Attorney
- Planning Board Engineer
- Planning Board Planner
- Special Tax Counsel
- Zoning Board Attorney
- Zoning Board Engineer

Zoning Board Planner
Risk Management Services
Broker of Record-Insurance Services
Financial Advisory Services
Appraisal Services

The following Res. #2010-410 (Authorizing Contract - Telephone Service - Broadview Networks, Inc.) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-410

A RESOLUTION AWARDING A CONTRACT TO BROADVIEW NETWORKS, INC. FOR LOCAL, REGIONAL AND LONG DISTANCE TELEPHONE SERVICES FOR THE TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro is in need of local, regional and long distance telephone services in order to conduct the business of the Township of Marlboro; and

WHEREAS, the provision of local telephone services is regulated by the New Jersey Board of Public Utilities (the "BPU") which requires that telephone service providers be authorized by the BPU and further require that telephone service providers have their tariffs on file with the BPU; and

WHEREAS, the Business Administrator has recommended that a contract to provide local, regional and long distance telephone services be awarded to Broadview Networks, Inc., (the "Contractor") consistent with the proposal of Broadview Network which is attached hereto and consists of four pages, with two pages entitled "GR Voice T-1 & PRI - Order Form" and two pages entitled "New Customer Enrollment Form and Letter of Agency", (collectively the "Proposal"); and

WHEREAS, Broadview Networks, Inc., appears on the list of Local Service Providers published by the Board of Public Utilities who are permitted to offer local telephone services in the State of New Jersey; and

WHEREAS, the Township is permitted to enter into a contract without publicly advertising for bid if the subject matter of the contract is the supplying of any

product or service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities pursuant to N.J.S.A. 40A:11-5(1)(f); and

WHEREAS, the Chief Financial Officer of the Township of Marlboro has determined that the value of the contract will not exceed \$35,000.00; and

WHEREAS, funds in the amount of \$35,000.00 for 2011 will be certified at the time the 2011 budget is adopted; and

WHEREAS, the Township Council deemed it necessary for the proper function of the Township to enter into a contract for the purchase of local, regional and long distance telephone services.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that:

1. The Township Council of the Township of Marlboro, hereby authorizes and approves the award of a contract to Broadview Networks, Inc., to provide local, regional and long distance telephone services pursuant to the Proposal described above; and

2. This Goods and Services Contract is awarded for a one year period without public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(f); and

3. The Mayor and Town Clerk are hereby authorized and directed to execute, seal and deliver the contract for goods and services on behalf of and in the name of the Township of Marlboro; and

4. A certified copy of this Resolution shall be provided to each of the following:

- a. Broadview Networks, Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, Fitzpatrick & Cole, LLP

As the consent agenda, the following Resolutions were introduced by reference, offered by Council Vice President

Marder, seconded Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger). Res. #2010-411 (Correction Water Utility Payment), Res. #2010-412 (Highway Safety Grant Cancellation), Res. #2010-413 (Redemption Tax Sale Certs - Various), Res. #2010-414 (Refunds for Overpayments - Various), Res. #2010-415 (Redemption Tax Sale Certs - Various II), Res. #2010-416 (Refunds for Overpayments - Various II) and Res. #2010-417 (Raffle License Collier Youth Services Off Premise 50/50).

RESOLUTION # 2010-411

WHEREAS, a payment was made on 9/7/10 for Water Utility Customer Account # 16586 in the name of Jayanthi Nagarajan at 12 Geanne Way, Marlboro in the amount of \$48.93, and

WHEREAS, this payment was erroneously applied to the payment of property taxes instead of being processed as a water payment, and

WHEREAS, the amount of \$48.93 needs to be taken from the tax collection receipts at Wachovia Bank and deposited into Water Utility receipts at Ocean First Bank,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, Monmouth County, State of New Jersey, the Chief Financial Officer is hereby authorized to make such transaction as necessary to correct this error.

RESOLUTION # 2010-412

WHEREAS, the financial records of the Township of Marlboro reflect the following appropriated grant balance with an offsetting receivable, and

WHEREAS, the timeframe of the Highway Safety Grant is deemed to have expired,

NOW, THEREFORE, BE IT RESOLVED that the appropriated grant balance of \$3,861.00 for the Highway Safety Grant and its offsetting receivable in the same amount are hereby cancelled.

RESOLUTION # 2010-413

WHEREAS, the rightful owners of several properties

have redeemed tax sale certificates totaling \$1,606.52 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 \$1,606.52 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>
10-34 25 Warbler Rd.	412.04/18	US Bank Cust for Pro Capital I 50 S. 16 th St., Suite 1950 Philadelphia, PA 19102	\$ 875.68
10-123 4 Ciafardini Ct.	252/11	Josef Hoffmann 326 Shady Lane Trenton, NJ 08619	730.84
TOTAL:			<u>\$1,606.52</u>

RESOLUTION # 2010-414

WHEREAS, the attached list in the amount of \$5,296.80 known as Schedule "A", is comprised of amounts representing overpayments for 2010 taxes,

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

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>2010 REFUND</u>
180 355 Deerfield Rd.	83.20	Amboy Bank 3590 US Highway 9 Old Bridge, NJ 08857	\$ 899.85
101	17.05	Rajat Bahl &	1,888.20

Monica Biala
207 Dawes Drive
Morganville, NJ 07751

264	18	Steven & Yelena Mezh 5 Sudbury Road Morganville, NJ 07751	2,508.75
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TOTAL: \$5,296.80

RESOLUTION # 2010-415

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$13,608.26 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 \$13,608.26 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
09-36	364/41.01	New Jersey Lien	\$13,608.26
2 Serenity Pl.		Group, LLC 732 Newman Springs Rd. Suite 100 Lincroft, NJ 07738	

RESOLUTION # 2010-416

WHEREAS, the attached list in the amount of \$5,409.94 known as Schedule "A", is comprised of amounts representing overpayments for 2010 taxes,

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

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>2010 REFUND</u>
120.02	3	Richard L. Scotti 364 Sundew Drive Morganville, NJ 07751	\$ 2,620.36
307	26	David Rifkin 6 Oxford Ct. Morganville, NJ 07751	2,789.58
TOTAL:			\$ <u>5,409.94</u>

RESOLUTION # 2010-417

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 29-10/11 (Off Premise 50/50) be and it is hereby granted to Collier Services, 160 Conover Road, Wickatunk, NJ 07765.

BE IT FURTHER RESOLVED that said Raffle will be held on March 13, 2011 at 4:30 PM at Collier Services, 160 Conover Road, Wickatunk, NJ 07765.

The following Res. #2010-422 (Adopting Marlboro Township OPRA Form) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-422

A RESOLUTION ADOPTING A FORM FOR USE IN REQUESTING
GOVERNMENT RECORDS PURSUANT TO THE OPEN PUBLIC
RECORDS ACT, N.J.S.A. 47:1A-1, ET SEQ.

WHEREAS, The Open Public Records Act ("OPRA") requires that a form be adopted for use by any person requesting access to a government record held or controlled by a public agency; and

WHEREAS, the Government Records Council has provided municipalities with a revised model form for use by records custodians; and

WHEREAS, the Township Clerk serves as the Custodian of Records for the Township, except that the Police Division handles requests for police records; and

WHEREAS, the Township Clerk has recommended that the attached form be made available for use by individuals seeking records from the Township of Marlboro, except for requests for police records.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the attached form is approved for use by the Township Clerk in connection with records requests made to the Township, except for requests for police records; and

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

- a. Marlboro Township Clerk
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. #2010-423 (Adopting PD OPRA Form and Appointing Custodian of Public Records for Police Dept.) was introduced by reference, offered by Councilman Cantor, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2010-423

A RESOLUTION ADOPTING A FORM FOR USE IN REQUESTING GOVERNMENT RECORDS PURSUANT TO THE OPEN PUBLIC RECORDS ACT, N.J.S.A. 47:1A-1, ET SEQ.

WHEREAS, The Open Public Records Act ("OPRA") requires that a form be adopted for use by any person requesting access to a government record held or controlled by a public agency; and

WHEREAS, the Government Records Council has provided municipalities with a revised model form for use by records custodians; and

WHEREAS, it is the practice in Marlboro Township, that the Police Division handle requests for police records; and

WHEREAS, the Police Chief has recommended that Captain Steve Mennona be designated as the records custodian for police records; and

WHEREAS, the Police Chief has recommended that the attached form be made available for use by individuals seeking records from the Marlboro Police Division.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the appointment of Captain Steve Mennona as records custodian for records maintained by the Police Division is hereby approved, ratified and affirmed; and

BE IT FURTHER RESOLVED that the attached form is approved for use by the Marlboro Police Division when records requests are made to the Police Division;

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

- a. Marlboro Police Chief
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator
- d. Marlboro Township Clerk
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. #2010-424 (Appointing Keith E. Goff, as Alternate #1, to fill unexpired term of Paul Schlaflin, expiring 12/31/10) was introduced by reference, offered by Council President LaRocca, seconded by Councilman Cantor and passed on a roll call vote of 3 - 0 in favor with Councilwoman Mazzola abstaining (Absent: Metzger). Mayor Jonathan Hornik swore in Keith E. Goff.

RESOLUTION # 2010-424

RESOLUTION APPOINTING ZONING BOARD
OF ADJUSTMENT MEMBER

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

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

WHEREAS, the Township Council wishes to appoint KEITH E. GOFF to serve as a member of the Zoning Board of Adjustment, as Alternate # 1, to fill the unexpired term of Paul Schlaflin, which expires December 31, 2010.

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

That it hereby appoints KEITH E. GOFF to serve as a member of the Marlboro Township Zoning Board of Adjustment in the position specified above, and for the term indicated above.

At 8:40PM, Council Vice President Marder moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Council President LaRocca, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Metzger). Recess was called, and the executive session resumed at 8:45 PM.

RESOLUTION # 2010-418

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 10th day of November, 2010 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely collective bargaining agreement and 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 15 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

Council Vice President Marder left at 8:50PM.

At 8:55 PM, Councilwoman Mazzola moved that the meeting be opened. This was seconded by Councilman Cantor, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Marder, Metzger).

The following Res. #2010-419 (Authorizing Collective Bargaining Agreement PBA) was introduced by reference, offered by Councilman Cantor, seconded by Council President LaRocca and passed on a roll call vote of 3 - 0 in favor (Absent: Marder, Metzger).

RESOLUTION # 2010-419

A RESOLUTION AUTHORIZING A MEMORANDUM OF AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND PBA LOCAL 196

WHEREAS, the Township and PBA Local 196 ("PBA") are parties to a collective bargaining agreement that expired on December 31, 2008; and

WHEREAS, the Township and PBA engaged in negotiations for a successor collective bargaining agreement to cover employees in the PBA; and

WHEREAS, the terms of the settlement are set forth in a Memorandum of Agreement dated October 25, 2010 ("MOA"), attached hereto and made a part hereof; and

WHEREAS, such MOA will be incorporated in the successor collective bargaining agreement to the previous collective bargaining agreement that expired on December 31, 2008, for an extended term of January 1, 2009 through December 31, 2012.

NOW, THEREFORE, BE IT RESOLVED, by Township Council of the Township of Marlboro that it hereby approves the terms and conditions contained in the Memorandum of Agreement between the Township of Marlboro and PBA dated October 25, 2010, attached hereto and made a part hereof and that such Memorandum shall be deemed the successor collective bargaining agreement to the collective bargaining agreement that expired on December 31, 2008; and

BE IT FURTHER RESOLVED, the Township Council of the Township of Marlboro that it hereby approves and ratifies the execution of the attached Memorandum of Agreement; and

BE IT FURTHER RESOLVED, that the Township Council of the Township of Marlboro authorizes the execution of any documents necessary to implement the successor collective bargaining agreement; and

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

- a. PBA Local 196
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. DeCotiis, FitzPatrick & Cole, LLP

The following Res. #2010-420 (Authorizing Collective Bargaining Agreement FOP (Sergeants and Lieutenants) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman Cantor and passed on a roll call vote of 3 - 0 in favor (Absent: Marder, Metzger).

RESOLUTION #2010-420

A RESOLUTION AUTHORIZING A MEMORANDUM OF AGREEMENT
BETWEEN THE TOWNSHIP OF MARLBORO AND FOP
LODGE 15 (SERGEANTS AND LIEUTENANTS)

WHEREAS, the Township and Fraternal Order of Police Lodge 15 Sergeants and Lieutenants ("FOP") are parties to a collective bargaining agreement that expired on December 31, 2008; and

WHEREAS, the Township and FOP engaged in negotiations for a successor collective bargaining agreement to cover employees in the FOP; and

WHEREAS, the terms of the settlement are set forth in a Memorandum of Agreement dated October 25, 2010 ("MOA"), attached hereto and made a part hereof; and

WHEREAS, such MOA will be incorporated in the successor collective bargaining agreement to the previous collective bargaining agreement that expired on December 31, 2008, for an extended term of January 1, 2009 through December 31, 2012.

NOW, THEREFORE, BE IT RESOLVED, by Township Council of the Township of Marlboro that it hereby approves the terms and conditions contained in the Memorandum of Agreement between the Township of Marlboro and FOP dated October 25, 2010, attached hereto and made a part hereof and that such Memorandum shall be deemed the successor collective bargaining agreement to the collective bargaining agreement that expired on December 31, 2008; and

BE IT FURTHER RESOLVED, the Township Council of the Township of Marlboro that it hereby approves and ratifies the execution of the attached Memorandum of Agreement; and

BE IT FURTHER RESOLVED, that the Township Council of the Township of Marlboro authorizes the execution of any documents necessary to implement the successor collective bargaining agreement; and

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

- a. FOP (SERGEANTS AND LIEUTENANTS) LODGE 15
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. DeCotiis, FitzPatrick & Cole, LLP

The following Res. #2010-421 (Authorizing Collective Bargaining Agreement FOP (Captains) was introduced by reference, offered by Councilman Cantor, seconded by Councilwoman Mazzola and passed on a roll call vote of 3 - 0 in favor (Absent: Marder, Metzger).

RESOLUTION # 2010-421

A RESOLUTION AUTHORIZING A MEMORANDUM OF
AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO
AND FOP LODGE 15 (CAPTAINS)

WHEREAS, the Township and Fraternal Order of Police Lodge 15 Captains ("FOP") are parties to a collective bargaining agreement that expired on December 31, 2008; and

WHEREAS, the Township and FOP engaged in negotiations for a successor collective bargaining agreement to cover employees in the FOP; and

WHEREAS, the terms of the settlement are set forth in a Memorandum of Agreement dated October 25, 2010 ("MOA"), attached hereto and made a part hereof; and

WHEREAS, such MOA will be incorporated in the successor collective bargaining agreement to the previous collective bargaining agreement that expired on December 31, 2008, for an extended term of January 1, 2009 through December 31, 2012.

NOW, THEREFORE, BE IT RESOLVED, by Township Council of the Township of Marlboro that it hereby approves the terms and conditions contained in the Memorandum of Agreement between the Township of Marlboro and FOP dated October 25, 2010, attached hereto and made a part hereof and that such Memorandum shall be deemed the successor collective bargaining agreement to the collective bargaining agreement that expired on December 31, 2008; and

BE IT FURTHER RESOLVED, the Township Council of the Township of Marlboro that it hereby approves and ratifies the execution of the attached Memorandum of Agreement; and

BE IT FURTHER RESOLVED, that the Township Council of the Township of Marlboro authorizes the execution of any documents necessary to implement the successor collective bargaining agreement; and

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

