

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

May 19, 2011

The Marlboro Township Council held its regularly scheduled meeting on May 19, 2011 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

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

The Clerk called the Roll.

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

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

Councilman Metzger moved that the minutes of April 7, 2011 be approved. This was seconded by Councilman LaRocca and passed on a roll call vote 4 - 0 in favor, with Council Vice President Cantor abstaining.

Council President Marder opened the Public Hearing on Ord. #2011-11. As there was no one who wished to speak, the Public Hearing was closed. Council President Marder congratulated the Open Space Committee for a job well done. Business Administrator Jonathan Capp stated this will free up \$1M in green acres funding and potentially another four-hundred thousand \$400,000 in June. The following Resolution #2011-200/Ordinance #2011-11 (Purchase of Property for Open Space - Tennent Road - B. 180, L. 6) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-200

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

ORDINANCE # 2011-11

AN ORDINANCE AUTHORIZING THE PURCHASE OF REAL PROPERTY KNOWN AND DESIGNATED AS BLOCK 180, LOT 6 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY, WHICH SAID PROPERTY CONSISTS OF APPROXIMATELY 31 ACRES AND IS LOCATED ON THE EASTERLY SIDE OF TENNENT ROAD, NORTH OF THE INTERSECTION OF COMMERCIAL COURT AND TENNENT ROAD, FOR THE PURPOSES OF OPEN SPACE PRESERVATION AND RECREATION

which was introduced on May 5, 2011, public hearing held May 19, 2011, be adopted on second and final reading this 19<sup>th</sup> day of May, 2011.

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

Council President Marder opened the Public Hearing on Ord. #2011-12. As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2011-201/Ordinance #2011-12 (Appropriating \$300,000 from Water Utility Capital for Acquisition of Land) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-201

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

ORDINANCE # 2011-12

AN ORDINANCE APPROPRIATING \$300,000 FROM WATER UTILITY CAPITAL SURPLUS TO FULLY FUND COSTS ASSOCIATED WITH THE ACQUISITION OF LAND AND ANY RELATED CAPITAL IMPROVEMENTS

which was introduced on May 5, 2011, public hearing held May 19, 2011, be adopted on second and final reading this 19<sup>th</sup> day of May, 2011.

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

The following Resolution #2011-187/Ordinance #2011-10 (Amending Chapter 156 - Water Use - Concerning Water Conservation) was introduced by reference, offered by Councilman LaRocca, seconded by Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-187

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

ORDINANCE # 2011-10

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 356, "WATER USE", ARTICLE I, "WATER CONSERVATION", SECTIONS 356-1 THROUGH 356-5, OF THE CODE OF THE TOWNSHIP OF MARLBORO, TO REVISE WATER CONSERVATION MEASURES THROUGHOUT MARLBORO TOWNSHIP

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 June 16, 2011 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2011-10

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 356, "WATER USE", ARTICLE I, "WATER CONSERVATION", SECTIONS 356-1 THROUGH 356-5, OF THE CODE OF THE TOWNSHIP OF MARLBORO, TO REVISE WATER CONSERVATION MEASURES THROUGHOUT MARLBORO TOWNSHIP

BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that, Chapter 356 Water Use, Article I, Water Conservation, Sections 356-1 through 356-5, of the Code of the Township of Marlboro, be and is hereby amended and supplemented to revise water conservation measures through Marlboro Township as follows:

§ 356-1. Water conservation guidelines for all users including residential, commercial, academic, municipal properties and parks and recreation fields.

A. Except as may be further restricted in accordance with Article IV of this chapter, the use of water within the Township of Marlboro, regardless of the source of water (public community water system, private well, or otherwise), shall conform to the following:

(1) All citizens are hereby encouraged to observe indoor water conservation measures at all times; and

(2) All citizens are required to adhere to the following outdoor water conservation measures at all times:

(a) Lawns, landscaping, shrubbery, plants, and other vegetation may ONLY be watered or irrigated two (2) days per week. Properties with odd-numbered addresses may only be watered on Tuesdays and Saturdays, and properties with even-numbered addresses or no addresses may only be watered on Wednesdays and Sundays.

(b) Flowers, shrubbery, plants, and other non-lawn landscaping may be additionally watered at any time, as needed, with a hand-held hose equipped with an automatic shut-off nozzle.

(c) Vehicles, equipment, decks, patios, buildings, and other structures may be washed any day with a hand-held hose equipped with an automatic shut-off nozzle.

(d) Filling of Swimming Pools: *[from § 356-20 Swimming pool regulations.]*

[1] On an alternate-day basis, water may be added to existing swimming pools in order to maintain appropriate water levels when water has been lost due to evaporation or swimming pool use. Swimming pools on properties with odd-numbered addresses may only be filled on odd calendar dates, and swimming pools on properties with even-numbered addresses may only be filled on even calendar dates. NO EXISTING SWIMMING POOLS MAY BE FILLED ON THE 31<sup>ST</sup> DAY OF ANY MONTH.

[2] Existing swimming pools that have been completely or nearly drained, and all new swimming pools, may only be filled pursuant to a swimming pool filling permit issued by the Marlboro Township Water Utility Division, even if the swimming pool is located in the franchise area of the Gordon's Corner Water Company. (In such instances the issuance of a swimming pool filling permit will be based upon prevailing water availability conditions associated with the water system of Gordon's Corner Water Company.)

[3] Applications for swimming pool filling permits shall be obtained from and submitted to the Marlboro Township Water Utility

Division. There shall be NO fees charged for the application process or for the issuance of a permit, itself. The issuance of a swimming pool filling permit shall be subject to the continued availability of adequate and sufficient supplies of water, as determined by the Township's Director of Public Works or Superintendent of the Water Utility Division. A permit may establish and/or limit the time [days and hours] during which a swimming pool may be filled.

B. In addition to the mandatory water conservation measures delineated in §356-1A(2)(a) through (d), above, all citizens are hereby encouraged to also observe the following additional water conservation measures:

(1) Whenever possible, lawns, landscaping, shrubbery, plants, and other vegetation should be irrigated only during non-daylight hours so that the rate of evaporation is slowed and water has an opportunity to penetrate soils and reach root systems. Ideally, outside irrigation should be performed between the hours of 10:00 p.m. and 4:00 a.m. If possible, all outside watering should be avoided between the hours of 6:00 a.m. and 11:00 a.m. and between the hours of 6:00 p.m. and 8:00 p.m.

(2) The watering of any single area of property should be limited to 20 minutes.

C. Pursuant to N.J.S.A. 52:27D-123.13, all automatic lawn sprinkler systems installed after September 8, 2000, shall be equipped with an automatic rain sensor device or switch that will override the irrigation cycle of the automatic lawn sprinkler system when adequate rainfall has occurred.

D. The regulations established in Article IV of this chapter shall supersede the regulations established in Article I of this chapter when a water emergency has been declared using the procedures established by Article IV of this chapter.

E. The regulations, orders or requirements established by the State of New Jersey shall supersede the requirements established by this article when the state requirements are more stringent than those set forth in Article I.

§ 356-2. Enforcement of water conservation guidelines.

The regulations set forth in Article I shall be enforced by the Township Engineer, Code Enforcement Officer, and/or enforcement personnel in the Department of Public Safety (collectively, the "Enforcement Officials"). Whenever an Enforcement Official shall observe a violation of any water use regulation established in this chapter, the violator shall

be given a written warning and explanation of the penalties set forth for a violation of these regulations. The Enforcement Officials shall keep such records as may be reasonable and necessary for the purpose of determining the persons and business entities that have been issued a written warning for a violation of the provisions of this Article I or the provisions of Article IV and, in the event of any subsequent violation by a previously warned person or business entity, the Enforcement Officials are hereby duly authorized to issue summonses for the violation of the water use regulations imposed pursuant to Article I.

§ 356-3. Violations and penalties.

After a written warning has been issued in accordance with § 356-2 above, any person or business entity that thereafter violates the water use regulations imposed pursuant to Article I shall be subject to a minimum penalty of \$50 for such first violation. No municipal court appearance shall be required for such first violation, unless the person or business entity pleads not guilty to the alleged violation. Each subsequent violation shall be subject to a penalty to be imposed at the discretion of the Municipal Court Judge, up to the maximum penalties authorized by § 4-3 of the Code.

§ 356-4. Exemptions.

The restrictions established in this Article I shall not apply to the following:

- A. Commercial crops, sod farms, plants or vegetative stock at nurseries or retail outlets and commercial golf courses;
- B. Outdoor irrigation necessary, for one day only, when a treatment involving an application of chemicals requires immediate watering to preserve an existing landscape or to establish a new landscape;
- C. Outdoor irrigation necessary for the establishment and/or maintenance of new sod installations, lawn renovations (sod, plugs, and other turf materials) and/or new landscaping or plantings within the first 21 consecutive days of planting;
- D. Visually supervised operation of watering systems by a State of New Jersey licensed irrigation contractor for short periods of time to check the operational condition and effectiveness of such watering systems; and
- E. The use of reclaimed water for beneficial reuse ("RWBR"), as approved in a New Jersey Pollutant Discharge Elimination System permit

pursuant to N.J.A.C. 7:14A-1 *et seq.*, and any conditions pertaining thereto.

§ 356-5. (Reserved)

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

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

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

The following Resolution #2011-212/Ordinance #2011-15 (Amending Chapter 356 - Water Use - Concerning Water Emergencies) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-212

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

ORDINANCE # 2011-15

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 356, "WATER USE", ARTICLE IV "WATER EMERGENCIES", SECTIONS 356-17 THROUGH 356-19, OF THE CODE OF THE TOWNSHIP OF MARLBORO, TO REVISE WATER EMERGENCY MEASURES THROUGHOUT MARLBORO TOWNSHIP

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 June 16, 2011 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2011-15

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 356, "WATER USE",  
ARTICLE IV "WATER EMERGENCIES", SECTIONS 356-17 THROUGH 356-19,  
OF THE CODE OF THE TOWNSHIP OF MARLBORO, TO REVISE  
WATER EMERGENCY MEASURES THROUGHOUT MARLBORO TOWNSHIP

BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that, Chapter 356 Water Use, Article II, Water Emergencies, Sections 356-17 through 356-19 of the Code of the Township of Marlboro, be and is hereby amended and supplemented to revise water emergency measures through Marlboro Township as follows:

§ 356-17. Declaration of a Water Emergency.

A. Whenever the Municipal Engineer certifies that an emergency exists in the water supplies serving Marlboro Township, a water emergency may be declared:

- (1) Upon the adoption of a resolution of the Township of Council of the Township of Marlboro. Any such resolution declaring a water emergency may be adopted by the Township Council at any regular, special, adjourned or emergency public meeting of the Township Council and such resolution shall become effective immediately upon its filing in the Office of the Township Clerk and shall continue in effect until modified or repealed by a subsequent resolution; or,
- (2) If the nature of the attendant circumstances will not permit delay, upon the issuance of a proclamation by the Mayor of the Township of Marlboro. The proclamation of an emergency shall be conclusive as to the fact of the existence of an emergency and shall be binding on all persons upon its filing in the Office of the Township Clerk. The terms and provisions of the proclamation shall remain and continue in effect until modified or repealed by a subsequent proclamation.

B. Water emergencies may also be declared by other governmental units or agencies having jurisdiction over water supplies and water usage within Marlboro Township, including the Governor of the State of New Jersey and the New Jersey Department of Environmental Protection.

§ 356-18. Prescription of regulations and prohibition of certain uses during emergency conditions.

A. Any resolution that is adopted by the Township Council and any proclamation that is issued by the Mayor for the declaration of a water emergency may also prescribe regulations to:

- (1) Establish indoor conservation measures;
- (2) Prohibit or restrict the use of water for any purpose not deemed necessary for the health or safety of the public;
- (3) Allocate the available water supplies;
- (4) Reduce the consumption of water;
- (5) Prevent waste for the period of the emergency; and
- (6) Implement such other measures as are deemed reasonable and necessary to protect the health, safety and welfare of the public.

B. All regulations included in any resolution or proclamation, as well as any regulations subsequently promulgated, shall have the same force and effect as if specifically set forth in this section. Every owner, lessee, tenant, and occupant of any dwelling, building, structure, or property within Marlboro Township shall, upon the promulgation of any regulations, become bound by them and shall conform to them in the use of water and the maintenance of water service connections and equipment.

C. Any regulation or water use restriction set forth in a resolution or proclamation shall remain and continue in effect until modified, amended, or rescinded by a subsequent resolution or proclamation, as the case may be. Additional regulations may, similarly, be promulgated by the adoption of a subsequent resolution or the issuance of a subsequent proclamation.

D. Unless excepted by the provisions of subsection 356-18D(1), below, any water use restriction imposed pursuant to this Article IV shall apply equally and fully to every owner, lessee, tenant, and occupant of any dwelling, building, structure, or property within Marlboro Township, regardless of whether water service is provided by the Marlboro Township Water Utility Division, Gordon's Corner Water Company, private wells, or private connections to surface water sources (e.g. ponds, streams, brooks, basins, etc.).

- (1) Any person or business entity that uses a private well for potable water service and/or irrigation purposes shall not be restricted from the continuing use of such well by any water use restriction imposed pursuant to this Article IV, provided:
  - (a) The terms of the resolution or proclamation that is used to declare a water emergency expressly excludes private wells from the scope of the declaration

[generally, emergency conditions that are strictly limited to a particular water system or source will not necessitate restrictions being imposed on other water sources, but emergency conditions that are broad based, such as a drought, will, typically, result in water use restrictions being applicable to all citizens, regardless of water source]; and

(b) The private well has been specifically registered with the Township for use during a water emergency. A private well that is registered under this section shall be subject to inspection by Township personnel to verify that there are no connections or cross-connections between the well and a public community water system.

(2) Nothing in this section shall be read so as to prohibit, restrict, or limit water usage where a bona fide health emergency exists.

E. Reasonable attempts shall be made to notify citizens and residents of the Township of the existence of a water emergency, the restrictions imposed, and the penalties for violations.

§ 356-19. Enforcement of water use restrictions.

The water use restrictions imposed pursuant to Article IV shall be enforced during a water emergency by the Township Engineer, Code Enforcement Officer and enforcement personnel in the Department of Public Safety (collectively, the "Enforcement Officials"). Whenever an Enforcement Official shall find a violation of any water use restriction established by this chapter, the violator shall be given a written warning and explanation of the penalties for a violation of the Code. The Enforcement Officials shall keep such records as may be reasonable and necessary for the purpose of determining the persons and business entities that have been issued a written warning for a violation of the provisions of Article I or this Article IV and, in the event of any subsequent violation by a previously warned person or business entity, the Enforcement Officials are hereby duly authorized to issue summonses for the violation of the water use restrictions imposed pursuant to this Article IV.

§ 356-20. Violations and penalties.

After a written warning for a first offense in accordance with § 356-2 or § 356-19, any person or business entity that thereafter violates the water use restrictions imposed pursuant to this Article IV shall be subject to a minimum penalty of \$50 for such first violation. No municipal court appearance shall be required for such first violation, unless the person or business pleads not guilty to the alleged violation. Each subsequent violation shall be subject to a penalty to be imposed at the discretion of the Municipal Court Judge, up to the maximum penalties authorized by § 4-3 of the Code.

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

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

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

The following Resolution #2011-202/Ordinance #2011-13 (Appropriating \$275,000 for Improvements to Glenbrook Retaining Walls - COAH) was introduced by reference, offered by Councilwoman Mazzola and seconded by Councilman LaRocca. Discussion followed, during which Township Attorney Louis Rainone and Business Administrator Jonathan Capp answered Council's questions. After discussion, the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-202

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

ORDINANCE # 2011-13

AN ORDINANCE APPROPRIATING \$275,000 FROM THE AFFORDABLE HOUSING TRUST FUND TO FULLY FUND COSTS ASSOCIATED WITH CAPITAL IMPROVEMENTS TO THE RETAINING WALLS LOCATED AT GLENBROOK ESTATES

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 June 16, 2011 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2011-13

AN ORDINANCE APPROPRIATING \$275,000 FROM THE AFFORDABLE HOUSING TRUST FUND TO FULLY FUND COSTS ASSOCIATED WITH CAPITAL IMPROVEMENTS TO THE RETAINING WALLS LOCATED AT GLENBROOK ESTATES

WHEREAS, the Governing Body of the Township of Marlboro desires to preserve existing affordable housing credits by authorizing improvements and repairs to the retaining walls at Glenbrook Estates in the Township of Marlboro, and

WHEREAS, the Township has sought written approval from the Commissioner of the Department of Community Affairs for this purpose; and

WHEREAS, the required funds needed for this purpose are currently available in the Affordable Housing Trust Fund of the Township of Marlboro.

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 a sum of \$275,000 is hereby appropriated for the aforementioned acquisition and related capital improvements from the Affordable Housing Trust Fund Account; and

BE IT FURTHER ORDAINED that the Chief Financial Officer has executed a Certification of Funds and determined that sufficient funds are available for this purpose in the Affordable Housing Trust Fund Account; and

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

The following Resolution #2011-203/Ordinance #2011-14 (Amending Code - Section 220-30 entitled "Guarantees, Inspections and Developer's Agreement) was introduced by reference, offered by Councilman LaRocca and seconded by Council President Marder. Discussion followed, during which Township Attorney Louis Rainone and Councilman LaRocca answered Council's questions. After discussion, the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-203

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

ORDINANCE # 2011-14

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, SECTION 220-30 ENTITLED, "GUARANTIES, INSPECTIONS AND DEVELOPER'S AGREEMENTS" AND SECTION 220-169, "OFF-STREET PARKING", TO INCREASE FEES FOR DRIVEWAY INSPECTIONS

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 June 16, 2011 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2011-14

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, SECTION 220-30 ENTITLED, "GUARANTIES, INSPECTIONS AND DEVELOPER'S AGREEMENTS" AND SECTION 220-169, "OFF-STREET PARKING", TO INCREASE FEES FOR DRIVEWAY INSPECTIONS

BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the Code of the Township of Marlboro Section 220-30 entitled, "GUARANTIES, INSPECTIONS AND DEVELOPER'S AGREEMENTS", Sub-Section 220-30(A), be and is hereby amended and supplemented to include drainage improvements and driveways/driveway aprons as required bonded improvements as follows:

A. No final subdivision plat or site plan shall be approved by the approving authority until all items required to be bonded (on-site, off-site, on-tract and off-tract) have been installed, inspected, certified and approved by the Township Engineer and accepted by the governing body and a maintenance guaranty has been filed and accepted by the governing body in accordance with the requirements of this section, or their installation shall have been provided for by a performance guaranty accepted and approved by the Township Engineer and Township Attorney in accordance with the requirements of this section. The performance guarantee shall assure the installation and completion of improvements which the approving authority may deem necessary or appropriate including, but not limited to, streets, grading, pavement,

gutters, curbs, driveways and driveway aprons, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the Map Filing Law, N.J.S.A. 46:23-9.9, et. seq., water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, on site and off site drainage control measures, including, but not limited to, grading, erosion, control and sedimentation control devices, public improvements of open space, and in the case of site plans only, other on-site improvements and landscaping. No maintenance bond shall be accepted nor shall any partial facility be accepted for any item which has further stages of work to be completed or which will need to be altered or reworked in any manner due to the installation or connection of any other facility. Any improvements installed prior to final plat application that do not meet the standards of this chapter or other regulations shall be added to the performance guaranty.

The remainder of this Section shall remain unchanged and in full force and effect.

BE IT FURTHER ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the Code of the Township of Marlboro Section 220-169 entitled, "Off-Street Parking", Sub-Section 220-169(A)(10), be and is hereby amended and supplemented to revise the fees for inspections of driveways as follows:

220-169(A)(10) There shall be due to the Township an inspection fee in the amount of \$100.00 for each of the below inspections of the driveway. This fee shall be payable to the Township prior to the inspection of the driveway. Inspections are required for:

- (a) Subgrade material;
- (b) Asphalt base course; and
- (c) Asphalt surface course.

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

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

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

The following Resolution #2011-204 (Amendment to Shared Services Agreement) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 4 - 1 in favor, with Council Vice President Cantor voting no.

RESOLUTION # 2011-204

AUTHORIZING AN AMENDMENT TO THE SHARED SERVICES AGREEMENT  
WITH THE MARLBORO TOWNSHIP BOARD OF EDUCATION FOR BUS  
TRANSPORTATION SERVICES OF CHILDREN TO AND FROM THE  
TOWNSHIP OF MARLBORO'S 2011 SUMMER RECREATION CAMP PROGRAM

WHEREAS, the Marlboro Township Board of Education (the "Board") owns/leases a fleet of school buses used to transport children to and from schools that comprise the Marlboro Township School District (the "District"); and

WHEREAS, the Municipal Council approved the execution of a shared services agreement with the Marlboro Township Board of Education (the "Board") to provide transportation services to the Township of Marlboro (the "Township") on May 5, 2011; and

WHEREAS, the Township requires that additional busing for trips be provided under the agreement (the "Transportation Services"); and

WHEREAS, pursuant to N.J.S.A. 18A:39-22, the Board is authorized to permit the use of school buses it owns or leases for the purpose of transporting children and adults participating in a recreation or other program operated by the municipality in which the Board's School District is located; and

WHEREAS, the Township and the Board desire to include additional services under the Shared Services Agreement for the period commencing on or about June 27, 2011 and terminating on August 12, 2011; and

WHEREAS, the costs of the Transportation Services shall be paid by the Township to the Board at a rate of \$200.00 per day per bus in an amount not to exceed \$72,600.00; and

WHEREAS, N.J.S.A. 40A:65-1 et seq. authorizes local units to enter into shared services agreements for the provision of services, including the transportation services contemplated herein; and

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

WHEREAS, funds for the transportation services will be available in the Recreation Trust Account #T-17-55-867-288; and

WHEREAS, the Mayor and Marlboro Township Council desire to enter into the proposed Shared Services Agreement with the Board pursuant to the above-described terms and conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Mayor and Township Clerk are hereby authorized and directed to execute and witness, respectively, the proposed amendment to the Shared Services Agreement in a form substantially similar as that attached hereto for the provision of transportation services for Marlboro Township for the term and conditions described hereinabove; and

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

BE IT FURTHER RESOLVED, that a copy of the shared services agreement authorized herein shall be open to the public for inspection in the Township Clerk's Office; and

BE IT FURTHER RESOLVED that a duly certified copy of this resolution be forwarded to:

- a. Marlboro Township Board of Education
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. DeCotiis, FitzPatrick & Cole, LLP

The following Resolution #2011-169 (Authorizing Contract for Engineering Services - Station Rd. Phase II (Capital 2011 060-3) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-169

A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES CONTRACT  
BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO

FOR PROFESSIONAL ENGINEERING SERVICES IN CONNECTION  
WITH IMPROVEMENTS TO STATION ROAD (PHASE II)

WHEREAS, Station Road between Briarcliff Drive (the limit of the Phase I improvements) and Crine Road in Marlboro Township needs to be repaved; and

WHEREAS, there are three County culverts that cross Station Road, ML-17, ML-18 and ML-19, whose upsizing is mutually dependent with the paving of the roadway; and

WHEREAS, in order to assess the potential upsizing of the three culverts, the County is requiring that the hydraulic capacity of the culverts be studied and the culverts be reconstructed as part of the repaving should the study determine that the culverts are undersized; and

WHEREAS, the County has agreed to pay \$75,000.00 associated with the study, redesign and permitting of the culverts; and

WHEREAS, the Township desires to complete the improvements and is in need of various engineering services in order to do so; and

WHEREAS, CME Associates has provided a proposal dated January 29, 2011 (the "Proposal") for the additional services required 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 \$130,000.00 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 in the amount of \$130,000.00 from Accounts # X-04-55-960-939 and # X-04-55-962-907; and

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

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

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

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include professional engineering services Township by way of its Township Engineers to perform professional engineering services in connection with IMPROVEMENTS TO STATION ROAD PHASE II ("Professional Services"), at a fee not to exceed \$130,000.00 for such Professional Services, as further described and set forth in CME's Proposal dated January 29, 2011 ("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 \$130,000.00 for such additional Professional Services for the Project as described in the Proposal; and

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

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

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

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

The following Resolution #2011-205 (Authorizing Cost Sharing Agreement with Monmouth County - Station Rd. Phase II - Capital 2011 060-3) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-205

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE  
TOWNSHIP OF MARLBORO AND MONMOUTH COUNTY IN CONNECTION  
WITH IMPROVEMENTS TO STATION ROAD (PHASE II) PURSUANT  
TO N.J.S.A. 40A:65-1 ET SEQ.

WHEREAS, Station Road between Briarcliff Drive (the limit of the Phase I improvements) and Crine Road in the Township of Marlboro needs to be repaved; and

WHEREAS, there are three Monmouth County culverts that cross Station Road, ML-17, ML-18 and ML-19, whose upsizing is mutually dependent with the paving of the roadway; and

WHEREAS, in order to assess the potential upsizing of the three culverts, the County is requiring that the hydraulic capacity of the culverts be studied and the culverts be reconstructed as part of the repaving should the study determine that the culverts are undersized; and

WHEREAS, Monmouth County has agreed to pay \$75,000.00 associated with the study, redesign and permitting of the culverts; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to enter into an agreement with Monmouth County to share the engineering study, redesign and permitting expense ("engineering services") associated with the project; and

WHEREAS, the Township of Marlboro wishes to enter into a Shared Services Agreement with the County for the provision of the aforesaid engineering services to residents of Marlboro Township; and

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

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

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, that the Mayor and Township Clerk are hereby authorized and directed to execute and witness, respectively, the proposed Shared Services Agreement with the County of Monmouth for the provision of engineering services for the Improvements to Station Road Phase II; and

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

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

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

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

The following Resolution #2011-206 (Corrective Action Plan) was introduced by reference, offered by Councilman Metzger, seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-206

RESOLUTION APPROVING AND ACCEPTING  
CORRECTIVE ACTION PLAN

WHEREAS, the SFY 2009 Annual Audit of the Township of Marlboro, conducted by Wiss & Company, LLP, contained certain recommendations requiring action, and

WHEREAS, these recommendations have been reviewed by the Township's Chief Financial Officer, and

WHEREAS, the Chief Financial Officer, in accordance with the requirements promulgated by the N.J. Division of Local Government Services, has developed a plan to address the recommendations listed by the auditors,

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Marlboro that the Corrective Action Plan for the SFY 2009 Annual Municipal Audit, hereto attached, is approved and accepted, and

BE IT FURTHER RESOLVED that the Township Clerk is hereby directed to transmit a certified copy of this resolution and its attachments to the Division of Local Government Services

TOWNSHIP OF MARLBORO  
CORRECTIVE ACTION PLAN  
2009  
MUNICIPAL AUDIT

Finding 2009-1 - Recommendation:

General Fixed Asset Accounting be maintained in conformity with Technical Accounting Directive 85-2

Corrective Action:

Nearly a decade ago, the Township had a physical inventory of goods completed and has not maintained fixed asset records since. The Township administration has taken steps to re-establish a database for the physical inventory of fixed assets and set up the internal controls necessary to keep the Fixed Asset accounting system current. This has been an area which needed to be addressed as it has been a recurring recommendation in recent audits.

Finding 2009-2 - Recommendation:

Encumbrance Accounting System

Corrective Action:

Internal Controls are being put in place to assure that funds are encumbered before either a purchase is made by any Township department or Council action is taken on any Council Agenda item. Compliance with the internal controls, once set, will assure that funds are in place prior to any action within the Township operations and will eliminate any audit comment pertaining to such.

Finding 2009-3 - Recommendation:

POAA Fees deposited into Current Fund

Corrective Action:

The Court Administrator has been instructed to split the POAA monies from the regular Court fine deposits. This condition noted by this comment should already be rectified going forward.

Finding 2009-4 - Recommendation:

Municipal Court - Tickets Pending by Age

Corrective Action:

The Court Administrator has been informed of this finding and instructed to take the recommended action to rectify the condition.

The following Resolution #2011-207 (Resolution Establishing Fixed Assets Threshold) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-207

WHEREAS, Technical Accounting Directive 85-2 requires the maintenance of an accounting of General Fixed Assets, and

WHEREAS, the reporting threshold must be established by action of the Governing Body of each municipality.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, Monmouth County, State of New Jersey that the threshold for fixed asset accounting be set at \$5,000.00 for the Township of Marlboro.

The following Resolution #2011-208 (Budget Amendment - Click It or Ticket Grant - Chapter 159) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-208

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;

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2011 in the sum of \$4,000.00, which item is now available as a revenue from the New Jersey Division of Highway Traffic Safety. The item of revenue is "Click it or Ticket 2011 Mobilization Grant" for \$4,000.00.

BE IT FURTHER RESOLVED that the amount of \$4,000.00 is hereby appropriated under the caption "Click it or Ticket 2011 Mobilization Grant".

The following Resolution #2011-209 (Endorsing 2011 COPS Safe Schools Program Grant) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-209

WHEREAS, the US Department of Justice is offering the 2011 COPS Safe Schools (SOS) Program; and

WHEREAS, SOS grants help state and local agencies with delinquency prevention, community planning and development, school safety resources, and technology development; and

WHEREAS, SOS funding helps grantees establish and enhance a variety of school and community safety programs to prevent and respond to juvenile crime within their communities; and

WHEREAS, SOS grants help cover the cost of security measures such as the placement and use of metal detectors, locks, lighting, and other deterrent measures; security assessments; security

training for students and personnel; and other measures to significantly increase school security; and

WHEREAS, grantees are required to contribute a local match of 50 percent toward the total cost of the approved grant project; and

WHEREAS, the Township of Marlboro is interested in seeking out alternative sources of funding for security in the schools; and

WHEREAS, the Township of Marlboro wishes to apply for funding under the SOS Program for the Marlboro Division of Police and Board of Education.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that Marlboro Township hereby endorses the submission of a Grant Application to the US Department of Justice under the 2011 COPS Safe Schools Program.

The following Resolution #2011-211 (Raffle License Arms Wide Open Childhood Cancer Foundation - Off Premise 50/50) was introduced by reference, offered by Councilman Metzger, seconded by Council President Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-211

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License RL #: 12-2011 be and it is hereby granted to Arms Wide Open Childhood Cancer Foundation, Inc., 3 Dickson Road, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle (Off premise 50/50) will be held on September 16, 2011 at 7PM at 3 Dickson Road, Marlboro, New Jersey 07746.

The following Resolution #2011-213 (Authorizing Award of Bid - Internet-Based Reverse Auction for Purchase of Electric Power Supplies) was introduced by reference, offered by Councilman LaRocca, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-213

A RESOLUTION AUTHORIZING THE AWARD OF BID FOLLOWING INTERNET-BASED REVERSE AUCTIONS FOR THE PURCHASE OF ELECTRIC POWER SUPPLIES

WHEREAS, on February 3, 2011, the Township Council authorized the Township of Marlboro to use internet-based reverse auctions for the purchase of electric power supplies through participation in the New

Jersey E-Procurement Pilot Program in accordance with the provisions of the Local Unit Electronic Technology Pilot Program and Study Act (Resolution #2011-72); and

WHEREAS, due to the nature of the commodity to be purchased, a bid acceptance and contract award must be made within hours of the conclusion of the reverse auctions, which are presently scheduled to be conducted on June 9, 2011; and

WHEREAS, the Mayor and Township Council have expressed their continued support for this competitive energy initiative and desire to proceed with the procurement electric generation service through a previously approved cooperative pricing system and cooperative pricing agreement with the Marlboro Township Board of Education (Resolution #2011-73, adopted on February 17, 2011);

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, and State of New Jersey, that the Mayor, or his designee, is hereby authorized to award a contract to and execute an agreement, in a form approved by the Township Attorney, with the lowest responsible bidder resulting from the aforementioned internet-based, reverse auctions for the purchase of electric power supplies, provided the bid accepted is less than the rate then being paid by the Township to JCP&L for the same electric generation service and also less than the "Price To Compare" amount established, in advance of the reverse auctions, by World Energy Solutions, Inc., the Township's on-line purchasing agent; and

BE IT FURTHER RESOLVED that the Mayor, or his designee, shall report on the bid results at the first meeting of the Township Council following the conclusion of the auctions to enable the Township Council to ratify and confirm the contract award.

The following Resolution #2011-210 (Cancelling June 2, 2011 Council Meeting) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2011-210

BE IT RESOLVED by the Township Council of the Township of Marlboro that the regularly scheduled Council meeting of June 2, 2011 is hereby cancelled.

At 8:30PM, Councilman Metzger moved that the meeting be adjourned. This was seconded by Councilwoman Mazzola and passed on a roll call vote of 5 - 0 in favor.

MINUTES APPROVED: June 16, 2011

OFFERED BY: Cantor	AYES: 4
SECONDED BY: LaRocca	NAYS: 0
	ABSTAIN: Mazzola

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ALIDA MANCO,  
MUNICIPAL CLERK

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RANDI MARDER,  
COUNCIL PRESIDENT