

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

JANUARY 19, 2005

The Marlboro Township Council held its regularly scheduled meeting on January 19, 2006 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Morelli opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regular meetings of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 3, 2006; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Council Vice President Cantor, Councilman Pernice, Councilman Rosenthal, Councilwoman Tragni and Council President Morelli.

Also present were: Mayor Robert Kleinberg, Andrew Bayer, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Councilman Pernice moved that the minutes of December 1 and December 15, 2005 be approved. This motion was seconded by Council Vice President Cantor and the minutes as amended were passed on a roll call vote of 3 - 0 with Councilman Rosenthal and Councilwoman Tragni abstaining.

The following Resolution #2006-34/Ordinance #2006-1 (Farmland Preservation) was introduced by reference, offered by Councilman Rosenthal, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-34

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

ORDINANCE # 2006-1

AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLES I AND III OF CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ALLOW FOR THE OPERATION AND PROTECTION OF FARMS IN ALL ZONES OF THE 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 February 2, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-1

AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLES I AND III OF CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ALLOW FOR THE OPERATION AND PROTECTION OF FARMS IN ALL ZONES OF THE TOWNSHIP

WHEREAS, the Township of Marlboro recognizes that agriculture provides manifold benefits to this community and society in general by the preservation of open space, clean air and water, and the beauty of the rural countryside, and that, additionally, the preservation and continuation of agricultural lands and operations in the Township of Marlboro is necessary and desirable as a source of agricultural products and values for this and future generations.

WHEREAS, the Marlboro Township Council finds and declares, in light of the numerous social, economic and environmental benefits which result from agricultural activities and serve the interests of the citizens of the town, that it is the express intention of this Ordinance to establish policies to foster and protect agricultural operations on farms and particularly from unreasonable regulations and nuisance actions where recognized methods and techniques of agricultural production are used.

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 the definition of "Farm" included in Section 84-4 "Definitions, Purpose and Interpretation" of Chapter 84 "Land Use Development and Regulations" of the Code of the Township of Marlboro is hereby amended as follows:

"FARM"-- A parcel or parcels of land, whether contiguous or non contiguous, together with buildings, structures and facilities which are actively devoted to agricultural or horticultural use, including, but not limited to, cropland, pasture, idle or fallow land, woodland, wetlands, farm ponds, roads, and enclosures related to agricultural pursuits, and which:

(1) Consists of no less than five acres and produces agricultural or horticultural products worth \$2,500.00 or more annually; or

(2) Consists of less than five acres and produces agricultural or horticultural products worth \$50,000.00 or more annually."

BE IT FURTHER ORDAINED, that a new subsection "F" is added to Section 84-101 of Article II "Subdivision, Design and Performance Standards" and shall read in its entirety as follows:

"F. In addition to the buffer areas otherwise required by this Chapter, buffer areas are required along lot and street lines of all residential lots within any major subdivision of five acres or more where such property lines or the center lines of such adjacent streets abut a farm. The minimum width of such buffer areas shall be the greater of twenty five feet or the width otherwise required for buffers within that zone. It is the intent of this section to shift the burden of providing buffers and separation between agricultural and residential uses to such residential uses to the extent reasonable and practicable."

BE IT FURTHER ORDAINED, that Subsection D(15) of Section 84-30 "General Provisions" of Article III "Zoning: Standards and Regulations" of Chapter 84 "Land Use Development and Regulations" of the Code of the Township of Marlboro is hereby amended as follows:

"(15) Farms. Farms, as defined in Section 84-4 of this Chapter, shall be permitted in all zone districts (whether or not farms or agriculture are explicitly permitted uses), in accordance with Section 84-30.1 and the setback requirements of the zone. Any required setback may be reduced by the width of any agricultural buffer which has been required pursuant to Section 84-101, Subsection F of this Chapter."

BE IT FURTHER ORDAINED, that a new Section 84-30.1 entitled "Right-to-Farm" is added to Article III "Zoning: Standards and Regulations" of Chapter 84 "Land Use Development and Regulations" of the Code of the Township of Marlboro.

"§ 84-30.1 Right to Farm

A. Findings and Legislative Intent.

1. The Township Council recognizes the benefits to society in general, the community and its neighborhoods, from horticulture, commercial and home agriculture and animal husbandry, hereafter called farming, by the preservation of open space and the preservation of the aesthetics of the rural countryside and the supplying of present and future generations with the bounties resulting from such activities; and

2. The Township Council has determined that such horticulture, agricultural and animal husbandry uses are necessary to humankind and that the right to carry on such pursuits should be protected for the benefit of the residents of the Township of Marlboro; and

3. The Township Council finds and determines that farmers must be secure in their ability to earn a livelihood and to utilize acceptable, necessary and recognized farming procedure and techniques; and

4. The Township Council finds and determines that the right to operate a farm is a natural right and is hereby ordained to exist, in accordance with Section 84-30D(15), as a permitted use everywhere in the Township, regardless of zoning designations and regardless of whether specified as permitted uses therein.

B. Definitions.

As used in this Section, the following words shall have the following meanings:

"FARM"-- A parcel or parcels of land, whether contiguous or non contiguous, together with buildings, structures and facilities which are actively devoted to agricultural or horticultural use, including, but not limited to, cropland, pasture, idle or fallow land, woodland, wetlands, farm ponds, roads, and enclosures related to agricultural pursuits, and which:

1. Consists of no less than five acres and produces agricultural or horticultural products worth \$2,500.00 or more annually; or

2. Consists of less than five acres and produces agricultural or horticultural products worth \$50,000.00 or more annually.

C. The right to operate a farm is a natural right and is hereby ordained to exist, in accordance with Section 84-30D(15), as a permitted use everywhere in the Township, regardless of zoning designations and regardless of whether specified as permitted uses therein.

D. In accordance with the purposes and preambles set forth herein, the following non-exclusive list of farming activities shall be deemed established as accepted, recognized and entitled to encouragement and protection:

1. Production of agricultural and horticultural crops, trees, apiary and forest products, livestock, poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping.
2. The housing and grazing of animals and use of range for fowl.
3. The operation of public and private stables, riding academies, horse breeding, training, and boarding facilities.
4. Housing and employment of necessary farm laborers.
5. Erection of essential agricultural buildings, including those dedicated to the processing and packaging of the output of commercial farms and ancillary to agricultural and horticultural production.
6. Construction of fences.
7. The operation and transportation of large, slow-moving equipment over roads within Marlboro Township.
8. Control of pests, including but not limited to insects and weeds, predators and diseases of plants and animals.

9. Conduction of agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm and permission of the farm owner and lessee is obtained.
10. Use of any and all equipment, including but not limited to: irrigation pumps and equipment, aerial and ground seeding and spraying, tractors, harvest aides, traps, and animal and bird control devices.
11. Storing, processing and packaging of the agricultural output of the farm.
12. The wholesale and retail marketing (with attendant signage), including pick your own marketing, and sales of agricultural output of farms or commercial farms, including related products that contribute to farm income, including the construction buildings and parking areas in accordance with the applicable standards set forth in this Chapter 84.
13. Replenishment of soil nutrients and improvement of soil tilth.
14. Clearing of woodlands using open burning and other techniques, installation and maintenance of vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas.
15. On-site disposal of organic agricultural wastes.
16. The application of manure and chemical fertilizers, insecticides, pesticides, and herbicides in accordance with labeled instructions as approved by the New Jersey Agricultural Experiment Station and the United States Environmental Protection Agency.
17. Installation of wells, ponds and other water resources for agricultural purposes such as irrigation, sanitation and marketing preparation.
18. The foregoing practices and activities may occur on holidays, weekdays and weekends by day or night and shall include the attendant or incidental noise, odors, dust, fumes, and lighting associated with these practices.

19. Any other agricultural activity determined by the State Agriculture Development Committee to be a "generally accepted agricultural management practice within the meaning of N.J.S.A. 4:1C-1, *et seq.*

E. The activities afforded the protections of this ordinance in Subsections B and C must be performed in conformance with applicable Federal and State Law.

F. No agricultural activity, operation, or facility conducted or maintained in a manner consistent with relevant federal and state laws shall be or become a nuisance, public or private. Whatever inconvenience may be caused to others not of the farming community by such uses and activities so conducted is legal for the farmer, and is more than offset by the benefits from farming to the neighborhood, community, and to society in general by the preservation of open space, the beauty of the countryside and clean air, and by the preservation and continuance of farming operations in Marlboro Township and in New Jersey as a source of agricultural products for this and future generations.

G. If a seller conveys a new or existing dwelling on a property within 1500 feet in any direction of a farm, the seller shall inform purchasers that they are near an active farm, and therefore, may be subjected to the noises, odors, dust, and/or fumes that an active farm may produce.

H. For the purpose of giving due notice of nearby farming uses to proposed new residential areas adjacent to or within 1500 feet of farmland, or unimproved land that is suitable for farming, the Planning Board shall require an applicant for an adjacent major or minor subdivision as a condition of approval of such application, to include a provision in each and every contract for and deed conveying all or any portion of the lands thereby subdivided, as well as on filed subdivision maps the following record notice to and waiver by grantees of such present or future proximate farming uses, which such provision shall be made to run with the land:

"The grantee acknowledges that this property is within 1500 feet of an active farm use, acknowledges that there are presently or may in the future be farm uses adjacent to, or in close proximity to this property, from which may emanate noise, odors, dust and fumes. By acceptance of this conveyance, the grantee does hereby waive any and all objections to such farming activities. No structures, storage of materials, or parking of vehicles that shall be

permitted in any agricultural buffer area required pursuant to sub-section F of Section 84-101 of the revised General Ordinances of the Township of Marlboro ."

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

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 #2006-35/Ordinance #2006-2 (Drainage Easement - Maintenance - DiMeo Property) was introduced by reference, offered by Councilman Pernice, seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-35

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

ORDINANCE # 2006-2

AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEED OF EASEMENT AND RIGHT-OF-WAY FROM THE TOWNSHIP OF MARLBORO TO THE COUNTY OF MONMOUTH FOR THE PURPOSE OF MAINTENANCE AND RECONSTRUCTION OF A DRAINAGE STRUCTURE

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 February 2, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-2

AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEED OF
EASEMENT AND RIGHT-OF-WAY FROM THE TOWNSHIP OF MARLBORO
TO THE COUNTY OF MONMOUTH FOR THE PURPOSE OF MAINTENANCE
AND RECONSTRUCTION OF A DRAINAGE STRUCTURE

WHEREAS, the Township of Marlboro owns a certain parcel of property known as Block 159, Lot 1.01 (the "Property") on the Tax Map of the Township of Marlboro; and

WHEREAS, Monmouth County (the "County") is in need of an easement across the Property for the purpose of maintenance and reconstruction of Monmouth County Drainage Structure ML-44; and

WHEREAS, the Local Lands and Buildings Law, 40A:12-1, *et seq.*, allows a municipality to authorize by ordinance the sale of an interest in real property to "any political subdivision, agency, department, commission, board or body corporate and politic of the State of New Jersey," without public bidding; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to convey the necessary easement to the County.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro that the Mayor is authorized to execute a Deed of Easement and Right-of-Way, in a form substantially identical to that attached hereto, conveying an easement (specifically described on Schedule "A" of the Deed of Easement) across the Property from the Township of Marlboro to the County for \$1.00 for the purpose of maintenance and reconstruction of Monmouth County Drainage Structure ML-44; and

BE IT FURTHER ORDAINED, that if any part of this Ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portion of the Ordinance.

The following Resolution #2006-36/Ordinance #2006-3 (Amend Code - Police) was carried to a future agenda.

The following Resolution #2006-37/Ordinance #2006-4 (Amend Code - Brush Pick-up) was introduced by reference, offered by Council Vice President Cantor, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-37

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

ORDINANCE # 2006-4

AN ORDINANCE AMENDING SECTION 72-13 "BRUSH AND BRANCHES"
OF CHAPTER 72 "SOLID WASTE SERVICES"

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 February 2, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-4

AN ORDINANCE AMENDING SECTION 72-13 "BRUSH AND BRANCHES"
OF CHAPTER 72 "SOLID WASTE SERVICES"

WHEREAS, Section 72-13 "Brush and Branches" of Chapter 72 "Solid Waste Services" of the Code of the Township of Marlboro requires that yard waste consisting only of branches, bulky limbs and tree trunks be collected twelve (12) months of the year on such dates established by the Department of Public Works; and

WHEREAS, due to the increased need for leaf collection and snow removal services during the months of November and December, the Mayor and the Township Council desire to amend Section 72-13 to eliminate brush and branch collection for the months of November and December.

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 the first sentence of Section 72-13 "Brush and Branches" of Chapter 72 "Solid Waste Services" of the Code of the Township of Marlboro be and hereby is amended to read as follows:

"§ 72-13 Brush and Branches.

Yard waste consisting only of branches, bulky tree limbs and tree trunks will be collected ten (10) months of the year, from January through October, on such dates

established by the Department of Public Works. . . ." [the remaining portions of this Section remain unchanged].

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

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 # 2006-38 (Appointing Municipal Court Judge - Richard A. Gantner, Esq.) was introduced by reference, offered by Council Vice President Cantor, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-38

RESOLUTION CONFIRMING THE APPOINTMENT OF RICHARD A. GANTNER AS
MUNICIPAL COURT JUDGE

WHEREAS, pursuant to Section 4-34D(5)(b) of the Marlboro Township Code and N.J.S.A. 2B: 12-4, the Mayor has advised the Township Council of his intention, subject to the advice and consent of the Township Council, to appoint Richard A. Gantner as Municipal Court Judge for the Township of Marlboro to serve together with the Presiding Magistrate.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that it hereby advises and consents to the appointment of Richard A. Gantner, as the Municipal Court Judge for the Township of Marlboro for a three year term beginning January 1, 2006 and until his successor shall be qualified and appointed.

The following Resolution # 2006-39 (Appointment to Youth Exchange Advisory Committee) was introduced by reference, offered by Councilman Pernice, seconded by Councilman Rosenthal and passed on a

roll call vote of 4 - 0 in favor with Council President Morelli abstaining.

RESOLUTION # 2006-39

A RESOLUTION APPOINTING TWO MEMBERS AND A CHAIRPERSON OF THE YOUTH EXCHANGE ADVISORY COMMITTEE

WHEREAS, as codified in Section 4-12.C of the Code of the Township of Marlboro, by Ordinance #2003-28, the Township Council established the Youth Exchange Advisory Committee as a special committee of the Township Council to oversee the administration, management and planning of the Youth Exchange Program between the Township of Marlboro and the Town of Johana (renamed Nanto City), Toyama Prefecture, Japan; and

WHEREAS, pursuant to Section 4-12.C, the Youth Exchange Advisory Committee is to consist of twelve (12) members appointed by the Township Council; and

WHEREAS, pursuant to Section 4-12.C, the Township Council shall appoint a Chairperson to act as the presiding officer of the Youth Exchange Advisory Committee for a term of one (1) year; and

WHEREAS, by Resolution #2005-128, the Township Council appointed twelve (12) members to the Youth Exchange Advisory Committee for staggered terms of one to three years, as required by Section 4-12.C, and designated a Chairperson for a term of one (1) year; and

WHEREAS, the terms of three (3) of those members (Jeff Cantor, JoAnn Denton and Saher Gouda) appointed through Resolution #2005-128 and the term of the Chairperson (Hide Pece) have expired; and

WHEREAS, by Resolution #2006-7, the Township Council appointed Joseph Pernice to the Youth Exchange Advisory Committee for a term of (3) years; and

WHEREAS, the Township Council now desires to make two (2) additional appointments to said Committee and to appoint a Chairperson.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that Saher Gouda and Monica Agor are hereby appointed to the Youth Exchange Advisory Committee for terms of (3) years and until the appointment and qualification of their successors; and

BE IT FURTHER RESOLVED, that Michael Wirin is hereby appointed as the Chairperson of the Youth Exchange Advisory Committee for a term of one (1) year.

The following Resolution # 2006-40 (Urging Reauthorization of NJ Transportation Trust fund) was introduced by reference, offered by Council President Morelli, seconded by Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-40

A RESOLUTION URGING REAUTHORIZATION OF THE NEW JERSEY
TRANSPORTATION TRUST FUND AS RECOMMENDED BY THE STATE'S BLUE
RIBBON COMMISSION ON TRANSPORTATION

WHEREAS, the Township of Marlboro is dedicated to serving the needs of those who live, work and visit the Township and considers transportation to be a key component of those needs; and

WHEREAS, the New Jersey Transportation Trust Fund has been used for nearly twenty years to fund much-needed road, rail and other transportation improvements throughout Monmouth County, the region and the state; and

WHEREAS, the New Jersey Transportation Trust Fund faces a crisis in that by the beginning of the State Fiscal Year 2007 it will only have enough funds to pay off debt unless restored with new revenue; and

WHEREAS, a state Blue Ribbon Commission on Transportation was established to seek solutions to the problem facing the New Jersey Transportation Trust Fund and in November 2003 released recommendations regarding the funding needs of the state, counties and municipalities, including the need for approximately \$375 million a year in local aid to counties and municipalities; and

WHEREAS, the Township of Marlboro recognizes the significant negative impacts that the depletion of the New Jersey Transportation Trust Fund could cause, including delayed or canceled transportation projects for the county, region and state; and reduced access, mobility, safety and quality of life for its citizens; and increased difficulty in securing federal transportation funding for the region; and

WHEREAS, the Township of Marlboro supports efforts to make transportation a higher state, regional and county priority, and to ensure that the state funding will finance key future transportation projects and improvements, ensuring access, mobility, safety and the quality of life for the citizens it represents.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that the Mayor and Township Council of the Township of Marlboro hereby urge their representatives in the State Assembly and State Senate to work diligently with their colleagues toward legislative and gubernatorial approval of a bill reauthorizing the New Jersey Transportation Trust Fund at a level of at least \$4.6 billion a year as recommended by the State's Blue Ribbon Commission on Transportation and;

BE IT FURTHER RESOLVED, that the Municipal Clerk be and is hereby directed to provide a certified copy of this resolution to Acting Governor Codey, Governor Elect Corzine, Senator Lautenberg, State Senator Karcher and Assemblypersons Beck and Panter with a request that they assist in any way possible to ensure that the New Jersey Transportation Trust Fund be refunded expeditiously.

The following Resolution # 2006-41 (Deferring School Taxes) was introduced by reference, offered by Council President Morelli, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-41

WHEREAS, the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey wish to defer school tax as promulgated by the Division of Local Government Services, at an amount lesser than that utilized in the 2005 budget process,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey to increase the Township's deferred school taxes as of December 31, 2005 as follows;

	<u>From</u>	<u>To</u>	<u>Increase</u>
Local District School	\$24,094,761.79	\$26,044,761.79	\$1,900,000.00
Regional High School	\$10,825,000.00	\$11,375,000.00	\$ 500,000.00
Total	\$34,919,761.79	\$37,419,761.79	\$2,400,000.00

The following Resolution # 2006-42 (Transfers) was introduced by reference, offered by Council Vice President Cantor, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-42

RESOLUTION AUTHORIZING TRANSFER
OF APPROPRIATION RESERVES
DURING FIRST THREE MONTHS
OF THE FISCAL YEAR

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriation reserve transfers during the first three (3) months of the following fiscal year, when it has been determined that additional funds may be necessary to pay for services or goods that had been received in the operations of the preceding year.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Appropriation Reserves (Calendar Year 2005 Municipal Budget) as follow:

From:

Mayor S &W	1,000.00
Drug Abuse OE	1,000.00
Tax Assessor S&W	500.00
Public Information OE	1,000.00
Clerk S&W	2,500.00
Fire OE	5,000.00
Police OE	10,000.00
Road Maint OE	5,000.00
Grounds Maint S&W	1,500.00
Parks Functions S&W	1,500.00
Shade Tree Commission OE	5,000.00
Summer Youth S&W	5,000.00

To:

Administration OE	6,000.00
Police S&W	4,000.00
911 Dispatch S&W	1,500.00
Water	1,000.00
Solid Waste Collection OE	10,000.00
Landfill Disposal OE	12,500.00
Planning OE	4,000.00

Totals	\$39,000.00	\$39,000.00
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The following Resolutions # 2006-43 (Authorizing Amendment to Contract Labor Counsel - Scarinci & Hollenbeck) and Resolution # 2006-44 (Authorizing Amendment to Contract Birdsall - COAH) were carried to the February 2, 2006 agenda.

The following Resolution # 2006-45 (Award of Bid - Pre-mixed De-icing Agent) was introduced by reference, offered by Council President Morelli, seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-45

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO
YARVILLE SUPPLY COMPANY TO PROVIDE PRE-MIX DE-ICING
AGENT FOR THE MARLBORO TOWNSHIP DEPARTMENT OF
PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids to provide pre-mix de-icing agent for the Marlboro Township Department of Public Works; and

WHEREAS, the Township received one bid which was submitted by Yardville Supply Company having its principal office at Church Street in Yardville, New Jersey in the amount of \$81,000.00; and

WHEREAS, the Administration and the Township Attorney have reviewed said bid and recommend that the contract be awarded to Yardville Supply Company as the lowest qualified bidder submitting a conforming bid; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award the contract to the lowest qualified bidder, Yardville Supply Company, for the provision of the aforesaid services and products.

WHEREAS, the Township Council has certified that sufficient funds will be available in the 2006 budget.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract to provide pre-mix de-icing agent for the Marlboro Township Department of Public Works should be awarded to Yardville Supply Company, and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of

Marlboro and Yardville Supply Company for the provision of pre-mix de-icing agent for the Marlboro Township Department of Public Works in an amount not to exceed \$81,000.00, and in accordance with the bid proposal submitted by Yardville Supply Company, which is on file with the Township; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number 06-01-119-275; and

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

- a. Yardville Supply Company
- b. Department of Public Works
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath LLP.

The following Resolution # 2006-46 (Award of Bid - Irrigation System) was introduced by reference, offered by Councilman Pernice, seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-46

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO
GOWER'S INC. TO INSTALL IRRIGATION SYSTEMS AT THE UNION
HILL PARK AND MARLBORO SOCCER COMPLEX IN THE
TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro authorized and received bids to provide and install irrigation systems at the Union Hill Park and Marlboro Soccer Complex in 2005; and

WHEREAS, the Township of Marlboro found that all bids received at that time exceeded the budget for this project; and

WHEREAS, the Township of Marlboro authorized the acceptance of a second round of bids to provide and install irrigation systems at the Union Hill Park and Marlboro Soccer Complex; and

WHEREAS, the bid specifications state that the bid is to install irrigation systems including necessary utilities; and

WHEREAS, three bids were received by the following vendors in the following amounts:

- A. Jersey Shore Lawn Sprinkler Construction Company,
870 Route 530, Whiting NJ
\$211,690.00
- B. Garden Irrigation Company,
14 Route 9, Morganville, NJ
\$141,432.34; and
- C. Gower's Incorporated,
382 Eayrestown Road, Southampton, NJ
\$134,500.00; and

WHEREAS, the Administration and the Township Attorney have reviewed the bids received and recommend that the contract be awarded to Gower's Incorporated as the lowest qualified bidder submitting a conforming bid; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award the contract to the lowest qualified bidder, Gower's Incorporated, for the provision of the aforesaid services and products.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract to provide and install irrigation systems at the Union Hill Park and Marlboro Soccer Complex should be awarded to Gower's Incorporated and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Gower's Incorporated for the provision and installation of irrigation systems at the Union Hill Park and Marlboro Soccer Complex in an amount not to exceed \$134,500.00, and in accordance with the bid proposal submitted by Gower's Incorporated, which is on file with the Township; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number per the attached certification of funds; and

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

- a. Gower's Incorporated

- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath LLP.

The following Resolution # 2006-47 (Tax Sale Assignment) was introduced by reference, offered by Council Vice President Cantor, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-47

RESOLUTION AUTHORIZING THE SALE OF TAX SALE CERTIFICATE NO. 98-79

WHEREAS, the Township of Marlboro is the holder of Tax Sale Certificate No. 98-79, dated July 9, 1998, and by virtue of N.J.S.A. 54:5-34; and

WHEREAS, the said Tax Sale Certificate relates to the property known and designated as Block 174, Lot 3 (owner of record: Horizon View, Inc.), and is recorded in the Office of the Monmouth County Clerk's in Book MB-6512, Page 0585; and

WHEREAS, N.J.S.A. 54:5-113, *et seq.*, authorizes the Township to sell a municipal held Tax Sale Certificate for the original amount thereof together with subsequent liens, including taxes, interest and costs thereon, at private sale by assignment; and

WHEREAS, in a private sale, MVB Holdings, LLC has paid the Township the amount of \$4,758.03, which sum includes the amount of the original Tax Sale Certificate together with all subsequent liens, including taxes, interest and costs thereon, as provided for and permitted by N.J.S.A. 54:5-113; and

WHEREAS, the Township now desires to authorize said private sale of the Tax Sale Certificate to MVB Holdings, LLC and the execution of an Assignment of Tax Sale Certificate; and

WHEREAS, it is deemed financially beneficial to and in the best interest of the Township to sell the aforesaid Tax Sale Certificate as authorized by N.J.S.A. 54:5-113; and

WHEREAS, prior to the passage of this Resolution, the Township has undertaken all necessary notice requirements pursuant to N.J.S.A. 54:5-114.

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

1. That it does hereby authorize the private sale by assignment of Tax Sale Certificate No. 98-79 to MVB Holdings, LLC, for the amount of \$4,758.03 (see attached for breakdown), which sum includes the amount of the original Tax Sale Certificate together with all subsequent liens, including taxes, interest and costs thereon, as provided for and permitted by N.J.S.A. 54:5-113.

2. That the appropriate Township officials are hereby authorized and empowered to make, execute and deliver any and all assignment forms or other legal documents which may be necessary or desired to effectuate the said assignment permitted by this Resolution, including the recording of any and all relevant documents with the Monmouth County Clerk's Office.

3. That the assignment shall be subject to and conditioned upon any approval(s) necessary by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs pursuant to N.J.S.A. 54:5-113.1.

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

- a. MVB Holdings, LLC
- b. Horizon View, Inc.
129 Littlejohn Road, Suite 310
Parsippany, New Jersey 07054
- c. Shirley Giaquinto, Tax Collector
- d. Chief Financial Officer
- e. Township Attorney

As the Consent Agenda, the following Resolutions were introduced by reference, offered by Council President Morelli, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor: Res. #2006- 48 (Award of Contract - Playground Equipment and Regrading Volleyball Court), Res. #2006- 49 (Award of State Contract - Police Vehicles, Res. #2006- 50 (Redemption Tax Sale Cert. B. 188, L. 1), Res. #2006- 51 (Refunds for Overpayments - Various), Res. #2006- 52 (Tax Court Refund - B. 180, L. 33, Res. #2006- 53 (Tax Court Refund - B. 167, L. 1), Res. #2006- 54 (Refunds to WMUA - Various), Res. #2006- 55 (Veteran Deductions - Various), Res. #2006- 56 (Senior Citizen Deduction - B. 178, L. 2 C0369), Res. #2006- 57 (Raffle License St. Gabriels Church - On Premise 50/50), Res. #2006- 58 - Raffle License St. Gabriels Church - Carnival Wheels), Res. #2006- 59 - Raffle License St. Gabriels

Church - Off premise 50/50, Res. #2006- 60 (Raffle License Defino Central PTA - On premise Merch.), Res. #2006- 61 (Raffle License Defino Central PTA - On premise 50/50) and Res. #2006- 62 (Bingo License Defino Central PTA - On premise 50/50).

RESOLUTION # 2006-48

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO WHIRL CONSTRUCTION FOR THE INSTALLATION OF PLAYGROUND EQUIPMENT AND THE REGRADING OF THE VOLLEYBALL COURT FOR THE MARLBORO SWIM CLUB

WHEREAS, the Township solicited quotations from qualified companies for the installation of playground equipment and the regrading of the volleyball court for the Marlboro Swim Club; and

WHEREAS, the Township received two (2) quotations as follows:

1. Whirl Construction for a total amount of \$14,410.00; and
2. Frontier Fence for a total amount of \$21,700.00; and

WHEREAS, after reviewing each of the quotations, the Marlboro Swim Club recommends that a contract be awarded to Whirl Construction for the provision of the necessary services for an amount not to exceed \$14,410.00; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1, *et seq.*) allows contracts that do not exceed in a contract year the bid threshold set forth in N.J.S.A. 40A:11-3 to be awarded without competitive bidding when so authorized by resolution; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award a contract to Whirl Construction.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract for the installation of playground equipment and the regrading of the volleyball court for the Marlboro Swim Club be and hereby is awarded to Whirl Construction for a price not to exceed \$14,410.00 and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, with Whirl Construction; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is

attached hereto, and that sufficient funds are available for said contract from Account Numbers X-08-55-980-230 (Playground Equipment) and X-08-55-980-250 (Regrading of Volleyball Court); and

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

- a. Whirl Construction
- b. Art Lawrence, Swim Club Director
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath LLP.

RESOLUTION # 2006-49

RESOLUTION AUTHORIZING THE PURCHASE OF SIX (6) NEW 2006
FORD CROWN VIC POLICE VEHICLES AND RELATED EQUIPMENT
STATE CONTRACT #A45069

WHEREAS, the Marlboro Township Police Department has recommended that the Township purchase six (6) new 2006 Ford Crown Vic police vehicles and related equipment from Winner Ford, 250 Haddonfield-Berlin Road, Cherry Hill, NJ 08034 under State Contract #A45069 not to exceed \$129,000.78; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide office supplies to the Township of Marlboro; and

WHEREAS, funds are available in MCIA Account Number Y-05-55-012-951 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said vehicles;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase six (6) new 2006 Ford Crown Vic police vehicles and related equipment from Winner Ford, 250 Haddonfield-Berlin Road, Cherry Hill, NJ 08034 under State Contract #A45069 not to exceed \$129,000.78; and

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

- a. Winner Ford, Cherry Hill, NJ
- b. Township Administrator
- c. Township Police Department
- d. Township Chief Financial Officer
- e. Gluck, Walrath, LLP

RESOLUTION # 2006-50

WHEREAS, Tax Sale Certificate 05-19 for Block 188 Lot 1, assessed to Edward Braunstein, located at 3 Johnson Circle, has been redeemed in the amount of \$77,756.56,

WHEREAS, the holder of the above-mentioned tax sale certificate, Crusader Servicing Corp., is entitled to the amount of the sale plus interest and costs totaling \$77,756.56,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$77,756.56 be refunded to the holder of said certificate as above.

RESOLUTION # 2006-51

WHEREAS, the attached list in the amount of \$8,732.02 known as Schedule "A", is comprised of amounts representing overpayments for 2005 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>AMOUNT</u>
225	27	Patrick & Barbara Ann Clune	\$ 234.21
44	Stockton Drive	44 Stockton Drive Marlboro, NJ 07746	
258	21	Edward & Linda Campos	1,760.09
69	Church Road	69 Church Road Morganville, NJ 07751	

312	149	Wells Fargo Home Mortgage	2,224.36
23 Brookside Circle		Attn: Financial Support Unit	
		Region 1	
		1 Home Campus, MAC X2502-011	
		Des Moines, IA 50328-001	
		Re: Carl & Michele Vasti	
320	9	Charles F. Jr. & Rita Perry	2,314.65
26 Jennifer Court		26 Jennifer Court	
		Marlboro, NJ 07746	
409	19	Ronald & Maria Aronne	2,198.71
34 Steeplechase Dr.		34 Steeplechase Dr.	
		Marlboro, NJ 07746	
TOTAL:			\$ 8,732.02

RESOLUTION # 2006-52

WHEREAS, the Tax Court of New Jersey has granted a judgment for the 2004 Added Assessment in the amount of \$1,411.32 on Block 180 Lot 33, located at 24 Evan Drive, assessed to Sajidah I. & Syed B. Husain,

WHEREAS, taxes for the year 2004 have been paid in full on the above-mentioned block & lot,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$1,411.32 as stated above.

RESOLUTION # 2006-53

WHEREAS, the Tax Court of New Jersey has granted a judgment in the amount of \$2,943.75 for the year 2005 for Block 167 Lot 1, located at 242 Route 79, assessed to Regal Plaza, LLC, Inc.,

WHEREAS, the 2005 taxes have been paid in full, the Tax Collector is directed to refund the amount of \$2,943.75,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$2,943.75 to Peter J. Zipp, Esq. Regal Plaza, LLC, Inc. as noted above.

RESOLUTION # 2006-54

WHEREAS, current sewer charges totaling \$448.67 have been paid by the lienholder of the Tax Sale certificates as per Schedule "A",

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned sewer charges in the amount of \$448.67 be refunded to the Western Monmouth Utilities Authority.

SCHEDULE "A"

<u>CERT#</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
TSC#04-3 40 Wicker Place	109/6	Fernwood Funding, LLC	\$336.95
TSC#05-42 28 Collingwood Road	346/1	Berkshire Investment, LLC	111.72
TOTAL:			<u>\$448.67</u>

RESOLUTION # 2006-55

WHEREAS, Veteran deductions totaling \$500.00 have been granted as per the attached Schedule "A" for the year 2005,

WHEREAS, taxes for the year 2005 have been paid in full on the above-referenced block & lots,

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

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
331 37 S. Foxcroft Dr.	23	Ira & Cheryl Finkler 37 South Foxcroft Drive Marlboro, NJ 07746	\$250.00
412.01 1 Carrie Drive	6	Salvatore & Mary Ann Enea 1 Carrie Drive Marlboro, NJ 07746	250.00
TOTAL:			<u>\$500.00</u>

RESOLUTION # 2006-56

WHEREAS, a Senior Citizen deduction in the amount of \$250.00 has been allowed for the year 2005 for Block 178 Lot 2 C0369, located on 369 Yorkshire Place, assessed to Roman & Rita Brutman,

WHEREAS, taxes for the year 2005 have been paid in full on the above-mentioned block & lot,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$250.00 to above-mentioned taxpayers.

RESOLUTION # 2006-57

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 01-06 (On Premise 50/50) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

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

June 7, 2006	6 - 11 PM
June 8, 2006	6 - 11 PM
June 9, 2006	6 - 11 PM
June 10, 2006	6 - 11 PM

at St. Gabriel's Church grounds, 100 North Main Street, Marlboro, N. J. 07746.

RESOLUTION # 2006-58

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL:02-06 (Carnival Wheels and Games) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

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

June 7, 2006	6 - 11 PM
June 8, 2006	6 - 11 PM
June 9, 2006	6 - 11 PM
June 10, 2006	6 - 11 PM

at St. Gabriel's Church grounds, 100 North Main Street,
Marlboro, N. J. 07746.

RESOLUTION # 2006-59

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 03-05 (Off Premise 50/50) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on June 10, 2006 at 9:00 PM at St. Gabriel's Church grounds, 100 North Main Street, Marlboro, N. J. 07746.

RESOLUTION # 2006-60

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 04-06 (On Premise Merchandise) be and it is hereby granted to Frank Defino Central School PTA, 175 Hwy. 79 North, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on February 24, 2006 from 6 - 11 PM at Frank Defino Central School, 175 Hwy. 79 North, Marlboro, New Jersey 07746.

RESOLUTION # 2006-61

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 05-06 (On Premise 50/50) be and it is hereby granted to Frank Defino Central School PTA, 175 Hwy. 79 North, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on February 24, 2006 from 6 - 11 PM at Frank Defino Central School, 175 Hwy. 79 North, Marlboro, New Jersey 07746.

RESOLUTION # 2006-62

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Bingo License # BL: 01-06 be and it is hereby granted to Frank Defino Central School PTA, 175 Hwy. 79 North, Marlboro, New Jersey 07746.

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

February 16, 2006	7 - 10 PM
March 16, 2006	7 - 10 PM
April 20, 2006	7 - 10 PM
May 18, 2006	7 - 10 PM

at Frank Defino Central School, 175 Hwy. 79 North, Marlboro, New Jersey 07746.

At 9:50 PM, Councilman Pernice moved that the meeting go into executive session for reason of discussing namely personnel and litigation. This was seconded by Council Vice President Cantor, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the executive session commenced at 10:15 PM.

RESOLUTION # 2006-63

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 19th day of January, 2006 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely personnel and litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned item and that such executive session should take approximately 60 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 11:00 PM, Councilman Rosenthal moved that the meeting be opened. This was seconded by Council President Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

At 11:05 PM, Council Vice President Cantor moved that the meeting be adjourned. This was seconded by Councilman Rosenthal, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: February 16, 2006

OFFERED BY: Pernice

AYES: 4

SECONDED BY: Morelli

NAYS: 0

ABSENT: Morelli

ALIDA DE GAETA
MUNICIPAL CLERK

PATRICIA MORELLI
COUNCIL PRESIDENT