

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

MARCH 3, 2005

The Marlboro Township Council held a regularly scheduled Council meeting on March 3, 2005 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Pernice opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 7, 2005; 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: Councilman Denkensohn, Councilman Mione, Council Vice President Morelli and Council President Pernice (Absent: Cantor).

Also present were: Mayor Robert Kleinberg (8:25pm), Andy Bayer, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta and Deputy Clerk Deborah Usalowicz.

The following Resolution # 2005-116 (Emergency Temporary Appropriation) was introduced by reference, offered by Council Vice President Morelli, seconded by Council President Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2005-116

EMERGENCY TEMPORARY RESOLUTION  
PRIOR TO ADOPTION OF THE BUDGET

WHEREAS, an emergent condition exists with respect to snow removal prior to the adoption of the 2005 Municipal Budget; and

WHEREAS, the previous emergency appropriation passed by the Township Council on February 17, 2005 established an appropriation of snow removal OE in the amount of \$220,000.00; and

WHEREAS, the needs of the 2005 winter season have exceeded last years levels;

NOW THEREFORE, BE IT RESOLVED, that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made for snow removal OE in the amount of \$435,000.00
2. That each said emergency temporary appropriation has been provided for in the CY 2005 budget under the same title as appropriated above.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

The following Resolution # 2005-110 (Authorizing Transfer of Grant Monies - School Road East to Texas/Spring Valley Rd. Project) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Denkensohn and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2005-110

A RESOLUTION AUTHORIZING THE BUSINESS ADMINISTRATOR TO REQUEST THE TRANSFER OF FEDERAL GRANT MONIES FROM THE SCHOOL ROAD EAST IMPROVEMENT PROJECT TO THE SPRING VALLEY ROAD/TEXAS ROAD INTERSECTION PROJECT

WHEREAS, the Township Engineer has advised the Township Council that the estimated cost of the School Road East (from Route 79 to Dutch Lane) Improvement Project (the "School Road East Project") is approximately \$7,000,000.00; and

WHEREAS, there is currently \$1,200,000.00 of Federal grant monies available for the School Road East Project; and

WHEREAS, the New Jersey Department of Transportation has advised the Township that no additional Federal grant monies will be available for the School Road East Project; and

WHEREAS, the Township, therefore, would be responsible for approximately \$6,000,000.00 of the cost of the School Road East Project; and

WHEREAS, the Township Engineer has recommended in his report dated January 26, 2005 that the \$1,200,000.00 of Federal grant monies allocated to the School Road East Project could be put to better use if it were allocated to the Spring Valley Road/Texas Road Intersection Project, which would then be expanded to also include the Texas Road/Wooleytown Road Intersection Project (collectively, the "Spring Valley Road Project")

WHEREAS, the Township Council desires to authorize the Business Administrator to request the transfer of the aforementioned Federal grant monies to the Spring Valley Road Project.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Business Administrator is authorized to request from the 12<sup>th</sup> Congressional District Office that the \$1,200,000.00 of Federal grant monies allocated to the School Road East Project be transferred to the Spring Valley Road Project; and

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

- a. Township Engineer
- b. Business Administrator
- c. Chief Financial Officer
- d. 12<sup>th</sup> Congressional District Office
- e. Gluck Walrath, LLP

The following Resolution # 2005-111 (Authorizing to Bid - Detention Basin Maintenance Electrical Upgrade) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2005-111

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

Detention Basin Maintenance

Electrical Upgrade

The following Resolution # 2005-112 (Authorization to donate used Bulletproof Vests & Cellular phones) was introduced by reference, offered by Councilman Denkensohn, seconded by Council President Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor). Mayor Kleinberg stated he would send a letter to President George Bush regarding the donation of bulletproof vests.

RESOLUTION # 2005-112

A RESOLUTION AUTHORIZING THE DONATION OF USED BULLETPROOF VESTS AND CELLULAR TELEPHONES BY THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT

WHEREAS, the Township of Marlboro Police Department desires to donate its used, out-of-service bulletproof vests to the military in Iraq or other locations; and

WHEREAS, the Township of Marlboro Police Department also desires to donate its used, out-of-service cellular telephones to a non-profit organization or, if no non-profit organization will accept such a donation, to properly dispose of said cellular telephones; and

WHEREAS, the Township Council and the Mayor believe that the donation of said items would be beneficial and desires to authorize such donations.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Chief of Police of the Township of Marlboro Police Department is authorized to donate the Department's used, out-of-service bulletproof vests to the military in Iraq or other locations; and

BE IT FURTHER RESOLVED, that the Chief of Police of the Township of Marlboro Police Department is authorized to donate the Department's used, out-of-service cellular telephones to a non-profit organization or, if no non-profit organization will accept such a donation, to properly dispose of said cellular telephones; and

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

- a. Chief of Police
- b. Business Administrator
- c. Gluck Walrath, LLP

The following Resolution # 2005-113 (Award of Contract - Road Materials) was introduced by reference, offered by Councilman Mione, seconded by Councilman Denkensohn and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2005-113

A RESOLUTION AWARDING CONTRACTS FOR VARIOUS ROAD REPAIR  
AND MAINTENANCE MATERIALS FOR 2005 AND 2006 AND AUTHORIZING THE  
REBIDDING OF CERTAIN CONTRACTS FOR WHICH  
NO RESPONSIVE BIDS WERE RECEIVED

WHEREAS, the Borough of Freehold, acting as Lead Agent for the Western Monmouth Cooperative Purchasing Program, legally advertised for various road repair and maintenance materials, and on December 21, 2004, received sealed bids therefor; and

WHEREAS, Administration and the Director of Public Works have reviewed the bid's received and identified the lowest and/or most responsive bids for road repair and maintenance materials, as set forth in the report of the Director of Public Works, dated February 9, 2005 (the "Report"), which is attached hereto and made a part hereof; and

WHEREAS, in those instances where there were tie bids, the Report recommends that the contract be awarded to the company with the material plant closest to the Township of Marlboro in accordance with N.J.S.A. 40A:11-6.1d; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township to award contracts for the various road repair and maintenance materials in accordance with the recommendations set forth in the Report; and

WHEREAS, with respect to those categories of road repair and maintenance materials for which no responsive bids were received, Administration is authorized to rebid said contracts outside of the Western Monmouth Cooperative Purchasing Program in accordance with the Cooperative Purchasing Agreement dated July 2002.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the following vendors be awarded two-year road repair and maintenance materials contracts in accordance with their bid proposals and as set forth in the Report:

1. Walter R. Earle Corporation
2. Stavola Asphalt Company, Inc.
3. Trap Rock Industries, Inc.
4. R.W.V. Land & Livestock South, Inc.

BE IT FURTHER RESOLVED that, with respect to those categories of road repair and maintenance materials for which no responsive bids were received, the Business Administrator is authorized to rebid said contracts outside of the Western Monmouth Cooperative Purchasing Program in accordance with the Cooperative Purchasing Agreement dated July 2002.

BE IT FURTHER RESOLVED that, in the event that production plants break down and/or any of the above-mentioned road repair and maintenance material suppliers are unable to provide the necessary materials, the Director of Public Works, with authorization from the Business Administrator, may go to the next lowest bidder.

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for the above contracts and to attach same to this Resolution.

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

- a. Walter R. Earle Corporation
- b. Stavola Asphalt Company, Inc.
- c. Trap Rock Industries, Inc.
- d. R.W.V. Land & Livestock South, Inc.
- e. Borough Administrator, Borough of Freehold
- f. Township Administrator
- g. Director of Public Works
- h. Chief Financial Officer
- i. Gluck Walrath, LLP

The following Resolution # 2005-114 (Raffle License Collier School - Off-premise 50/50) was introduced by reference, offered by Councilman Mione, seconded by Councilman Denkensohn and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2005-114

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 06-05 (Off Premise 50/50) be and it is hereby granted to Collier Services, 160 Conover Road, Wickatunk, NJ 07765, Wickatunk, New Jersey 07765.

BE IT FURTHER RESOLVED that said Raffle will be held on April 10, 2005 at 3:00 PM at Collier School, 160 Conover Road, Wickatunk, N. J. 07765.

The following Item were carried to March 15<sup>th</sup> agenda: Item #12 (Authorizing Professional Services Contract - Inspection Services), Item # 13 (Award of State Contract - 3 Pick-up Trucks - Warnock), Item #14 (Award of State Contract - 1 Pick-up Truck - Princeton Nassau), Item #15 (Bond Release Solomon Schechter School), Item #16 (Tax Collector Resolutions)

The following Res. # 2005-109/Ord. #2005-12 (Amend Code - Section 84-66) was introduced by reference, offered by Councilman Mione, seconded by Council Vice President Morelli and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2005-109

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

ORDINANCE # 2005-12

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE IV "ZONING: CONDITIONAL PERMIT PROCEDURES AND REQUIREMENTS", SECTION 84-66, "CHURCHES AND PLACES OR WORSHIP"

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 April 7, 2005 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 # 2005-12

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE IV "ZONING: CONDITIONAL PERMIT PROCEDURES AND REQUIREMENTS", SECTION 84-66, "CHURCHES AND PLACES OF WORSHIP"

WHEREAS, the Township Council of the Township of Marlboro recognizes the continuing need to provide opportunity for the creation of Churches or other places of worship in all zones in the Township; and

WHEREAS, the Township Council recognizes and supports an individuals desire and right to worship as they choose while being mindful of the impact of the construction of Churches or other places of worship in residential zones; and

WHEREAS, Section 84-66 of the Code of the Township of Marlboro permitting Churches or other places of worship as conditional uses in the Township does not adequately delineate development regulations which foster the development of such structures, while also providing protection to adjoining residential property owners from the impact of such development; and

WHEREAS, the Township Council has weighed the respective interests of all concerned and believes that this proposed amendment addresses both the goal of permitting Churches or other places of worship while protecting the residential property owners from any adverse impacts from that development.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Township Council of the Township of Marlboro that Section 84-66 entitled "Churches and Places of worship" of the "Land Use and Development Regulations" of the Code of the Township of Marlboro be deleted in its entirety and replaced with the following:

Section 84-66. Churches and places of worship.

Churches and other places of worship or assembly for religious purposes may be permitted in specified zones only upon receipt of a conditional use permit. A conditional use permit shall be granted, provided that the following standards and specifications are met:

- A. The minimum lot area shall be 5 acres and a minimum frontage shall be 250 feet with a 100 feet front yard setback, 50 feet side yard and 50 feet rear yard; the minimum width shall be 200 feet.

- B. All minimum required lot depth and building height shall conform to those established in the underlying zoning for the property.
- C. Maximum lot coverage shall be 20 percent.
- D. No accessory building and/or structure including parking lots shall be located closer than 75 feet to any side or rear residential property line.
- E. The site shall have direct access to a street classified as a major collector or a secondary arterial road as identified by the Township.
- F. The site access shall be limited to those streets as identified in subsection E above.
- G. Driveways shall cross the sidewalk at right angles. Driveways shall be at least 10 feet from any side lot lines. Not more than two driveways shall be permitted for each 150 feet of street frontage.
- H. Parking in accordance with § 84-60 for churches, synagogues or other places of worship: 1 for each 3 seats, or 1 for each 24 inches of seating space when benches rather than seats are used. If there is another use on-site the parking requirement for the additional use will be added to the total required number of parking spaces.
- I. There shall be provided a 35 feet landscaped buffer to any existing residential use or zone in accordance with the design standards of the Township of Marlboro.
- J. Fences are subject to the provisions of § 84-58 of this chapter.
- K. Signs are regulated as per § 84-62 of this chapter.
- L. All zoning requirements in the underlying zone of the property not specifically amended by this ordinance shall be applicable to this conditional use.
- M. It is the intent of this ordinance, when incorporating the requirements/standards of the underlying zone, to establish that any deviation from that

requirement/standard would require a variance under N.J.S.A. 40:55D-70(d).

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

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

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

At 11:10PM, Councilman Denkensohn moved that the meeting go into executive session for reason of COAH mediation and litigation. This was seconded by Council Vice President Morelli, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Cantor). Recess was called and the executive session commenced at 11:20 PM.

RESOLUTION # 2005-115

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 3rd day of March, 2005 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, COAH mediation, and litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 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 12:15 AM, Councilman Denkensohn moved that the meeting be opened. This was seconded by Council Vice President Morelli, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Cantor).

At 12:17 PM, Councilman Denkensohn moved that the meeting be adjourned. This was seconded by Council Vice President Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: April 21, 2005

OFFERED BY: Mione

AYES: 4

SECONDED BY: Cantor

NAYS: 0

ABSTAIN: Cantor

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ALIDA DE GAETA  
MUNICIPAL CLERK

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JOSEPH PERNICE  
COUNCIL PRESIDENT