

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

NOVEMBER 9, 2004

The Marlboro Township Council held a regularly scheduled Council Meeting on November 9, 2004 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Mione 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 5, 2004; 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.

PRESENT: Councilman Burrows, Council Vice President Denkensohn, Councilwoman Morelli, Councilman Pernice and Council President Mione.

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

Councilman-elect Jeff Cantor was in attendance.

The Clerk called the Roll.

Public Information Report - Public Information Director Susan Levine announced the local blood drive sponsored by the Morganville First Aid & Rescue Squad, Nov. 18<sup>th</sup> from 7-9pm; Marlboro Recreation Spring 2005 Soccer Registration; the annual coat drive sponsored by Marlboro Recreation Nov. 15<sup>th</sup>; Marlboro Alliance 7<sup>th</sup> grade Teen night Nov. 10<sup>th</sup> from 7-9PM at the Recreation Center; the annual Toys for Tots Drive in the Lobby of the Administration Building until December 15<sup>th</sup>; Municipal Office Closures Nov. 11<sup>th</sup>,

Nov. 25<sup>th</sup> and 26<sup>th</sup> and the Annual Marlboro High School  
Candlelight Vigil Dec. 1<sup>st</sup> at 7:00PM.

Council Vice President Denkensohn moved that the minutes of  
October 14, 2004 be approved. This motion was seconded by  
Councilwoman Morelli and the minutes as amended were passed  
on a roll call vote of 5 - 0.

RESOLUTION # 2004-358

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

ORDINANCE # 2004-26

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 14 "CODE OF  
ETHICS" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO REQUIRE  
CONTRIBUTION DISCLOSURE STATEMENTS IN APPLICATIONS FOR  
MAJOR ZONING VARIANCES, WAIVERS AND EXCEPTIONS

be introduced and passed on first reading and that the same  
be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for  
final passage on December 2, 2004 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 # 2004-26

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 14 "CODE OF  
ETHICS" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO REQUIRE  
CONTRIBUTION DISCLOSURE STATEMENTS IN APPLICATIONS FOR  
MAJOR ZONING VARIANCES, WAIVERS AND EXCEPTIONS

WHEREAS, municipal Master Plans include well thought  
out, long term decisions about the development capacity of  
the community; and

WHEREAS, municipal Master Plans are implemented  
through the enactment of local land use ordinances; and

WHEREAS, deviations from these local ordinances by way  
of variances pursuant to N.J.S.A. 40:550-70d and N.J.S.A.  
40:55D 70c, as well as exceptions and waivers pursuant to

N.J.S.A. 40:55D-51, provide opportunities for significant private gain; and

WHEREAS, openness in government and a fair and impartial variance, waiver and exception application process is crucial to assuring the continuing integrity of the municipal Master Plan, its implementing ordinances and the integrity of the application process; and

WHEREAS, disclosure of political contributions by property owners, developers, redevelopers and professionals will enhance the Township of Marlboro's existing commitment to openness in government and provide further guarantee for a fair and impartial application and approval process; and

WHEREAS, disclosure of political contributions by property owners, developers, redevelopers and professionals will effectuate the purposes of the Municipal Land Use Law to promote morals and the general welfare; and

WHEREAS, the Mayor and Township Council, having considered the foregoing, believe that it is in the best interests of the residents of the Township of Marlboro to enact the within Ordinance.

NOW THEREFORE, BE IT ORDAINED, that, it is accordingly found and determined that the paramount public interest in enhancing the Township of Marlboro's commitment to openness in government, and in providing further guarantees for a fair and impartial variance, waiver and exception application process, and in promoting morals and the general welfare, requires the disclosure of political contributions by property owners, developers, redevelopers and professionals within the Township of Marlboro as a component of making an application to the Township of Marlboro for certain approvals, and requires the supplementation of the municipal application checklists to mandate the listing of specified political contributions made by property owners, developers, redevelopers and the professionals whose services they use; and

BE IT FURTHER ORDAINED, that Sections 14-1 through 14-14 of Chapter 14 "Code of Ethics" of the Code of the Township of Marlboro are hereby codified under a new Article I entitled "Ethical Standards; Ethical Standards Board."

BE IT FURTHER ORDAINED, that Chapter 14 "Code of Ethics" is hereby amended and supplemented to include the following new sections under an Article II entitled "Zoning Contribution Disclosure Statements":

§ 14-15 Definitions

A. Application Checklist - The term "Application Checklist" means the list of submission requirements adopted by ordinance and provided by municipal agencies to a developer pursuant to N.J.S.A. 40:55D-10.3.

B. Developer - The term "Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

C. Professional - The term "Professional" means any person or entity whose principals are required to be licensed by New Jersey law and who supplies legal representation, expert testimony or written reports in support of an application. Professionals shall include both any individuals supplying the representation, testimonies or reports and the firms or entities in which said individuals practice.

D. Contribution - The term "Contribution" means every loan, gift, subscription, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee and any pledge, promise or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the ordinance, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed.

E. Contribution Disclosure Statement - The term "Contribution Disclosure Statement" means a list specifying

the amount, date, and the recipient of any and all contributions made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committees of, or pertaining to, the Township of Marlboro, made prior to filing the application with or seeking approval from the Township, and required to be reported pursuant to N.J.S.A. 19:44A-1, *et seq.* The disclosure shall include all such contributions made during the time period measuring from one (1) year prior to the last municipal election through the time of filing the application with or seeking approval from the Township.

F. Municipal Agencies - The term "Municipal Agencies" means the Township of Marlboro Planning Board and Zoning Board of Adjustment.

§ 14-16 General Provisions

A. Disclosure Requirements

1. Any applicant for a variance pursuant to N.J.S.A. 40:55D-70d or a variance pursuant to N.J.S.A. 40:55d-70c or a waiver or exception pursuant to N.J.S.A. 40:55D-51 in conjunction with any application for a subdivision, not considered a minor subdivision pursuant to Chapter 84, or a site plan, not considered a minor site plan pursuant to Chapter 84, shall include in its application a Contribution Disclosure Statement for all Developers involved in the said application; all associates of said Developers who would be subject to disclosure pursuant to N.J.S.A. 40:55D-48.1 or 40:55D-48.2; and all Professionals who apply for or provide testimony, plans, or reports in support of said application or who have an enforceable proprietary interest in the property or development which is the subject of the application or whose fee in whole or part is contingent upon the outcome of the application. Regardless of whether the owner of the property which is the subject of the application falls in any of the categories established in the preceding sentence, the applicant shall include in its

application to the relevant Municipal Agency a Contribution Disclosure Statement for said owner.

2. During the pendency of the application process until the final approval associated with the application is granted, any applicant required to comply with this ordinance shall amend its Contribution Disclosure Statement to include continuing disclosure of all contributions within the scope of the disclosure requirements of the above paragraph.

B. Inclusion of Contribution Disclosure Statements as an Element of the Application Checklist

1. An Application Checklist ordinance is hereby adopted pursuant to N.J.S.A. 40:55d-10.3 to require that the Contribution Disclosure statements specified in paragraph "A" of this section be submitted by the applicant for all applications for variance relief pursuant to N.J.S.A. 40:55d-70d, as well as for relief pursuant to N.J.S.A. 40:55d-70c, or for relief pursuant to N.J.S.A. 40:55d-51 in applications for site plan and subdivision approval not considered to be minor site plans or minor subdivisions pursuant to Chapter 84.
2. The Township's Municipal Agencies shall amend their Application Checklists to include the Contribution Disclosure Statements specified in paragraph "A" of this section.
3. An application shall not be deemed complete by the administrative official or accepted for public hearing by the Municipal Agency until the required Contribution Disclosure Statements are submitted.

C. Availability of Contribution Disclosure Statements

All Contribution Disclosure Statements shall be available for review by any member of the public in the office of the administrative officer for the relevant Municipal Agency.

D. Intent of Contribution Disclosure Statements

It is the intent of this ordinance that Contribution Disclosure Statements shall serve solely as a means to inform the public and shall not serve in any manner as evidence relevant to the decision-making criteria for granting or denying requested variances or other approvals. Such decisions shall continue to be governed strictly under the relevant criteria set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., or other relevant law.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions to 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 #2004-348 (Supporting Senator Vitale's Bill - Pay to Play) was introduced by reference, offered by Councilman Pernice, seconded by Councilman Burrows, and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-348

RESOLUTION IN SUPPORT OF SENATE BILL  
NO. 1987 AMENDING P.L. 2004, C. 19

WHEREAS, the New Jersey Legislature passed P.L. 2004, c. 19 - the Pay to Play Legislation - which limits the awarding of public contracts to business entities that have

made a political contribution and limits the contributions that the holders of a contract can make during the term of a contract; and

WHEREAS, the Pay to Play Legislation becomes effective January 1, 2006 and, in its current form, would preempt counties and municipalities from adopting their own "play to pay" reform measures and would void existing local ordinances and resolutions on this matter; and

WHEREAS, the Township of Marlboro adopted its own "pay to play" reform measures which are located in Chapter 26 of the Code of the Township of Marlboro; and

WHEREAS, under the current form of the Pay to Play Legislation, the Township of Marlboro's "pay to play" reform measures would be voided as of January 1, 2006; and

WHEREAS, on October 18, 2004, Senators Joseph F. Vitale and Peter A. Inverso introduced Senate Bill No. 1987 which would amend the Pay to Play Legislation to allow counties and municipalities to adopt their own "play to pay" reform measures; and

WHEREAS, the Township of Marlboro believes that it is in the best interest of the residents of the Township for the Township to have the authority to adopt its own "play to pay" reform measures so that those measures can be specifically tailored to the Township of Marlboro.

NOW, THEREFORE, BE IT RESOLVED, that the Township of Marlboro supports Senate Bill No. 1987 which would amend the Pay to Play Legislation to allow counties and municipalities to adopt their own "pay to play" reform measures; and

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Acting Governor Richard J. Codey; the Legislators of the 12<sup>th</sup> District, Senator Ellen Karcher, Assemblyman Robert Morgan, Assemblyman Michael Panter; and adjoining municipalities.

The following Resolution # 2004-349 (Authorizing Open Space Trust Fund Grant) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-349

WHEREAS, the Monmouth County Board of Chosen Freeholders has approved an Open Space Trust Fund and established a Municipal Open Space Program to provide Program funds in connection with municipal acquisition of lands for County park, recreation, conservation and farmland preservation purposes, as well as for County recreation and conservation development and maintenance purposes; and

WHEREAS, the Township Council of the Township of Marlboro desires to obtain County Open Space Trust Funds in the amount of \$250,000.00 to fund the development of Township of Marlboro Park-Phase II Block 253 Lot 36; and

WHEREAS, the total cost of the project including all matching funds is \$499,755.08; and

WHEREAS, the Township of Marlboro will be the holder of any interest acquired with County Open Space Trust Funds.

WHEREAS, the Township of Marlboro is the owner of Park-Phase II and controls the project site

NOW, THEREFORE, BE IT RESOLVED BY the Township Council of the Township of Marlboro that:

1. The Mayor is authorized to (a) make an application to the County of Monmouth for Open Space Trust Funds, (b) provide additional application information and furnish such documents as may be required for Municipal Open Space Grants Program and (c) act as the principal contact person and correspondent of the above named municipality; and
2. The Township of Marlboro is committed to this project and will provide the balance of funding necessary to complete the project in the form of non-county matching funds as required in the Policy and Procedures Manual for the Program; and
3. If the County of Monmouth determines that the application is complete and in conformance with the Monmouth County Municipal Open Space Program and the Policy and Procedures Manual for the Municipal

Grants Program adopted thereto, the municipality is willing to use the approved Open Space Trust Funds in accordance with such policies and procedures, and applicable federal, state and local government rules, regulations and statutes thereto; and

4. The Mayor is hereby authorized to sign and execute any required documents, agreements, and amendments thereto with the County of Monmouth for the approved Open Space Trust Funds; and
5. This resolution shall take effect immediately.

The following Resolution # 2004-350 (Award of State Contract - Police Vehicle) was introduced by reference, offered by Councilman Pernice, seconded by Council President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-350

A RESOLUTION AUTHORIZING THE PURCHASE OF ONE NEW  
2005 DODGE DURANGO AND RELATED OPTIONS  
UNDER STATE CONTRACT #A53130

WHEREAS, the Marlboro Township Police Department has recommended that the Township purchase one (1) new 2005 Dodge Durango and related options from Warnock Fleet & Leasing, East Hanover, New Jersey under State Contract #A53130 for the amount of \$21,239.24; 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 new equipment to the Police Department; and

WHEREAS, funds are available and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase one (1) new 2005 Dodge Durango and related options from Warnock Fleet & Leasing, East Hanover, New Jersey under State Contract #A53130 for the amount of \$21,239.24.

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

- a. Warnock Fleet of East Hanover, New Jersey
- b. Township Administrator
- c. Township Police Department
- d. Township Chief Financial Officer
- e. Gluck, Walrath & Lanciano, LLP

The following Resolution # 2004-351 (Authorizing EUS - Electrical Engineer - Municipal Building) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-351

RESOLUTION AUTHORIZING THE TOWNSHIP OF  
MARLBORO TO ENTER INTO A PROFESSIONAL  
SERVICES CONTRACT WITH SHINE  
ENGINEERING, P.A. FOR THE PROVISION OF  
ENGINEERING DESIGN SERVICES IN  
CONNECTION WITH THE RENOVATION OF THE  
TOWNSHIP OF MARLBORO MUNICIPAL BUILDING

WHEREAS, there exists a need to retain the services of a engineering professional in order to provide engineering design and limited construction monitoring services in connection with the renovation of the Township of Marlboro Municipal Building; and

WHEREAS, the Township of Marlboro has received a proposal from Shine Engineering, P.A. dated November 8, 2004, which is attached hereto and incorporated herein, to provide engineering design and limited construction monitoring services in connection with the renovation of

the Township of Marlboro Municipal Building in an amount not to exceed \$10,500.00; and

WHEREAS, the services to be provided are considered to the "Professional Services" pursuant to the New Jersey 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.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, pursuant to the terms and conditions of the proposal dated November 8, 2004, in a form legally acceptable to the Township Attorney, between Shine Engineering, P.A. and the Township of Marlboro for the provision of engineering design and limited construction monitoring services in connection with the renovation of the Township of Marlboro Municipal Building in an amount not to exceed \$10,500.00; and

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

- a. Shine Engineering, P.A.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP

The following Resolution # 2004-352 (Award of Contract - Police In Car Cameras) was introduced by reference, offered by Council President Mione, seconded by Councilman Burrows and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-352

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN KUSTOM SIGNALS, INC. AND THE TOWNSHIP OF MARLBORO TO PROVIDE AND INSTALL A

DIGITAL PATROL CAR VIDEO SYSTEM FOR THE TOWNSHIP  
OF MARLBORO POLICE DEPARTMENT

WHEREAS, on four occasions, bids were submitted to provide and install a digital patrol car video system for the Township of Marlboro Police Department; and

WHEREAS, in each instance, by Resolution #2004-39, #2004-116, #2004-289 and #2004-343, those bids were rejected on the basis that they were not reasonable as to price; and

WHEREAS, by Resolution #2004-343, the Township Council authorized, without public bidding, Administration and the Police Department to negotiate a contract to provide and install a digital patrol car video system for the Township of Marlboro Police Department in accordance with N.J.S.A. 40A:11-5(3); and

WHEREAS, Administration and the Police Department have now negotiated a reasonable contract with Kustom Signals, Inc. to provide and install a digital patrol car video system for a total amount of \$100,000.00, which is significantly less than Kustom Signals, Inc.'s bid of \$142,460.00; and

WHEREAS, the parties agreed that the vaults Kustom Signals, Inc. will be installing as part of the system will be used rather than new as originally required by the bid specifications.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Kustom Signals, Inc. to provide and install a digital patrol car video system for a total amount of \$100,000.00 and in accordance with the terms and conditions of the Quotation attached hereto and incorporated herein; and

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

- a. Kustom Signals, Inc.
- b. Police Department

- c. Township Office of Public Information
- d. Township Administrator
- e. Township Chief Financial Officer
- f. Gluck Walrath LLP.

The following Resolution # 2004-353 (Authorizing Additional Depository) was introduced by reference, offered by Councilwoman Morelli, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-353

DESIGNATING ADDITIONAL DEPOSITORY

WHEREAS, under the provisions of state regulations (N.J.S.A. 40A:5-1) entitled Local Fiscal Affairs Law, the Township of Marlboro in accordance with N.J.S.A.40A:5-14 hereby establishes Legal Depositories for public monies for the calendar year 2001. Further, recent amendment to N.J.S.A. 40A:5-15.1 entitled "Securities which may be purchased by local units" provide added flexibility to secure high yield investments while safe guarding Municipal assets.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, as follows:

The following banking institutions approved by the Department of Banking and Insurance under the Government Unit Depository Protection Act (GUDPA) or other authorized investment vehicles authorized by the State of New Jersey are hereby designated as official depositories of Township funds:

PEAPACK-GLADSTONE BANK

The following Resolution # 2004-354 (Retrofitting Lighting) was introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-354

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT  
TO MUSCO LIGHTING TO RETRO-FIT THE SPORTS FIELD  
LIGHTING AT THE UNION HILL ROAD ATHLETIC COMPLEX

WHEREAS, a need exists to retro-fit the sports field lighting at the Union Hill Road Athletic Complex in order to reduce the glare and light spill onto adjacent properties; and

WHEREAS, Administration and the Township Engineer contacted certain companies and requested estimates of the cost to retro-fit the sports field lighting at the Union Hill Road Athletic Complex; and

WHEREAS, one company provided the following estimate to the Township:

1. Musco Lighting, Northeast Region, Farmingdale, New Jersey in the amount of \$4,450.00; and

WHEREAS, the lowest estimate for the cost to retro-fit the sports field lighting at the Union Hill Road Athletic Complex is less than \$17,500.00, thereby allowing a contract to be awarded pursuant to N.J.S.A. 40A:11-3 without public advertising for bids; and

WHEREAS, Administration and the Township Engineer have reviewed the estimate received and recommend that a contract be awarded to Musco Lighting in an amount not to exceed \$4,450.00; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award said contract to Musco Lighting.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract to retro-fit the sports field lighting at the Union Hill Road Athletic Complex be and hereby is awarded to Musco Lighting 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 Musco Lighting to provide such labor and materials in an amount not to exceed \$4,450.00 and in accordance with the

estimate submitted by Musco Lighting which is attached hereto and incorporated herein; and

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

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

- a. Musco Lighting
- b. Township Engineer
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

The following Resolution # 2004-355 (Award of Contract - Road Improvements) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilman Burrows and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-355

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO EARLE ASPHALT COMPANY TO MAKE CERTAIN ROADWAY IMPROVEMENTS TO ROCKWELL CIRCLE, WRIGHT LANE, SILLS DRIVE, NINA TERRACE AND ALISON COURT

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the performance of certain roadway improvements to Rockwell Circle, Wright Lane, Sills Drive, Nina Terrace and Alison Court; and

WHEREAS, seven (7) bid proposals were received as follows:

1. Earle Asphalt Company of Farmingdale, New Jersey in the amount of \$281,813.13;
2. Lucas Brothers, Inc. of Morganville, New Jersey in the amount of \$289,910.00;
3. DeFino Contracting Company of Cliffwood Beach, New Jersey in the amount of \$308,376.00 (bid

contained mathematical error which was corrected);

4. Stavola Contracting Company, Inc. of Red Bank, New Jersey in the amount of \$335,140.00;
5. Star of the Sea Concrete of Old Bridge, New Jersey in the amount of \$337,560.00;
6. Mecco, Inc. of Clarksburg, New Jersey in the amount of \$348,215.00; and
7. Intercounty Paving Associated, LLC of Hackettstown, New Jersey in the amount of \$428,694.00; and

WHEREAS, Administration and the Township Engineer recommend that a contract be awarded to Earle Asphalt Company to make certain roadway improvements to Rockwell Circle, Wright Lane, Sills Drive, Nina Terrace and Alison Court, as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award said contract to Earle Asphalt Company as the lowest qualified bidder.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract to make certain roadway improvements to Rockwell Circle, Wright Lane, Sills Drive, Nina Terrace and Alison Court be and hereby is awarded to Earle Asphalt 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 Earle Asphalt Company in an amount not to exceed \$281,813.13 and in accordance with the bid proposal submitted by Earle Asphalt Company; and

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

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

- a. Earle Asphalt Company
- b. Township Engineer
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath LLP

The following Resolution # 2004-356 (Redemption Tax Sale Cert. B. 111, L. 26) was introduced by reference, offered by Councilwoman Morelli, seconded by Council President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-356

WHEREAS, Tax Sale Certificate 03-6 for Block 111 Lot 26, assessed to Deloris Bradley, located on Texas Road, has been redeemed in the amount of \$1,888.33,

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 \$1,888.33,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$1,888.33 be refunded to the holder of said certificate as above.

The following Resolution # 2004-359 (Change Council Meeting Date from Dec. 9 to Dec. 16, 2004) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-359

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Council meeting scheduled for December 9, 2004 be changed to December 16, 2004.

BE IT FURTHER RESOLVED that the meeting will take place at the usual time and place, 8:00 PM at Town Hall, 1979 Township Drive, Marlboro, New Jersey.

At 9:35PM, Councilman Pernice moved that the meeting go into executive session for reason of discussing litigation.

This was seconded by Council Vice President Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot. Recess was held, and the executive session commenced at 9:45PM.

RESOLUTION # 2004-357

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 9th day of November, 2004 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 15 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 9:55PM, Council Vice President Denkensohn moved that the meeting be opened. This was seconded by Councilman Pernice, and as there was no objection, the Clerk was asked to cast one ballot.

At 10:00PM, Council Vice President Denkensohn moved that the meeting be adjourned. This was seconded by Council President Mione, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: DECEMBER 16, 2004

OFFERED BY: Pernice

AYES: 3

SECONDED BY: Mione

NAYS: 0

ABSENT: Denkensohn

ABSTAIN: Cantor

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ALIDA DE GAETA

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JAMES MIONE

MUNICIPAL CLERK

COUNCIL PRESIDENT