

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

October 6, 2016

The Marlboro Township Council held its regularly scheduled Meeting on October 6, 2016 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Mazzola opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regularly scheduled 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 11, 2016; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building; filed in the office of the Municipal Clerk and placed on the township website and Channel 77.

The Clerk called the Roll.

PRESENT: Council Vice President Marder, Councilman Scalea and Council President Mazzola. Council members Cantor and Metzger were absent.

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

Councilman Scalea moved that the minutes of September 15, 2016 be approved. This was seconded by Council Vice President Marder, and passed on a roll call vote of 3 - 0 in favor. (Absent: Cantor, Metzger).

The following Resolution #2016-294 (Amending 2016 Capital Budget) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Scalea, and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Metzger).

RESOLUTION # 2016-294

AMENDING THE 2016 CAPITAL BUDGET

WHEREAS, the Township of Marlboro deems it necessary and desirable to provide for a capital project, "Acquisition of Open Space" not previously reflected in the 2016 Capital Budget, and

WHEREAS, the capital project will be funded from the proceeds of the existing one penny dedicated open space tax approved by the voters and grants-in-aid and other funds; and

WHEREAS, N.J. A.C. 5:30-4.4B provides that the Capital Budget of a governing body shall be amended to reflect any provisions, changes or inconsistencies with said Capital Budget,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, in the County of Monmouth, State of New Jersey, that the 2016 Capital Budget shall be amended to reflect the "Acquisition of Open Space".

BE IT FURTHER RESOLVED that the attached form, as promulgated by the Local Finance Board shall represent the amended Capital Budget for the year 2016.

BE IT FURTHER RESOLVED that the Municipal Clerk be and is authorized and directed to file two (2) certified copies of this resolution with the Division of Local Government Services, Department of Community Affairs, State of New Jersey.

The following Resolution #2016-295/Ord #2016-011 (Authorizing Acquisition of Property - B 206, L 25 and B 225, L 191) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Scalea, and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Metzger).

RESOLUTION # 2016-295

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

ORDINANCE # 2016-11

AN ORDINANCE AUTHORIZING THE PURCHASE OF REAL PROPERTY KNOWN AND DESIGNATED AS BLOCK 206, LOT 25 (State Highway 79, frontage on westerly side of State Highway 520) AND BLOCK 225, LOT 191 (easterly side of State Highway 520) ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY, FOR THE PURPOSES OF FARMLAND AND OPEN SPACE PRESERVATION AND RECREATION

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 October 20, 2016 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2016-11

AN ORDINANCE AUTHORIZING THE PURCHASE OF REAL PROPERTY KNOWN AND DESIGNATED AS BLOCK 206, LOT 25 (State Highway 79, frontage on westerly side of State Highway 520) AND BLOCK 225, LOT 191 (easterly side of State Highway 520) ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY, FOR THE PURPOSES OF FARMLAND AND OPEN SPACE PRESERVATION AND RECREATION

WHEREAS, STATTEL, KENNETH WILLIAM & ROBERT ("Owner"), holds the right, title and interest in and to certain real property known and designated on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, as follows:

Block 206, Lot 25 approximately 47.5 acres
Located on State Highway 79, frontage on westerly side of State Highway 520

Block 225, Lot 191 approximately 8.5 acres
Located on easterly side of State Highway 520

(the "Property"); and

WHEREAS, the Township of Marlboro ("Township") desires to acquire the Property for the public purposes of farmland and open space preservation and recreation within the Township and has entered into contract negotiations with the Owner, to purchase the Property; and

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

WHEREAS, pursuant to N.J.S.A. 40A:12-5, the Township of Marlboro has the power to acquire any real property for a public purpose through negotiated agreement; and

WHEREAS, the Township Council of the Township of Marlboro has determined that it would serve a public purpose and be to the benefit of the health and welfare of the Township's citizens for the Township to acquire the Property in order to use the same for the preservation of farmland and open space and for recreation within the Township of Marlboro;

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

1. The Mayor is hereby authorized to enter into contract negotiations for the purchase of that certain tract or parcels of real property known and designated in said Township (the "Property"), as

- a. Block 206, Lot 25 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, consisting of approximately 47.5 acres and is located on State Highway 79 with frontage on the westerly side of State Highway 520; and
- b. Block 225, Lot 191 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, consisting of approximately 8.5 acres and is located on the easterly side of State Highway 520,

for the public purposes of farmland and open space preservation and recreation within the Township of Marlboro, from STATTEL, KENNETH WILLIAM & ROBERT (the "Owner"); and

2. The Mayor and Township Clerk are hereby authorized and directed to execute and witness, any documents which may be required to effectuate the purchase and conveyance of the Property; and

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

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

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

The following Resolution #2016-296/Ord #2016-012 (Bond Ordinance Providing for Preservation of Open Space Appropriating \$8,500,000 and Authorizing Issuance of \$8,075,000 Bonds or Notes to Finance Part of Cost) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Scalea,

and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Metzger).

RESOLUTION # 2016-296

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

ORDINANCE # 2016-12

A BOND ORDINANCE PROVIDING FOR THE PRESERVATION OF OPEN SPACE IN AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$8,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$8,075,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

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 October 20, 2016 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2016-12

A BOND ORDINANCE PROVIDING FOR THE PRESERVATION OF OPEN SPACE IN AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$8,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$8,075,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$8,500,000, including the sum of \$425,000 as the down

payment required by the Local Bond Law. The down payment is now available from the Open Space, Recreation, Farmland and Historic Preservation Trust Fund.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$8,075,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the acquisition of open space parcels included in the Township's Open Space and Recreation Plan, which plan is currently in existence or as it may hereafter be amended and is on file in the Township Clerk's office, including all related costs and expenditures incidental thereto. The improvement authorized and the purpose for which the obligations are to be issued is intended to comply with the limitations contained in Ordinance No. 2000-22, adopted by the Township Council on October 12, 2000, as amended, and approved by the voters of the Township.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body

at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Township may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$8,075,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.
- (d) An aggregate amount not exceeding \$850,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

BE IT FURTHER RESOLVED that the same be considered for

final passage on October 20, 2016 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

The following Resolution #2016-297/Ord #2016-013 (Appropriating \$1,650,000 Consisting of \$825,000 NJDEP Green Acres Grant and \$825,000 from Open Space, Recreation, Farmland and Historic Preservation Trust Fund) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Scalea, and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Metzger).

RESOLUTION # 2016-297

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

ORDINANCE # 2016-13

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$1,650,000, CONSISTING OF AN \$825,000 NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION GREEN ACRES GRANT AND \$825,000 FROM THE OPEN SPACE, RECREATION, FARMLAND AND HISTORIC PRESERVATION TRUST FUND, FOR THE PRESERVATION OF OPEN SPACE IN AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY.

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

BE IT FURTHER RESOLVED that the same be considered for final passage on October 20, 2016 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2016-13

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$1,650,000, CONSISTING OF AN \$825,000 NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION GREEN ACRES GRANT AND \$825,000 FROM THE OPEN SPACE, RECREATION, FARMLAND AND HISTORIC PRESERVATION TRUST FUND, FOR THE PRESERVATION OF OPEN SPACE IN AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY AS FOLLOWS:

Section 1. \$1,650,000 is hereby appropriated for the acquisition of open space parcels included in the Township's Open Space and Recreation Plan in and by the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township"), consisting of an \$825,000 New Jersey Department of Environmental Protection Green Acres Grant and \$825,000 from the Open Space, Recreation, Farmland and Historic Preservation Trust Fund.

Section 2. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 3. This ordinance shall take effect after final adoption and publication and otherwise as provided by law.

The following Resolution #2016-298/Ord #2016-014 (Appropriating \$1,514,485 from Municipal Planning Incentive Grants from State Agricultural Development Committee) was introduced by reference, offered by Councilman Scalea, seconded by Council Vice President Marder, and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Metzger).

RESOLUTION # 2016-298

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

ORDINANCE # 2016-14

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$1,514,485 FROM MUNICIPAL PLANNING INCENTIVE GRANTS FROM THE STATE AGRICULTURAL DEVELOPMENT COMMITTEE FOR THE PRESERVATION OF OPEN SPACE IN AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY.

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

BE IT FURTHER RESOLVED that the same be considered for final passage on October 20, 2016 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2016-14

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$1,514,485 FROM MUNICIPAL PLANNING INCENTIVE GRANTS FROM THE STATE AGRICULTURAL DEVELOPMENT COMMITTEE FOR THE PRESERVATION OF OPEN SPACE IN AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY AS FOLLOWS:

Section 1. \$1,514,485 is hereby appropriated for the acquisition of open space parcels included in the Township's Open Space and Recreation Plan in and by the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township"), consisting of a \$514,485 Fiscal Year 2009 Municipal Planning Incentive Grant from the State of New Jersey Agricultural Development Committee, a \$500,000 Fiscal Year 2011 Municipal Planning Incentive Grant from the State of New Jersey Agricultural Development Committee and a \$500,000 Fiscal Year 2013 Municipal Planning Incentive Grant from the State of New Jersey Agricultural Development Committee.

Section 2. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 3. This ordinance shall take effect after final adoption and publication and otherwise as provided by applicable law.

The following Resolution #2016-299/Ord #2016-015 (Amending Chapter 212 - Junkyards and Junk Dealers) was introduced by reference, offered by Councilman Scalea, seconded by Council Vice President Marder, and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor and Metzger).

RESOLUTION # 2016-299

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

ORDINANCE # 2016-15

AN ORDINANCE AMENDING CHAPTER 212
OF THE CODE OF THE TOWNSHIP OF ENTITLED
JUNKYARDS AND JUNK DEALERS

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 October 20, 2016 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2016-15

AN ORDINANCE AMENDING CHAPTER 212 OF THE CODE
OF THE TOWNSHIP OF ENTITLED JUNKYARDS AND JUNK DEALERS

BE IT ORDAINED by the Township Council of the Township of Marlboro that Chapter 212 of the Code of the Township of Marlboro is hereby amended as follows:

SECTION I. Section 212-3 "Definitions" is amended as follows:

Motor Vehicle Auction and Salvage

Any business who operates in accordance with a motor vehicle junkyard license issued pursuant to this ordinance but whose sole business involves the operation of a salvage pool or auto auction for the sale of total loss vehicles and heavy equipment on behalf of insurance companies or charitable organizations; provided, however, that no dismantling, parting out, crushing or shredding of vehicles shall be permitted.

SECTION II. Section 212-15 "Removal of Fuel Required" shall be deleted.

BE IT FURTHER ORDAINED that this ordinance shall take effect following adoption and approval in a time and manner prescribed by law.

The following Resolution #2016-300/Ord #2016-016 (Prohibiting Sale of Dogs and Cats from Pet Shops) was introduced by reference, offered by Councilman Scalea, seconded by Council Vice President Marder, and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Metzger).

RESOLUTION # 2016-300

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

ORDINANCE # 2016-16

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO BANNING
THE SALE OF DOGS AND CATS FROM PET SHOPS

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 October 20, 2016 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2016-16

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO BANNING
THE SALE OF DOGS AND CATS FROM PET SHOPS

WHEREAS, a significant number of puppies and kittens sold at pet shops come from large-scale, commercial breeding facilities where the health and welfare of the animals are not adequately provided for ("puppy mills" and "kitten mills," respectively). According to The Humane Society of the United States, it is estimated that 10,000 puppy mills produce more than 2,400,000 puppies a year in the United States and that most pet shop dogs and cats come from puppy mills and kitten mills; and

WHEREAS, the documented abuses endemic to puppy and kitten mills include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; and lack of adequate exercise; and

WHEREAS, the inhumane conditions in puppy and kitten mill facilities lead to health and behavioral issues in the animals bred in those facilities, which many consumers are unaware of when purchasing animals from pet shops due to both a lack of education on the issue and misleading tactics of pet shops in some cases. These health and behavioral issues, which may not present themselves until some time after the purchase of the animals, can impose exorbitant financial and emotional costs on consumers; and

WHEREAS, current Federal and State regulations do not adequately address the sale of puppy and kitten mill dogs and cats in pet shops; and

WHEREAS, restricting the retail sale of puppies and kittens to only those that are sourced from shelters or rescue organizations is likely to decrease the demand for puppies and kittens bred in puppy and kitten mills, and is likely to increase demand for animals from animal shelters and rescue organizations; and

WHEREAS, according to the New Jersey Department of Health 2014 Animal Intake and Disposition Survey, due in large part to pet overpopulation, more than 20,000 dogs and cats are euthanized in New Jersey animal shelters annually. Restricting the retail sale of puppies and kittens to only those that are sourced from animal shelters and rescue organizations will likely reduce pet overpopulation and thus the burden on such agencies and financial costs on local taxpayers; and

WHEREAS, across the country, thousands of independent pet shops as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats. Many of these shops collaborate with local animal shelters and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

WHEREAS, this Ordinance will not affect a consumer's ability to obtain a dog or cat of his or her choice directly from a breed-specific rescue organization or a shelter, or from a hobby breeder where the consumer can see directly the conditions in which the dogs or cats are bred, or can confer directly with the hobby breeder concerning those conditions; and

WHEREAS, the Township Council believes it is in the best interests of this Municipality to adopt reasonable regulations to reduce costs to the Municipality and its residents, protect the citizens of the Municipality who may purchase cats or dogs from a pet shop or other business establishment, help prevent

inhumane breeding conditions, promote community awareness of animal welfare, and foster a more humane environment in the Municipality.

Section 1. Definitions

Animal care facility means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

Animal rescue organization means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, with or without salary or compensation, to house and care for homeless animals in the home of an individual or in other facilities, with the intent of placing the animals in responsible, more permanent homes as soon as possible.

Commented [P1]: Taken from the licensing statute, NJSA 4:19-15.1

Cat means a member of the species of domestic cat, *Felis catus*.

Dog means a member of the species of domestic dog, *Canis familiaris*.

Offer for sale means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, give away or otherwise dispose of a dog or cat.

Pet shop means any place of business which is not part of a kennel, wherein animals, including, but not limited to, dogs, cats, birds, fish, reptiles, rabbits, hamsters or gerbils, are kept or displayed chiefly for the purpose of sale to individuals for personal appreciation and companionship rather than for business or research purposes. Such definition shall not include an animal care facility or animal rescue organization, as defined.

Commented [P2]: This is the statutory definition in NJSA 4:19-15.1, which is the licensing statute

Section 2. Restrictions on the Sale of Animals

(1) A pet shop may offer for sale only those dogs and cats that the pet shop has obtained from or displays in cooperation with:

- (a) An animal care facility; or
- (b) An animal rescue organization.

(2) A pet shop shall not offer for sale a dog or cat that is younger than eight weeks old.

Section 3. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall continue in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 4. Effective Date.

This ordinance shall become effective 90 days after passage.

The following Resolution #2016-301 (Confirming Inclusion of Bl. 206, L 25 and Bl. 225, L 191 in the Marlboro Open Space and Recreation Plan) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Scalea, and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Metzger).

RESOLUTION # 2016-301

RESOLUTION CONFIRMING THE INCLUSION OF BLOCK 206/LOT 25
AND BLOCK 225/LOT 191 IN THE TOWNSHIP OF MARLBORO
OPEN SPACE AND RECREATION PLAN

WHEREAS, the Township is an active participant in the New Jersey Department of Environmental Protection (NJDEP) Green Acres Planning Incentive Grant Program which provides 50-50 matching funding for the eligible costs of acquiring and preserving parcels in the Township's Open Space and Recreation Plan; and

WHEREAS, the Township has an Open Space and Recreation Plan dated August, 22, 2001; and

WHEREAS, the Open Space and Recreation Plan contains a list of parcels targeted for preservation by the Township; and

WHEREAS, periodically, the plan is amended to include additional sites identified as targets for preservation by the Open Space Preservation Committee and Township professionals; and

WHEREAS, the Township has long desired to preserve Block 206/Lot 25 also known as the "Stattel Farm (stand)" on Route 79 with frontage on Route 520 West, and the Stattel Farm (stand) parcel is included in both the Open Space and Farmland Preservation plans; and

WHEREAS, there is an additional parcel owned by the Stattel Family adjacent to the "Stattel Farm (stand)" that the Township also wishes to preserve, as follows:

Block 225/Lot 191 (Route 520 East)

; and

WHEREAS, the Township wishes to confirm the inclusion of Block 206/Lot 25 and Block 225/Lot 191 (Route 520 East) in the Open Space and Recreation Plan.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, Monmouth County, New Jersey that the Municipal Council hereby confirms the inclusion of Block 206/Lot 25 and Block 225/Lot 191 in the Township's Open Space and Recreation Plan.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to New Jersey Department of Environmental Protection (NJDEP) Green Acres, Attention Kathleen Croes, Mail Code 501-01, PO Box 420, Trenton, New Jersey, 08625-0420.

The following Resolution #2016-302 (Authorizing Application to Monmouth County for Open Space Trust Funds) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Scalea, and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor and Metzger).

RESOLUTION # 2016-302

A RESOLUTION AUTHORIZING APPLICATION
TO THE COUNTY OF MONMOUTH
FOR OPEN SPACE TRUST FUNDS

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 Grant 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 Governing Body of the Township of Marlboro desires to obtain County Open Space Trust Funds in the amount of \$250,000.00 to acquire the 8.5 acre parcel known as the "Stattel Farm", located at Route 520 (East) within the Township of Marlboro (Block 225, Lot 191); and

WHEREAS, the total cost of the project including all matching funds is estimated at \$975,000.00; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO THAT:

1. Mayor Jonathan Hornik is hereby 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 the Municipal Open Space Grants Program and (c) act as the municipal 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. Mayor Jonathan Hornik 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.

As the Consent Agenda, the following resolutions were introduced by reference, offered by Councilman Scalea, seconded by Council Vice President Marder and passed on a roll call vote of 3 - 0 in favor (Absent: Cantor, Metzger): Res. #2016-303 (Amending Contract Disaster Recovery Services through bids obtained by Middlesex Regional Services Com), Res. #2016-304 (Authorizing Renewal Shared Services Agreement WMUA - Snow Plow Operators), Res. #2016-305 (Authorizing Application to NJDCA Sandy Recovery Division for Reimbursement of Non-Federal Cost Share), Res. #2016-306 (Authorizing Application to NJ Department of Health -

Reimbursement HEP B Inoculation - Emergency Services Personnel), Res. #2016-307 (Authorizing Amendment to AT&T Wireless PCS, LLC Co-Locator Lease for Backup Power Generation Capability), Res. #2016-308 (Redemption Tax Sale Certs - Various).

RESOLUTION # 2016-303

RESOLUTION AMENDING A CONTRACT FOR DISASTER RECOVERY SERVICES FOR THE RESTORATION OF VARIOUS AREAS OF TOWNSHIP BUILDINGS THROUGH BIDS OBTAINED BY THE MIDDLESEX REGIONAL EDUCATION SERVICES COMMISSION (MRESC)

WHEREAS, on February 25, 2016 the Township Council approved Resolution #2016-100 confirming emergencies and authorizing a contract to All Risk, Inc. under the Middlesex Regional Education Services Commission (MRESC) Contract 12/13-26 for the restoration of various areas of Township public buildings affected by water leaks, based upon the estimate of work established at that time; and

WHEREAS, on Wednesday, February 24, 2016, the Department of Public Works reported an additional leak in the area of the Assessor's Office which appeared to be coming from the outside building wall, ultimately requiring work over and above the approved scope of services (Emergency #1607); and

WHEREAS, on September 14, 2016, the Department of Public Works reported that additional services are needed to repair the damage to the Tax Assessor's Office in the estimated amount of \$7,117.90; and

WHEREAS, it has been recommended by the Departments of Administration and Public Works, and the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend the contract awarded to All Risk, Inc. in an amount not to exceed \$7,117.90; and

WHEREAS, funds have been certified by the Chief Financial Officer from the Reserve for Insurance Account #01-286-55-004 for this purpose.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that authorization is hereby granted to amend the contract with All Risk, Inc., 501 Kennedy Boulevard, Somerdale, NJ 08083 for the additional services for an amount not to exceed \$7,117.90; and

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

- a. All Risk, Inc., Somerdale, NJ
- b. Township Administrator
- c. Township Public Works Department
- d. Township Chief Financial Officer

RESOLUTION # 2016-304

A RESOLUTION OF THE TOWNSHIP OF MARLBORO IN MONMOUTH COUNTY, NEW JERSEY AUTHORIZING A SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND THE WESTERN MONMOUTH UTILITIES AUTHORITY TO PROVIDE FOR SNOW PLOW OPERATOR CONTRACT SERVICES

WHEREAS, the Western Monmouth Utilities Authority ("WMUA") employs licensed commercial truck drivers with experience in snow removal activities; and

WHEREAS, the Township of Marlboro ("Township") has requested that the WMUA provide snow removal contract services; and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., (the "Act") permits units of local government to share services for particular purposes and to effectuate agreements for any service or circumstance that will aid and encourage a reduction of local expenses; and

WHEREAS, the Western Monmouth Utilities Authority ("WMUA") and the Township of Marlboro ("Marlboro") are public bodies corporate and politic of the State of New Jersey and are authorized under New Jersey Law to enter into a Shared Services Agreement pursuant to the Act; and

WHEREAS, the WMUA has the personnel to provide the specified services; and

WHEREAS, the WMUA and the Township have negotiated a Shared Services Agreement, a copy of which is annexed hereto as EXHIBIT A, and the terms of which are incorporated into this resolution as if set forth at length herein; and

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Marlboro as follows:

1. The above recitals are hereby incorporated into the body of this Resolution as if set forth at length herein.
2. The Shared Services Agreement shall be open to public inspection in the Clerk's office and shall take effect upon

the adoption of a resolution and execution of the agreement by both parties.

3. The Mayor and Township Clerk are hereby authorized to execute the Shared Services Agreement annexed hereto as EXHIBIT A.

RESOLUTION # 2016-305

RESOLUTION AUTHORIZING APPLICATION TO FOR NON-FEDERAL
COST SHARE REIMBURSEMENT FROM THE NEW JERSEY DEPARTMENT
OF COMMUNITY AFFAIRS SANDY RECOVERY DIVISION

WHEREAS, the Township of Marlboro incurred costs in excess of \$2.7 million as a result of Super storm Sandy; and

WHEREAS, through its Public Assistance Program (PA), FEMA has committed to reimburse the Township for approximately 90% of the approved costs incurred, with 10% of the costs matched by Marlboro Taxpayers; and

WHEREAS, the New Jersey Department of Community Affairs Sandy Recovery Division has announced a program to provide funding for some or all of the FEMA Public Assistance required (10%) non-Federal match; and

WHEREAS, the program will provide assistance to municipalities for Category A-Debris Removal; and

WHEREAS, the Township of Marlboro desires to apply for and obtain a grant from the New Jersey Department of Community Affairs for approximately \$160,000.00 to reimburse the Township for the costs of the required (10%) non-Federal FEMA match.

NOW, THEREFORE, BE IT RESOLVED THAT,

1) the Municipal Council of the Township of Marlboro does hereby authorize the application for such a grant; and,

2) recognizes and accepts that the Department may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from the New Jersey Department of Community Affairs;

3) authorizes the Mayor and Township Clerk to execute any such grant agreement; and also, upon receipt of the fully executed agreement from the New Jersey Department of Community Affairs.

BE IT FURTHER RESOLVED, that Mayor Jonathan L. Hornik and Alida Manco, Municipal Clerk are authorized to execute the application, and that they or their successors in said titles are authorized to sign the agreement, and any other documents necessary in connection therewith.

RESOLUTION # 2016-306

RESOLUTION AUTHORIZING THE TOWNSHIP OF MARLBORO TO
APPLY FOR REIMBURSEMENT OF COSTS OF HEPATITIS B
INOCULATIONS FROM THE NEW JERSEY DEPARTMENT OF HEALTH

WHEREAS, the New Jersey Department of Health has announced that funds are available from the Hepatitis Inoculation Fund for the reimbursement of costs of hepatitis B inoculations for certain emergency medical technicians, firefighters and police officers; and

WHEREAS, each municipality may receive up to \$5,000 in reimbursement for the cost of protecting its emergency medical technicians, firefighters and police officers against hepatitis B; and

WHEREAS, payments of funds to municipalities will be based on the collection of state forfeiture recoveries from confiscated property that had been involved in illegal activity; and

WHEREAS, the Township wishes to apply for reimbursement from the New Jersey Department of Health and Senior Services for up to the maximum amount of funding available.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the Township is hereby authorized to submit an application to the New Jersey Department of Health and execute an agreement for reimbursement from the Hepatitis Inoculation Fund.

RESOLUTION # 2016-307

A RESOLUTION AUTHORIZING AMENDMENT TO CO-LOCATOR LICENSE
AGREEMENT ISSUED TO AT&T WIRELESS PCS, LLC ("AT&T") TO LEASE
SPACE AT 1979 TOWNSHIP DRIVE, BLOCK 253, LOT 37.01 IN CONNECTION
WITH THE TOWNSHIP OWNED MONOPOLE FOR INSTALLATION OF BACKUP
POWER GENERATION CAPABILITY

WHEREAS, on December 12, 2002 (R.2002-416) the Marlboro Township Council authorized an agreement ("Township") with AT&T WIRELESS PCS, LLC ("AT&T") for the lease of space at 1979 TOWNSHIP DRIVE, BLOCK 253, LOT 36 (NOW 37.01) for co-location of

cellular antennae (Site ID NYNYNJ6335); and

WHEREAS, in connection with improvements to Township Public Safety communications facilities, the Township has undertaken 2016 capital project 212-2.2 to install backup power generation capabilities at the location of a Township-owned shelter at the monopole site; and

WHEREAS, AT&T has expressed interest in installing backup generator capability for its communication equipment co-located on the 1979 Township Drive monopole; and

WHEREAS, rather than installing separate facilities and duplicating costs, the parties have expressed an interest in sharing the cost of installing backup power generation capabilities at the 1979 Township Drive monopole site; and

WHEREAS, AT&T has agreed to contribute \$25,000.00 for the purposes of installing backup power capabilities at the tower site; and

WHEREAS, the Township and AT&T wish to execute a formal amendment to the existing license agreement memorializing the cost sharing arrangement; and

WHEREAS, the proposed amendment does not alter the terms of the agreement other than to recognize the cost sharing arrangement; and

WHEREAS, the Department of Law has reviewed and approved the proposed confirming amendment to the license agreement as to form, and the Business Administrator has recommended ratification of the amendment.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Township Council hereby confirms the amendment to the License Agreement between AT&T and the Township recognizing the cost sharing for purposes of installing backup power generation capabilities at 1979 Township Drive, Block 253, Lot 37.01; and

BE IT FURTHER RESOLVED, that the Mayor and Township Clerk are authorized to execute the documents, in a form legally acceptable to the Township Attorney, to effectuate the amendment to the license agreement.

- a. New Cingular Wireless PCS, LLC/AT&T Mobility Corporation
- b. Business Administrator
- c. Chief Financial Officer

d. Chief of Police

RESOLUTION # 2016-308

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$ 32,492.52 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$ 32,492.52 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
2015-027	171/63	MTAG Cust. Fig Capital Inv 8323 Ramona Blvd West Suite 2 Jacksonville, FL 32221 Assessed Owner: Panagiotopoulos, John & Athina	1,567.72
2015-126	412.05/12	TTLBL, LLC 4747 Executive Drive Suite 510 San Diego, CA 92121 Assessed Owner: Ciancio, Salvatore & Michelle	3,189.68
2016-097	305/192	TWR as CST for Ebury Fund 2 NJ, LLC P.O. Box 54908 New Orleans, LA 70154 Assessed Owner: Edri,Uzi & Ruth Young	2,806.24
2015-120	412/241	TRADE MONEY, LLC 29 Palisades Road Old Bridge, NJ 08857 Assessed Owner: Voter, Steven	1,305.94
2016-133	412/241	MTAG Cust. Fig Capital Inv 8323 Ramona Blvd West Suite 2 Jacksonville, FL 32221 Assessed Owner: Voter, Steven	2,360.21

2014-062	214.01/30	MTAG Cust. Fig Capital Inv	2,659.00
		8323 Ramona Blvd West Suite 2	
		Jacksonville, FL 32221	
		Assessed Owner:	
		Mizrahi, Roger	
2016-081	263/3	ACTLIEN HOLDING, INC.	2,265.73
		8323 Ramona Blvd West Suite 2	
		Jacksonville, FL 32221	
		Assessed Owner:	
		Menasse, Brian & Kim	
2016-067	219/2	FNA NJ,LLC	16,338.00
		120 N Lasalle St Suite 1220	
		Chicago, IL 60602	
		Assessed Owner:	
		Corman, Jeff	

At 7:50 PM, Council Vice President Marder moved that the meeting be adjourned. This was seconded by Councilman Scalea, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Cantor and Metzger).

MINUTES APPROVED: OCTOBER 20, 2016

OFFERED BY:	AYES:	3
SECONDED BY:	NAYS:	0
	ABSTAIN:	CANTOR, METZGER

ALIDA MANCO
MUNICIPAL CLERK

CAROL MAZZOLA
COUNCIL PRESIDENT