

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

May 4, 2017

The Marlboro Township Council held its regularly scheduled Meeting on May 4, 2017 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Cantor opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this 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 9, 2017; 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: Councilwoman Mazzola, Councilman Metzger, Councilman Scalea, and Council President Cantor. Council Vice President Marder was absent.

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

Councilman Metzger moved that the regular minutes and executive session minutes of April 20, 2017 be adopted. This was seconded by Councilwoman Mazzola, and passed on a roll call vote of 4 - 0 in favor (Absent: Marder).

The following Resolution #2017-163 (Authorizing Acceptance of Green Communities Grant NJ Forest Service) was introduced by reference, offered by Councilman Metzger, seconded by Councilman Scalea, and passed on a roll call vote of 4 - 0 in favor (Absent: Marder).

RESOLUTION # 2017-163

A RESOLUTION AUTHORIZING THE GRANT AGREEMENT
BETWEEN MARLBORO TOWNSHIP AND THE STATE OF NEW JERSEY
BY AND FOR THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Governing Body of the Township of Marlboro desires to further the public interest by obtaining a grant from the State of New Jersey in the amount of approximately \$3000.00 to fund the Green Communities Grant Community Forestry Management Plan.

THEREFORE, the Governing Body resolves that Jonathan Hornik, Mayor of the Township of Marlboro or the successor to the office of the Mayor is authorized to make application for such a grant, and if awarded, to execute a grant agreement with the State of New Jersey for a grant in an amount not less than \$3000.00 and not more than \$3000.00 and to execute any amendments thereto which do not increase the Grantee's obligations.

The Council of Marlboro Township authorizes and hereby agrees to the match of 50% of the total Project Amount, in compliance with the match requirements of the agreement. The availability of the match for such purposes, whether cash, services, or property, is hereby certified. 100% of the match will be made up of in-kind services (if allowed by grant program requirements and the agreement).

The Grantee agrees to comply with all applicable federal, State, and municipal laws, rules, and regulations in its performance pursuant to the agreement.

As the Consent Agenda, the following resolutions were introduced by reference, offered by Councilman Metzger, seconded by Councilman Scalea and passed on a roll call vote of 4 - 0 in favor (Absent: Marder): Res. #2017-164 (Authorizing Approval for a NJDOT Grant Application and Contract for the 2015 Highway Traffic Safety Project), Res. #2017-165 (Authorizing ESCNJ Contract for Refurbishment of Caterpillar Loader), Res. #2017-166 (Authorizing State Contracts - Acquisition of Class 2 Pickup Truck and Utility Vehicle), Res. #2017-167 (Authorizing Transfer and Acceptance of Surplus Military Equipment from US Department of Defense (DOD) 1033 Program), Res. #2017-168 (Budget Amendment Chapter 159 - Click It or Ticket), Res. #2017-169 (Budget Amendment Chapter 159 - Distracted Driving), Res. #2017-170 (Refund for Overpayment - Shukla).

RESOLUTION # 2017-164

APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A
GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF
TRANSPORTATION FOR THE 2015 HIGHWAY TRAFFIC SAFETY PROJECT

NOW, THEREFORE, BE IT RESOLVED that the Township Council of Marlboro formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as HSF-2015-Marlboro Township-00051 to the New Jersey Department of Transportation on behalf of Marlboro Township.

BE IT FURTHER RESOLVED, that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Marlboro Township and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

RESOLUTION # 2017-165

RESOLUTION AUTHORIZING AWARD OF STATE CONTRACT #85846 TO FOLEY INCORPORATED FOR THE PURCHASE OF PARTS & REPAIRS FOR THE REFURBISHMENT OF TOWNSHIP-OWNED CATERPILLAR LOADER (#0613) FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro as part of its 2017 capital program (120-20) authorized the purchase of parts & repairs for the refurbishment of Township-owned heavy equipment for the Department of Public Works; and

WHEREAS, the Director of Public Works has recommended that the Township purchase the parts & repairs for the refurbishment of Township-owned Caterpillar Loader (#0613) from Foley Incorporated under State Contract #85846 in an amount not to exceed \$37,471.10; 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 purchase the parts & repairs for the refurbishment of the loader to be utilized by the Department of Public Works; and

WHEREAS, funds are available and have been certified by the Chief Financial Officer in an amount not to exceed \$37,471.10 from Capital Account #04-215-17-02H-120297, and

WHEREAS, the Township Council desires to approve the purchase of the parts & repairs for the refurbishment of Township-owned Caterpillar Loader (#0613).

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase the parts & repairs for the refurbishment of Township-owned Caterpillar Loader (#0613) from Foley Incorporated under State Contract #85846 in an amount not to exceed \$37,471.10.

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

- a. Foley Incorporated
- b. Township Administrator
- c. Township Director of Public Works
- d. Township Chief Financial Officer

RESOLUTION # 2017-166

RESOLUTION AUTHORIZING AWARD OF STATE CONTRACT #88727
TO BEYER FORD FOR THE PURCHASE OF REPLACEMENT VEHICLES
AND RELATED EQUIPMENT FOR THE TOWNSHIP OF MARLBORO
DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro as part of its 2017 capital program (120-1, 120-2 and 500-1) authorized the purchase of replacement vehicles for the Department of Public Works; 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, Beyer Ford was awarded State Contract #88727 for the 2017 Ford F-250 SRW XL 4WD Supercab 164" WB w/ 8' Bed Pickup Truck equipped with all options for a price of \$30,980.50, with the exception of trailer plug install, plow deflector, spray-in bedliner, back up alarm, vehicle undercoating, and (4) corner amber LEDs totaling \$2,370.00; and

WHEREAS, Beyer Ford was awarded State Contract #88727 for the 2017 Ford Super Duty F-250 SRW XL 4WD Regular Cab 8' Box Pickup Truck equipped with all options for a price of \$28,837.50, with the exception of trailer plug install, plow

deflector, spray-in bedliner, back up alarm, vehicle undercoating, back rack, (2) UB LED scene/work lights mounted to back rack and (4) corner amber LEDs totaling \$3,535.00; and

WHEREAS, Beyer Ford was awarded State Contract #88727 for the 2017 Ford Super Duty F-250 SRW XL 4WD Regular Cab with Utility Body equipped with all options for a price of \$32,675.50, with the exception of trailer plug install, plow deflector, spray-in bedliner, back up alarm, vehicle undercoating, back rack, and (4) corner amber LEDs totaling \$2,445.00; and

WHEREAS, while impractical to purchase the above-listed vehicle options separately from the vehicles themselves, the Township attempted to solicit pricing on those options not covered under the State Contract, and determined that the price quoted by Beyer Ford was the lowest and most advantageous; and

WHEREAS, the Director of Public Works has recommended that the Township purchase the vehicles and related equipment from Beyer Ford under State Contract #87727 in an amount not to exceed \$100,843.50; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to purchase the replacement vehicles to be utilized by the Department of Public Works; and

WHEREAS, funds are available and have been certified by the Chief Financial Officer in an amount not to exceed \$100,843.50 from Capital Account #04-215-17-02H-120297 and Water Capital Account #06-215-17-03C-500297, and

WHEREAS, the Township Council desires to approve the purchase of the replacement vehicles.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase the replacement vehicles and related equipment from Beyer Ford, under State Contract #88727 in an amount not to exceed \$100,843.50.

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

- a. Township Administrator
- b. Township Director of Public Works

c. Township Chief Financial Officer

RESOLUTION # 2017-167

AUTHORIZING THE TRANSFER AND ACCEPTANCE OF SURPLUS MILITARY EQUIPMENT FROM THE UNITED STATES DEPARTMENT OF DEFENSE (DoD) 1033 PROGRAM FOR THE MARLBORO DIVISION OF POLICE

WHEREAS, the 1033 Program (formerly the 1208 Program) permits the Secretary of Defense to transfer, without charge, excess U.S. Department of Defense (DoD) personal property (supplies and equipment) to state and local law enforcement agencies (LEAs); and

WHEREAS, the Municipal Council authorized the Township through the Division of Police (R.2014-217) to make application to the Department of Defense 1033 Program for military surplus equipment from the United States DoD; and

WHEREAS, the Division of Police made application and has received the transferred surplus equipment identified in Schedule A attached.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Marlboro that the Township through the Division of Police is hereby authorized to accept the military surplus equipment identified in Schedule A from the Department of Defense 1033 Program.

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

- a. Human Resources
- b. Business Administrator
- c. Chief Financial Officer

RESOLUTION # 2017-168

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made

available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an revenue in the budget of the year 2017 in the sum of \$5,500.00, which has been awarded to the municipality for the "2017 Click It or Ticket" Grant.

BE IT FURTHER RESOLVED that the amount of \$5,500.00 be hereby appropriated under the caption "2017 Click It or Ticket" Grant.

RESOLUTION # 2017-169

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE
AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an revenue in the budget of the year 2017 in the sum of \$5,500.00, which has been awarded to the municipality for the "2017 Distracted Driving Crackdown" Grant.

BE IT FURTHER RESOLVED that the amount of \$5,500.00 be hereby appropriated under the caption "2017 Distracted Driving Crackdown" Grant.

RESOLUTION # 2017-170

WHEREAS, the Tax Collector's Office had received check #60195 in the amount of \$716.00 from Edison HVAC Inc. for Block 143.02 Lot 80, located at 300 Wedgewood Road and assessed to Shukla, Abhinav and it was applied to the 2nd quarter, 2017 property taxes,

WHEREAS, this payment was intended to pay for permit fees in the Building Department, and, the remitter has requested a refund of the payment amount, the Tax Collector is directed to refund the amount of \$716.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$716.00, to Edison HVAC Inc.

At 7:05 PM, Councilman Scalea moved that the meeting enter into executive session for discussion of Affordable Housing Litigation. This was seconded by Councilman Metzger and the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Marder).

RESOLUTION # 2017-171

EXECUTIVE SESSION

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 4th day of May, 2017 to enter into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely contract negotiations - affordable housing 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 five 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 7:08 PM, Councilwoman Mazzola offered a motion to return to regular business, which was seconded by Councilman Scalea and passed on a roll call vote of 4 - 0 in favor (Absent: Marder).

The following Resolution #2017-172 (Authorizing The Execution of a Developer's Agreement - Countryside Developers, Inc - Block 421, Lots 3 and 4) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman Metzger, and passed on a roll call vote of 4 - 0 in favor (Absent: Marder).

RESOLUTION # 2017-172

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND STILLWELL, INC FOR THE DISMISSAL OF THE MATTER OF STILLWELL ROAD HOLDINGS V. TOWNSHIP OF MARLBORO, ET AL (DOCKET NO. MON-L-2973-15

WHEREAS, Stillwell Road Holding, Inc. filed an action seeking a "builders remedy" entitled Stillwell Road Holding v. Marlboro Township (Docket No Mon-L-2973-15) (the "Action"); and,

WHEREAS, On September 21, 2016 the Planning Board of the Township of Marlboro ("Planning Board") adopted Resolution P.B. 1119-15 granting amended Preliminary and Final Major Subdivision Approval to owner and developer predecessor in interest, Stillwell Holding, LLC ("Developer") for the development of property known as Block 421, Lots 3 and 4, on the Official Tax Map of the Township of Marlboro, Monmouth County New Jersey (the "Site"); and

WHEREAS, Stillwell subsequently assigned their interest in the development to Countryside Developers, Inc.; and,

WHEREAS, Stillwell and the Township have agreed to the dismissal of the Action in accordance with the terms set forth in the attached settlement agreement that will permit the Development of the subject property consistent with the subdivision approval which permits the construction of 15 residences; and,

WHEREAS, the Township Council determines that it is in the best interest of the Township to dismiss the action.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, that the Mayor and Township Clerk are hereby authorized to execute and enter into the Settlement Agreement between the Township of Marlboro and Stillwell Road Holding, Inc., attached hereto in form and substance as "Exhibit

A", and execute an amendment to the Developer's Agreement consistent with this settlement, following its approval by the Planning Board.

At 7:10 PM, Councilwoman Mazzola moved that the meeting be adjourned. This was seconded by Councilman Scalea, and passed on a roll call vote of 4 - 0 in favor (Absent: Marder).

MINUTES APPROVED: MAY 18, 2017

OFFERED BY:	METGER	AYES:	4
SECONDED BY:	SCALEA	NAYS:	0
		ABSTAIN:	MARDER

ALIDA MANCO,
MUNICIPAL CLERK

JEFF CANTOR,
COUNCIL PRESIDENT