

MORRIS COUNTY IMPROVEMENT AUTHORITY

MINUTES of the Board Meeting held on January 19, 2011, at 6:00 p.m.,
Knox Conference Room #525, Morris County
Administration and Records Building, Morristown, New Jersey

At 6:00 p.m., John Bonanni, Chairman to the Morris County Improvement Authority called the meeting to order. The following persons were in attendance:

John Bonanni, Chairman
Christina Ramirez, Commissioner
Frank T. Pinto, Commissioner
Glenn Roe, Commissioner
Ellen Sandman, Commissioner
Tom Mastrangelo, Deputy Freeholder Liaison
Stephen B. Pearlman, Esq. - Inglesino, Pearlman, Wyciskala & Taylor LLC
Jennifer Edwards, Acacia Financial
Doug Bacher, NW Financial Group
Joe Santaiti, Gabel Associates

Commissioner Bonanni asked for the reading of the public statement in accordance with the Open Public Meetings Act which was then read by recording secretary Cindy Rueter.

Commissioner Bonanni asked for “roll call” for the Authority. All five Commissioners were in attendance, Ms. Christina Ramirez, Ms. Ellen Sandman, Mr. John Bonanni, Mr. Glenn Roe and Mr. Frank Pinto a quorum was established.

Approval of the December 15, 2010 minutes was considered, Commissioner Pinto made a motion to accept the minutes of the December 15th meeting. Commissioner Roe seconded the motion, all others were in favor to accept the minutes of December 15th.

The public portion of the meeting was opened. – No comment at this time.

The Executive Session was opened at 6:33 p.m. Open session resumed at 6:58 p.m.

Agenda item 6(i). was discussed - Resolution approving the payment of bills as listed on the Schedule of Warrants. Commissioner Roe made a motion to adopt this resolution; Commissioner Pinto seconded the motion. Roll was called. The resolution was approved unanimously. The motion carried and Resolution No. 11-01 “RESOLUTION APPROVING THE PAYMENT OF BILLS AS LISTED ON THE SCHEDULE OF WARRANTS” (No.11-01) was adopted.

Agenda item 6(ii) was discussed – Resolution amending the original resolution adopted at the November Improvement Authority meeting authorizing a service agreement with Gabel Associates to develop an Energy Savings Improvement Program. Commissioner Sandman made a motion to adopt this resolution; Commissioner Roe seconded the motion. The resolution was approved unanimously. The motion carried and Resolution No. 11-02 “RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY RESOLUTION 10-42 OF THE AUTHORITY ENTITLED, “RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM” (NO. 11-02) was adopted.

Agenda item 6(iii) was discussed – Resolution for a Cash Management Plan which is adopted yearly by the Improvement Authority. Commissioner Roe made a motion to adopt this resolution; Commissioner Sandman seconded the motion. The resolution was approved unanimously. The motion carried and Resolution No. 11-03 “RESOLUTION ADOPTING A CASH MANAGEMENT PLAN FOR THE MORRIS COUNTY IMPROVEMENT AUTHORITY (NO. 11-03) was adopted.

7a. Discussion: Status of Renewable Energy Program – The monthly Construction Progress report was e-mailed to the Commissioners of the Improvement Authority. Phase I of the Renewable Energy Solar Program is in its final stage, all installations have been completed and all locations should be fully functional within the next couple weeks.

7b. Outreach meeting re: Tax Levy Cap – Topic will be discussed at the Improvement Authority meetings being held on January 31, 2011 and February 1, 2011.

7c. Payment of Bills between Meetings – Nothing at this time.

7d. Status of Other Inquiries and potential transactions – Nothing at this time.

7e. Other items – Two informal meetings have been scheduled to discuss the Energy Savings Improvement Program (ESIP) as well as the Pooled Bond Program. The School Superintendents and School Business Administrators have been invited to attend a meeting being held on January 31, 2011 at the Morris County Public Library. The Mayors and Town Business Administrators have been invited to attend a meeting being held on February 1, 2011 at the Morris County Administration and Records Building. Gabel Associates has prepared a Power Point Presentation; speakers will include Representatives from Gabel Associates and Stephen B. Pearlman, Esq., The meetings will be opened up for a question and answer period.

A meeting to discuss the MCIA Renewable Energy Solar Program with other New Jersey Counties to get their input regarding how they structured their respective programs to include their experiences and differences in the programs was discussed; no date for the meeting has been scheduled.

The January 19, 2011 meeting of the Morris County Improvement Authority was adjourned at 7:25 p.m. Commissioner Ramirez made a motion to adjourn and seconded by Commissioner Roe.

Respectfully submitted,

Cynthia Rueter
Recording Secretary

**RESOLUTION OF THE BOARD OF COMMISSIONERS
MORRIS COUNTY IMPROVEMENT AUTHORITY**

TITLE:

**RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY
RESOLUTION 10-42 OF THE AUTHORITY ENTITLED, “RESOLUTION OF
THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE
IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM”**

WHEREAS, the Morris County Improvement Authority (the “*Authority*”) has been duly created by resolution no. 42 entitled “Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority” duly adopted by the Board of Chosen Freeholders (the “*Morris County Board of Freeholders*”) of the County of Morris (the “*Morris County*”) in the State of New Jersey (the “*State*”) on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the “*Act*”), and other applicable law;

WHEREAS, the Authority has developed a program (the “*Original Renewable Energy Program*”) for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications or other work required or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the “*Original Renewable Energy Projects*”) for and on behalf of the County and local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities; collectively, including the County, the “*Local Units*”), all as an authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

WHEREAS, in order to implement the Original Renewable Energy Program, the Authority and the County entered into that certain “Service Agreement (Renewable Energy Program)” dated as of January 1, 2009 (the “*Original Service Agreement*”), as amended by that certain “Amendment No. 1 to Service Agreement (Renewable Energy Program)” dated as of May 1, 2010 (“*Amendment No. 1 to Service Agreement*”), and together with the Original Service Agreement, the “*Prior Service Agreement*”), all

pursuant to Section 36 of the Act (N.J.S.A. 40:37A-79) and other applicable law (capitalized terms not defined herein shall have the meanings ascribed to such terms in the Original Service Agreement, as amended and supplemented hereby, if applicable), pursuant to which the County advanced funds to the Authority of \$800,000 in the aggregate for the Original Renewable Energy Program;

WHEREAS, pursuant to the Original Renewable Energy Program, the Authority issued its \$21,600,000 aggregate principal amount of “County of Morris Guaranteed Renewable Energy Program Lease Revenue Bonds, Series 2009A” dated February 18, 2010 to finance 3.2 MW of Original Renewable Energy Projects (in the form of PV solar panels and related equipment) for 7 Local Units at 15 sites within and including the County, where substantial environmental and financial benefits were secured;

WHEREAS, on October 20, 2010 the Authority adopted resolution no. 10-041 authorizing the implementation of the second tranche of its Original Renewable Energy Program;

WHEREAS, the Authority intends to expand its Original Renewable Energy Program (as so expanded, the “*Renewable Energy Program*”) to include the development and implementation of energy savings improvement programs (“*ESIP*”) contemplated by Chapter 4 of the Pamphlet Laws of 2009 of the State, and the acts amendatory thereof and supplemental thereto (the “*ESIP Act*”), Local Finance Board Notice 2009-11, June 12, 2009, *Implementing an Energy Savings Improvement Program, P.L. 2009, c.4*, for and on behalf of Local Units (including ESIP, the “*Renewable Energy Projects*”) and other applicable law (collectively, the “*ESIP Law*”), all as a further authorized purpose under N.J.S.A. 40:37A-54(a) of the Act;

WHEREAS, the Renewable Energy Projects procured under the ESIP portion of the Authority’s Renewable Energy Program (the “*ESIP Projects*”) are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the “*Local Unit Facilities*”);

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the ESIP Projects, to finance, design, permit, acquire, construct, renovate and install certain other capital improvements to or for the Local Unit Facilities that do not constitute ESIP Projects (the “*Capital Improvement Projects*” and together with the ESIP Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the “*Projects*”);

WHEREAS, Gabel Associates, on behalf of itself and Birdsall Services Group (collectively, the “*Consulting Energy Engineer*”) and with the review and preliminary approval of the Authority’s energy counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC and the Authority’s energy financial advisor, NW Financial Group (including the Consulting Energy Engineer, collectively, the “*ESIP Consultants*”), has submitted to the

Authority a proposal with respect to the implementation and development of the ESIP dated October 15, 2010, a copy of which is attached as **Exhibit A** hereto (the “*ESIP Proposal*”);

WHEREAS, the primary goal of the ESIP is to identify, finance, develop and implement the energy efficiency measures for and on behalf of the Local Units with respect to their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units;

WHEREAS, the Authority contemplates the issuance of revenue bonds (the “*ESIP Bonds*”) to be issued by the Authority pursuant to the Act, the ESIP Law, and other applicable law pursuant to the terms of a bond resolution (the “*Bond Resolution*”), such Bonds to be secured in the first instance by payments to be made by the ESIP participating Local Units, then followed by payments to be made, if any, from the unconditional full faith and credit guaranties of or on behalf of such Local Units (the “*Local Unit Guaranties*”) pursuant to Section 37 of the Act (codified at N.J.S.A. 40:37A-80, “*Section 37*”), other ESIP Program guaranties that may be available to guaranty a certain amount of energy savings under the ESIP Program, if applicable (the “*ESIP Program Guaranties*”) and ultimately, by the unconditional full faith and credit guaranty of the County (the “*County Guaranty*”, and together with the Local Unit Guaranties and the ESIP Program Guaranties, the “*Guaranties*”) pursuant to Section 37;

WHEREAS, the Consulting Energy Engineer, and the services related thereto (the “*Original Consulting Energy Engineering Services*”) in connection with the Original Renewable Energy Program, all as set forth in a Services Agreement with the Consulting Energy Engineer (prior to the amendment contemplated hereby, the “*Prior Consulting Energy Engineer Services Agreement*”) have been procured originally through a fair and open process undertaken in accordance with N.J.S.A. 19:44A-20.4 *et seq.*, and the professional services exception to the Local Public Contracts Law, and subsequently extended on a non-fair and open basis pursuant to such law and in accordance with such exception to the Local Public Contracts Law, all as such Original Consulting Energy Engineering Services were authorized by several resolutions of the Authority: (i) Resolution No. 08-28A adopted November 12, 2008, (ii) 09-44 adopted May 12, 2009, (iii) Resolution No. 09-51 adopted November 30, 2009, (vi) Resolution No. 10-017 adopted April 20, 2010, and (v) Resolution No. 10-27 adopted June 16, 2010;

WHEREAS, the Authority further desires to utilize the services of the ESIP Consultants in developing and implementing the ESIP, and thereby desires to (i) amend the Prior Consulting Energy Engineer Services Agreement (as so amended hereby, the “*Consulting Energy Engineer Services Agreement*”), and (ii) utilize and apply the provisions of the Authority’s existing professional services agreements with the other ESIP Consultants, all to reflect the increased scope of services contemplated by the ESIP in accordance with the terms of the ESIP Proposal and the ESIP Law;

WHEREAS, the Authority and the County desire that the Prior Service Agreement be further amended by that certain “Amendment No. 2 to Service Agreement (Renewable Energy Program)” (“*Service Agreement Amendment No. 2*”, and together with the Prior Service Agreement, as further amended and supplemented from time to time in accordance with its terms, the “*Service Agreement*”) to provide for the additional advancement of funds from the County to the Authority for the development of the ESIP Program, particularly services of the Consulting Energy Engineer under the Consulting Energy Engineer Services Agreement and, if any funds are available, to be provided by any other ESIP Consultant in connection with the ESIP Program, in the aggregate amount of \$150,000, which funds shall be appropriated by the County from any available source; and

WHEREAS, the Authority does hereby intend to amend and restate in its entirety resolution no 10-42 entitled, “RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE IMPLEMENTATION OF AN ENERGY EFFICIENCY PROGRAM” adopted by the Authority on November 23, 2010.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Authority as follows:

Section 1. (a) Subject to subsection (b) below, the Authority hereby agrees as follows in this subsection (a). The ESIP, as outlined in the attached ESIP Proposal and within the parameters of the ESIP Law, is hereby initially approved as an authorized and desirable purpose for this Authority pursuant to N.J.S.A. 40:37A-54(a) of the Act, subject to the further approvals to be obtained in connection with the development and implementation of the ESIP, including without limitation the resolution required by N.J.S.A. 40: 37A-56 of the Act from the Morris County Board of Freeholders, and as applicable the Guaranties, along with the findings of the Local Finance Board pursuant to N.J.S.A. 40A:5A-6, 7 and 8. Further, the Chairperson, Vice-Chairperson and the Treasurer of the Authority (including their designees, each an “*Authorized Officer*”) are hereby severally authorized to (i) implement the ESIP in accordance with the terms of the ESIP Proposal and (ii) toward that end, execute the Service Agreement Amendment No. 2 in substantially the form attached as Exhibit B hereto, with such changes thereto as the Authorized Officer shall determine, after consultation with the ESIP Consultants, which execution thereto by such Authorized Officer shall dispositively determine the authorization of any such changes. The ESIP Consultants are hereby further authorized to assist the Authorized Officers and the Authority with respect to the implementation and development of the ESIP.

(b) As the Service Agreement Amendment No. 2 has a maximum appropriation of \$150,000 for the ESIP, unless the Authority appropriates additional funds for the ESIP from another source, the actions taken in implementing the ESIP, including those of the ESIP Consultants, shall be limited to the \$150,000 or such other appropriated amount otherwise agreed to by the Authority. In implementing this policy, the Consulting Energy Engineer shall agree in the Consulting Energy Engineer Services Agreement that it shall perform outreach services for the ESIP at no cost to the Authority, and further, that the Consulting Energy Engineer shall cap the subsequent services

through the development of the ESIP plan at the \$150,000 so appropriated. Notwithstanding the foregoing, to the extent subsequent appropriations are made by the Authority for the ESIP and/or the Bonds are issued by the Authority (which action shall itself provide an appropriation) for the ESIP, any additional services performed by the Consulting Energy Engineer beyond the \$150,000 cap, and any services performed by the other ESIP Consultants, shall be paid either out of any such subsequent appropriation and/or the proceeds of the Bonds, at the Authority's option.

Section 2. The Authorized Officers are each hereby severally authorized and directed to negotiate, execute and deliver the amendment to the Prior Consulting Energy Engineer Services Agreement with the Consulting Energy Engineer contemplated hereby, which shall include the scope of services and the pricing reflected in the ESIP Proposal, with such final form of the Consulting Energy Engineer Services Agreement to be determined by the Authorized Officer, after consultation with counsel, to be in the best interests of the Authority and the participating Local Units, and such Authorized Officer is hereby further authorized to take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Consulting Energy Engineer Services Agreement.

Section 3. The Secretary and the Assistant Secretary of the Authority are hereby authorized and directed, where required, to affix the corporate seal of the Authority and to attest to the signature of the Authorized Officer on any such Service Agreement Amendment No. 2 and Consulting Energy Engineer Services Agreement, including such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

Section 4. All actions taken to date by the Authority and the ESIP Consultants in connection with the ESIP are hereby ratified, confirmed and approved, and the Authorized Officers and the ESIP Consultants are hereby severally authorized and directed to develop and implement the ESIP, subject to the further approvals and consents to be obtained contemplated by Section 1 above.

Section 5. In accordance with N.J.S.A. 40:37A-50, the Secretary of the Authority is hereby authorized and directed to submit to each member of the Morris County Board of Freeholders, by the end of the fifth business day following this meeting or as soon as possible thereafter, a copy of the minutes of this meeting. The Secretary is hereby further authorized and directed to obtain from the Clerk of the Morris County Board of Freeholders stating that the minutes of this meeting have not been vetoed by the Director of the Morris County Board of Freeholders.

[balance of page left intentionally blank]

Deleted: 0

Deleted: _

Section 6. This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

MOVED/SECONDED:

Resolution moved by Commissioner _____.

Resolution seconded by Commissioner _____.

VOTE:

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Bonanni				

ATTESTATION:

This Resolution was acted upon at the Regular Meeting of the Authority held on January 19, 2011 at the Authority's principal corporate office in Morristown, New Jersey.

Attested to this 19th day of January, 2011

Deleted: __

Deleted: _____.

Formatted: Underline

Formatted: Underline

By: _____

Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of January 19, 2011

By: _____

Stephen B. Pearlman, Esq., Partner
Inglesino, Pearlman, Wyciskala & Taylor, LLC
Counsel to the Authority

EXHIBIT A

[Attach Form of ESIP Proposal]

EXHIBIT B

[**Attach Form of Service Agreement Amendment No. 2**]

RESOLUTION NO. 11-03

**RESOLUTION OF THE BOARD OF COMMISSIONERS
MORRIS COUNTY IMPROVEMENT AUTHORITY**

TITLE:

**RESOLUTION ADOPTING A CASH MANAGEMENT PLAN FOR THE
MORRIS COUNTY IMPROVEMENT AUTHORITY**

WHEREAS, the Morris County Improvement Authority (the “Authority”) has been duly created by resolution of the County of Morris (the “County”), State of New Jersey (the “State”) and exists in good standing as a public body corporate and politic under and pursuant to all applicable law, including the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, as amended from time to time (codified at N.J.S.A. 40:37A-44 et seq., the “Act”); and

WHEREAS, under applicable law, including N.J.S.A. 40A:5-14 of the Local Fiscal Affairs Law, the Authority must adopt a cash management plan on an annual basis relating to the deposit and investment of funds of the Authority.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Authority as follows:

Section 1. The Cash Management Plan in the form attached as Exhibit A hereto is hereby adopted for the 2011 fiscal year. Any provision contained in the Cash Management Plan relating to authorized investments or other items specifically controlled by applicable law or regulation shall be, without any further action of the Commissioners of the Authority, deemed amended and supplemented by any such superseding law or regulation. If the Authority does not officially act to adopt a new Cash Management Plan for the 2012 fiscal year, the 2011 fiscal year Cash Management Plan shall be in place until the earlier of any such subsequent official action or one year from the date of adoption hereof. After the adoption hereof, the Treasurer of the Authority may, prior to the next meeting of the Authority, supplement or amend the list of depositories contained within the Cash Management Plan to conform to the list utilized by the County without any further action of this Board, provided that such revised list be delivered to the Commissioners at or prior to the next meeting of the Authority.

Section 2. This resolution shall be effective immediately, unless it has been vetoed in accordance with N.J.S.A. 40:37A-50(e) of the Act.

MOVED/SECONDED:

Resolution moved by Commissioner _____.

Resolution seconded by Commissioner _____.

VOTE:

Commissioner	Yes	No	Abstain	Absent
Pinto				
Ramirez				
Roe				
Sandman				
Bonanni				

ATTESTATION:

This Resolution was acted upon at the Regular Meeting of the Authority held on January 19, 2011 at the Authority’s principal corporate office in Morristown, New Jersey.

Attested to this 19th day of January, 2011

By: _____

Secretary of the Authority

FORM and LEGALITY:

This Resolution is approved as to form and legality as of January 19, 2011

By: _____

**Stephen B. Pearlman, Esq., Partner
Inglesino, Pearlman, Wyciskala & Taylor, LLC
Counsel to the Authority**

EXHIBIT A
CASH MANAGEMENT PLAN