

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

July 15, 2010

The Marlboro Township Council held its regularly scheduled meeting on July 15, 2010 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President LaRocca 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 11, 2010; mailed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk. Notice of the time change was given to the above on May 10, 2010.

The Clerk called the Roll.

PRESENT: Council Vice President Marder, Councilwoman Mazzola, Councilman Metzger and Council President LaRocca. Councilman Cantor was absent.

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

Councilwoman Mazzola moved that the minutes of June 3, 10, and 17, 2010 be approved. This motion was seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor. Absent: Cantor

Councilwoman Mazzola moved that the minutes of June 21, 2010 be approved. This motion was

seconded by Councilman Metzger and passed on a roll call vote of 3 - 0 in favor with Council Vice President Marder abstaining. Absent: Cantor.

Council President LaRocca opened the Public Hearing on Ordinance # 2010-11 As Amended (Amending Chapter 220 - Establishing violations and penalties for work performed without permits). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2010-238/Ord. # 2010-11 ((As Amended) Amending Chapter 220 - Establishing violations and penalties for work performed without permits) was introduced by reference, offered by Councilwoman Mazzola, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-238

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

ORDINANCE # 2010-11 (As Amended)

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 220 OF THE CODE OF THE TOWNSHIP OF MARLBORO, "LAND USE AND DEVELOPMENT", BY CREATING AND ESTABLISHING A NEW SECTION 220-32(C), "VIOLATIONS AND PENALTIES", TO SET FORTH PENALTIES FOR CONSTRUCTION WORK UNDERTAKEN WITHOUT A PERMIT

which was introduced as amended on June 3, 2010, public hearing held July 15, 2010, be adopted on second and final reading this 15th day of July, 2010.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council Vice President Marder motioned to amend Res. # 2010-239/Ord. # 2010-12 (Amending Chapter 220 - Performance Guaranties) as per the planning board resolution. This was seconded by Council President LaRocca. Louis Rainone, Esq. stated that the amendments were not substantive and therefore the ordinance may be amended. The motion to amend the ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor). Council President LaRocca opened the Public Hearing on Ordinance # 2010-12 (Amending

Chapter 220 - Performance Guaranties). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2010-239/Ord. # 2010-12 As Amended (Amending Chapter 220 - Performance Guaranties) 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: Cantor).

RESOLUTION # 2010-239

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

ORDINANCE # 2010-12 (AS AMENDED)

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, SECTION 220-30 ENTITLED, "GUARANTIES, INSPECTIONS AND DEVELOPER'S AGREEMENTS"

which was introduced on June 3, 2010, public hearing held July 15, 2010, be adopted on second and final reading this 15th day of July, 2010.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

ORDINANCE # 2010-12 (AS AMENDED)

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, SECTION 220-30 ENTITLED, "GUARANTIES, INSPECTIONS AND DEVELOPER'S AGREEMENTS"

WHEREAS, the Township Council has determined that it is necessary to require Performance Guarantees to assure the installation and maintenance of on-tract improvements in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1, et. seq., for land use approvals that are granted; and

WHEREAS, the Township Council has also determined that it is necessary to require Performance Guarantees for residential private site work improvements for new residential housing projects approved under the Municipal Land Use Law.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and

State of New Jersey, that the Code of the Township of Marlboro Section 220-30 entitled, "GUARANTIES, INSPECTIONS AND DEVELOPER'S AGREEMENTS" is hereby amended to create new Sections 220-30 (A) through 220-30(D) as follows:

A. No final subdivision plat or site plan shall be approved by the approving authority until all items required to be bonded (on-site, off-site, on-tract and off-tract) have been installed, inspected, certified and approved by the Township Engineer and accepted by the governing body and a maintenance guaranty has been filed and accepted by the governing body in accordance with the requirements of this section, or their installation shall have been provided for by a performance guaranty accepted and approved by the Township Engineer and Township Attorney in accordance with the requirements of this section. The performance guarantee shall assure the installation and completion of improvements which the approving authority may deem necessary or appropriate including streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the Map Filing Law, N.J.S.A. 46:23-9.9, et. seq., water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage strictures, erosion, control and sedimentation control devices, public improvements of open space, and in the case of site plans only, other on-site improvements and landscaping. No maintenance bond shall be accepted nor shall any partial facility be accepted for any item which has further stages of work to be completed or which will need to be altered or reworked in any manner due to the installation or connection of any other facility. Any improvements installed prior to final plat application that do not meet the standards of this chapter or other regulations shall be added to the performance guaranty.

B. The proposed performance guaranty shall be submitted to the approving authority by the developer. The approving authority shall review the proposed performance guaranty and submit it to the Township Engineer and Township Attorney for approval and acceptance. Final plat application shall not be accepted until the performance guaranty has been accepted and approved.

1. The performance guaranty shall consist of the performance guaranty estimate and a performance bond in a form acceptable to the Township Engineer and Township

Attorney, in which the developer shall be principal and an acceptable surety company licensed to do business in the State of New Jersey shall be surety, a certified check which shall be deposited with the Township of Marlboro by payment to the Township Chief Financial Officer, or an irrevocable domestic letter of credit in a form satisfactory to the Township Attorney. The Township Chief Financial Officer shall cause the certified check to be deposited in a bank approved by the governing body in the name of the Township of Marlboro, to be retained as security for completion of all requirements and to be returned to the developer upon completion of all required work or, in the event of a default on the part of the developer, to be used by the Township of Marlboro to pay the cost and expense of obtaining completion of all requirements. If the required improvements have not been installed or constructed in accordance with the standards of the Township or within the stipulated time, the obligor and/or surety, as provided by law, for the bond shall be liable thereon to the Township for the reasonable costs of the improvements or the uncompleted portions thereof, including engineering costs, and upon authorization by the governing body, the Township Attorney shall take the necessary steps to obtain such costs from the obligor and/or surety.

2. The total performance guaranty shall equal 120% of the cost of installation, which cost shall be determined by the Township Engineer in accordance with the method of calculation provided in N.J.S.A. 40:55D-53.4, as set forth herein, for improvements which the approving authority may deem necessary or appropriate.

a. The Township Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guaranty, which itemized cost estimate shall be appended to each performance guaranty posted by the developer.

b. Pursuant to N.J.S.A. 40:55D-53.4, the cost of the installation of improvements shall be estimated by the Township Engineer. The developer may appeal the Township Engineer's estimate to the governing body. The governing body shall decide the appeal within 45 days of receipt of the appeal in writing by the Municipal Clerk. After the developer posts a guaranty with the municipality based upon the cost of the installation of improvements as determined

by the governing body, he may institute legal action within one year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the guaranty.

c. Ninety percent of this guaranty shall be either in cash, certified check, irrevocable letter of credit pursuant to N.J.S.A. 40:55D-53.5 or surety bond of a bonding company approved by the governing body. The remaining 10% shall be in cash and shall be paid in like manner and under the same conditions as the security aforesaid. In the event of default, the ten-percent cash fund herein mentioned shall be first applied to the completion of the requirements and the cash, certified check, irrevocable letter of credit or surety bond shall thereafter be resorted to, if necessary, for the completion of the requirements. The cash, irrevocable letter of credit or surety bond may recite the foregoing provision. The Township Engineer's certification that the principal has satisfactorily installed or has defaulted in meeting the required standards of construction shall be the basis of governing body action which accepts or rejects the improvements, withholds approval, institutes appropriate action to obtain cost and expenses from the obliger and/or surety in cases of default, or the governing body may extend the time allowed for installation of improvements.

d. In no event shall any construction be commenced until the developer has complied with all of the requirements for final approval.

3. Before recording a final subdivision plat, or before applying for a construction permit for a project for which subdivision or site plan approval has been granted, the developer of a residential housing project shall have filed with the Township a performance guarantee in an amount equal to 30% of the total estimated cost to the Township of constructing all residential private site work improvements as estimated by the Township Engineer. The purpose of the residential private site works performance guarantee is to assure that installation of such residential private site work improvements on or before an agreed date, guaranteeing the completion of all such residential private site work improvements without damage to or interference with adjacent properties or public facilities. In addition, the developer of a residential housing project shall hold the Township, the Township

Council, Township Planning Board and Zoning Board of Adjustment and their employees and agents harmless with respect to any act of the developer, its agents, successors or assigns. The total estimated cost to the Township of constructing all such residential private site work improvements shall be based upon the estimated contract construction costs which would prevail upon expiration of the guarantee and shall also include appropriate allowances for contract-related costs such as engineering, legal, financial and other usual costs. Such performance guarantee may be in the form of cash, certified check, negotiable securities, a performance bond issued by a bonding or surety company approved by the Township Council or any other type of surety accepted to and approved by the Township Attorney and the Township Council. If at the time the performance guarantee is filed with the Township the developer has not also filed with the Township proof that necessary performance guarantees have been filed and accepted by other governmental bodies, authorities, public utility companies and private utility companies which have jurisdiction over improvements in the subdivision or residential development, the amount of the residential private site work improvement performance guarantee shall be increased to reflect the cost of such private improvements.

4. If the performance guarantee posted with and accepted by the Township is in a form other than cash, certified check or negotiable securities, the various offices of the Township having jurisdiction may require the developer to post a cash escrow with the Township Treasurer for the estimated cost of any residential private site work improvements which are uncompleted at the time the developer requests a certificate of occupancy, and which residential private site work improvements are within the jurisdiction of their respective offices.

5. Residential private site work shall include driveways, curbing, walkways, water distribution facilities, sanitary sewage facilities, storm drainage facilities, finished grades of site work and landscaping. Residential private site work excludes any buildings and other work included in the Uniform Construction Code, utilities to be owned by a public utility or work under the jurisdiction of another governmental entity over which the Township has no control.

6. Township officials may, in their discretion, require the applicant to place a cash escrow with the Township, in addition to this performance bond, at the time of application for certificate of occupancy for any uncompleted residential private site work not required for issuance of a certificate of occupancy.

7. The applicant shall provide, with the application for final submission approval or application to commence construction of residential private improvements or for site plan approval, a quantity take-off list, prepared by a licensed professional engineer, for the proposed residential private site work improvements.

C. The Township Clerk shall immediately notify the approving authority when the performance guaranty has been approved and accepted by the Township Engineer and Township Attorney.

D. Inspection Costs:

1. Prior to beginning any site improvements, changes, grading, construction, residential private site work improvements or any other site work covered by this chapter, the developer shall arrange for a preconstruction conference between the developer, contractor and Township Engineer, at which time inspection fees shall be paid if not previously paid. All improvements including residential private site work improvements shall be inspected during the time of their installation under the supervision of the Township Engineer to ensure satisfactory completion. The Township Engineer shall be notified by the developer 14 days in advance of the start of initial construction and five days in advance of all subsequent phases of construction if a time period of five days has lapsed since the date of last inspection. The cost of said inspection shall be the responsibility of the developer. The developer shall reimburse or pay to the municipality and to the inspection agency designated by the municipality, as the case may be, all reasonable construction inspection fees in excess of the initial construction inspection fee, as covered below, by submitting a certified check or bank money order to the Municipal Clerk upon receipt of a bill from the municipality. This fee shall be in addition to the amount of the performance guaranty and all other fees covered by this chapter. The municipality may require that the developer submit a deposit for the inspection fees in

an amount not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of improvements, including residential private site work improvements which cost shall be determined pursuant to Subsection B(2)(b). For those developments for which the reasonably anticipated fees are less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by a developer shall be 50% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall deposit the remaining 50% of the anticipated inspection fees. For those developments for which the reasonably anticipated fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be 25% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Municipal Engineer for inspection, the developer shall make additional deposits of 25% of the reasonably anticipated fees. The Municipal Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

2. Improvement costs, as estimated in this section, shall be defined to include material, construction and installation costs of grading, pavement, surveyors' monuments, drainage structures, storm sewers, sanitary sewers and other means of sewage disposal, water mains, fire-protection features, streets, gutters, curbs, culverts, sidewalks, streetlighting, shade trees, parking areas, landscaping, street signs, erosion control and sedimentation control devices, public improvements of open space and other on-tract and off-tract improvements. Residential private site work improvement costs as estimated in this section shall be defined to include material, construction and installation costs of driveways, curbing, walkways, water distribution facilities, sanitary sewage facilities, storm drainage facilities, finished grades of site work and landscaping.

3. Groundwater elevation testing. At the time of the payment of other fees due pursuant to this section, the developer shall pay a fee in connection with the

application for a building permit in the amount of \$120 for each and every building lot, or a total of \$300 where multiple building lots are affected with a single structure. The purpose of this fee is to provide for inspections in order to determine the groundwater elevation and to determine compliance with § 220-35D(1)(a) and for no other purposes. In cases where multiple building lots are affected with a single structure, a minimum of two inspections shall be performed.

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 only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid 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.

Council President LaRocca opened the Public Hearing on Ordinance # 2010-14 (Establishing Fee for Secure Electronic Payment Transactions). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2010-240/Ord. # 2010-14 (Establishing Fee for Secure Electronic Payment Transactions) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-240

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

ORDINANCE # 2010-14

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 171, "FEES", OF THE CODE OF THE TOWNSHIP OF MARLBORO, BY CREATING AND ESTABLISHING A NEW ARTICLE V ENTITLED, "THIRD PARTY PAYMENT PROCESSING FEES" TO SET FORTH FEES TO BE CHARGED FOR PROCESSING TRANSACTIONS FOR PAYMENTS MADE TO THE TOWNSHIP OF MARLBORO BY AUTOMATIC WITHDRAWAL, ON-LINE PAYMENT OR BY CREDIT CARD OR E-CHECK

which was introduced on June 17, 2010, public hearing held July 15, 2010, be adopted on second and final reading this 15th day of July, 2010.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President LaRocca opened the Public Hearing on Ordinance # 2010-15 (Exceed Municipal Budget Appropriation Limits and to Establish a CAP Bank). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2010-241/Ord. # 2010-15 (Exceed Municipal Budget Appropriation Limits and to Establish a CAP Bank) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-241

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

ORDINANCE # 2010-15

CALENDAR YEAR 2010 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

which was introduced on June 21, 2010, public hearing held July 15, 2010, be adopted on second and final reading this 15th day of July 15, 2010.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Res. # 2010-242/Ord. # 2010-16 (Bond Ordinance Authorizing General Capital Improvements) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-242

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

ORDINANCE # 2010-16

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR RECONSTRUCTION OF VARIOUS ROADS AND ENERGY EFFICIENCY IMPROVEMENTS TO PUBLIC BUILDINGS IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$1,558,680 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$958,680 IN BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

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 August 12, 2010 (meeting date later changed to August 24, 2010) 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 # 2010-16

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR RECONSTRUCTION OF VARIOUS ROADS AND ENERGY EFFICIENCY IMPROVEMENTS TO PUBLIC BUILDINGS IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$1,558,680 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$958,680 IN BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

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 improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township"), as general improvements. For the several improvements or purposes described in Section 3 hereof, there are hereby appropriated the respective sums of money therein stated as the appropriations made for each improvement of purpose, such sums amounting in the aggregate to \$1,558,680, including the aggregate sum of \$585,000 in grants consisting of a \$160,000 2008 Municipal Aid Program grant from the New Jersey Department of Transportation to be funded from the New Jersey Transportation Trust Fund Authority Act, a \$200,000 2009 Municipal Aid Program grant from the New Jersey Department of Transportation to be funded from the New Jersey Transportation Trust Fund Authority Act, and a \$225,000 2010 Municipal Aid Program grant from the New Jersey Department of Transportation to be funded from the New Jersey Transportation Trust Fund Authority Act for the reconstruction of Union Hill Road as described in Section 3(a) of this ordinance, and the aggregate sum of \$15,000 as the down payments for the improvements or purposes pursuant to the Local Bond Law. The down payments have been made available by virtue of the provision in the capital improvement fund in one or more previously adopted budgets. Pursuant to N.J.S.A. 40A:2-11(c), no down payment is required in connection with the authorization of bonds and notes for the reconstruction of Union Hill Road as described in Section 3(a) of this ordinance as this project is to be funded by State grants from the Transportation Trust Fund.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments or otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$958,680 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds or notes, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are

to be issued, the estimated cost of each improvement and the appropriation therefor, the maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

- (a) Purpose: the reconstruction of Union Hill Road between Route 9 and Tennent Road, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$1,258,680
Maximum Amount of Bonds or Notes:	\$ 673,680
Period of Usefulness:	10 years
Grant Money expected to be received:	\$ 585,000
Amount of Down Payment:	\$ .00

- (b) Purpose: the reconstruction of roads to a class B standard, as provided in the Local Bond Law, such roads to be identified on a list to hereafter be filed in the Clerk's office, and including all other work and materials necessary therefor and incidental thereto.

Appropriation and Estimated Cost:	\$225,000
Maximum Amount of Bonds or Notes:	\$213,750
Period of Usefulness:	10 years
Amount of Down Payment:	\$ 11,250

- (c) Purpose: energy efficiency improvements to public buildings consisting of improvements to the Township's heating, ventilation and air conditioning system, and including all other work and materials necessary therefor and incidental thereto.

Appropriation and Estimated Cost:	\$75,000
Maximum Amount of Bonds or Notes:	\$71,250
Period of Usefulness:	15 years
Amount of Down Payment:	\$ 3,750

(d) The estimated maximum amount of bonds or notes to be issued for the improvements or purposes is as stated in Section 2 hereof.

(e) The estimated cost of the several improvements or purposes 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 note shall mature later than one year from its date. The 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 notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All 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 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 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 notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

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

(a) The several improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes the Township may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the several improvements or purposes, within the limitations of the Local Bond Law, computed on the basis of the respective amounts or obligations authorized for each improvement or purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 10.385 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 \$958,680, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$175,000 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 several improvements or purposes.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof (other than those identified in Section 8 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 hereunder shall be reduced to the extent that such funds are so used.

Section 8. As a portion of the total appropriation of \$1,558,680 made in Section 1 hereof, there is herein appropriated for the improvements or purposes described in Section 3(a) hereof the aggregate sum of \$585,000 in grants consisting of a \$160,000 2008 Municipal Aid Program grant from the New Jersey Department of Transportation to be funded from the New Jersey Transportation Trust Fund Authority Act, a \$200,000 2009 Municipal Aid Program grant from the New Jersey Department of Transportation to be funded from the New Jersey Transportation Trust Fund Authority Act, and a \$225,000 2010 Municipal Aid Program grant from the New Jersey Department of Transportation to

be funded from the New Jersey Transportation Trust Fund Authority Act.

Section 9. The full faith and credit of the Township is 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 10. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

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.

The following Res. # 2010-243/Ord. # 2010-17 (Bond Ordinance Authorizing Water Capital Improvements) was introduced by reference, offered by Councilwoman Mazzola and seconded by Council Vice President Marder. After discussion, the resolution/ordinance was passed on a roll call vote of 3 - 1 in favor with Councilwoman Mazzola voting no. (Absent: Cantor).

RESOLUTION # 2010-243

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

ORDINANCE # 2010-17

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR IMPROVEMENTS TO THE WATER UTILITY SYSTEM IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$840,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$840,000 IN WATER UTILITY BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

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 August 12, 2010 (meeting date later changed to August 24, 2010) 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 # 2010-17

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR IMPROVEMENTS TO THE WATER UTILITY SYSTEM IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$840,000 THEREFOR , AND PROVIDING FOR THE ISSUANCE OF \$840,000 IN WATER UTILITY BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

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 or purpose described in Section 3 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 hereof, there is hereby appropriated the sum of \$840,000. No down payment is required in connection with the improvements or purposes for which obligations are authorized as provided in Section 3 hereof as said purposes are deemed to be self-liquidating and the obligations authorized herein are deductible from the gross debt of the Township, as more fully explained in Section 6(e) of this bond ordinance.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$840,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds or notes, 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 which the bonds or notes are to be issued are the improvements to the Tennent Road and Harbor Road Treatment Plans, Water Meter Replacement, Well Development and Rehabilitation and other system improvements, and including all other work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or 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 note shall mature later than one year from its date. The 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 notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All 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 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 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 notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the

form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

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

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. No part of the costs thereof has been or shall be specially assessed on property specially benefited 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 15 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 \$840,000, but that the net debt of the Township determined as provided in the Local Bond Law is not increased by this bond ordinance and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An amount not exceeding \$250,000 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 improvement or purpose.

(e) This bond ordinance authorizes obligations of the Township solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for a purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-46 and are

deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

Section 7. Any grant moneys received for the purposes 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 hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the Township is 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 9. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 10. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

The following Res. # 2010-244 (Endorsing Amended Fair Share Plan and Amended Housing Element) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-244

A RESOLUTION OF THE MARLBORO TOWNSHIP TOWN COUNCIL  
ENDORING THE TOWNSHIP'S REVISED FAIR SHARE PLAN IN SUPPORT  
OF MARLBORO TOWNSHIP'S RE-PETITION FOR SUBSTANTIVE  
CERTIFICATION (N.J.A.C. 5:96-3.4)

WHEREAS, the Marlboro Township Planning Board adopted a revised Fair Share Plan at a public hearing on July 13, 2010;

WHEREAS, a true copy of the Planning Board's resolution adopting the revised Fair Share Plan is attached hereto pursuant to N.J.A.C. 5:96-2.2(a)(2); and

WHEREAS, Marlboro Township now desires to revise its December 2008 Fair Share Plan and to re-petition COAH in accordance with N.J.A.C. 5:96-3.4; and

WHEREAS, part and parcel with Marlboro Township's re-petition is the continuing requirement that, pursuant to N.J.A.C. 5:96-2.2(a)(3), the Marlboro Township Town Council endorse the revised Fair Share Plan.

NOW THEREFORE BE IT RESOLVED that the Marlboro Township Town Council hereby endorses the revised Fair Share Plan as adopted by the Marlboro Township Planning Board; and

BE IT FURTHER RESOLVED that the Marlboro Township Town Council, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:6-3.4, hereby instructs its professionals to submit the revised Fair Share Plan to the Council on Affordable Housing in support of Marlboro Township's re-petition for substantive certification; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the revised Fair Share Plan has been included with the re-petition along with a list of all objectors to Marlboro Township's previously submitted Fair Share Plan which was filed with the Council on Affordable Housing on December 30, 2008; and

BE IT FURTHER RESOLVED that notice of this re-petition for substantive certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven (7) days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this resolution, the revised Fair Share Plan and all supporting documentation, shall be made available for public inspection at the Marlboro Township's Municipal Clerk's Office located at 1979 Township Drive, Marlboro, New Jersey, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Thursday, for a period of forty-five (45) days following the date of

publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

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

- a. Hon. Mayor Jonathan L. Hornik
- b. Heyer & Gruel, Affordable Housing Planners
- c. Kenneth W. Biedzynski, Affordable Housing Special Counsel, and
- d. DeCotiis, Fitzpatrick, & Cole, LLP, Township Attorney.

The following Res. # 2010-245 (Establishing Rates - Inspection Services Performed by Professionals pursuant to Municipal Land Use Law) was introduced by reference, offered by Councilwoman Mazzola and seconded by Council Vice President Marder. After discussion, the resolution passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-245

RESOLUTION ESTABLISHING RATES PAYABLE FOR  
INSPECTION SERVICES PERFORMED BY PROFESSIONALS  
PURSUANT TO THE MUNICIPAL LAND USE LAW

WHEREAS, §220-30(D)(1) of the Township Code of the Township of Marlboro code permits the Township to require developers to post inspection fees; and

WHEREAS, the Township Engineer and Assistant Township Engineer perform engineering inspections chargeable to various escrow accounts posted by developers; and

WHEREAS, the Municipal Land Use Law, at N.J.S.A. 40:55D-53.2(a) provides that fees for services rendered to a municipality or approving authority for: (1) the review of applications for development; (2) the review and preparation of documents; or (3) the inspection of improvements or other purposes under the Municipal Land Use Law, made by outside professionals or municipal professionals shall be based upon a schedule established by resolution in accordance with the provisions of N.J.S.A. 40:55D-53.2(a); and

WHEREAS, the Township Engineer is an outside professional consultant who provides professional services to the Township of Marlboro that are subject to the provisions of N.J.S.A. 40:55D-53.2(a); and

WHEREAS, the hourly rates for the Township Engineer for review of applications for development, review and preparation of documents and the inspections of improvements, in accordance with the provisions of N.J.S.A. 40:55D-53.2(a), shall be pursuant to the rate schedule attached hereto and made a part hereof; and

WHEREAS, the Assistant Township Engineer is a municipal professional who provides professional services to the Township of Marlboro that are subject to the provisions of N.J.S.A. 40:55D-53.2(a); and

WHEREAS, the Chief Financial Officer, in accordance with the provisions of N.J.S.A. 40:55D-53.2(a), has calculated that the rate at which the Assistant Township Engineer shall be billed for review of applications for development, review and preparation of documents and inspections of improvements is \$70.00 per hour; and

WHEREAS, the Township Council of the Township of Marlboro desires to establish the fee for review of applications for development, review and preparation of documents and the inspection of improvements or other purposes under the Municipal Land Use Law, made by the Assistant Township Engineer at a rate of \$70.00 per hour in accordance with the provisions of N.J.S.A. 40:55D-53.2(a).

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the fees to be charged for review of applications for development, review and preparation of documents and the inspection of improvements or other purposes under the Municipal Land Use Law, made by the Township Engineer and the Assistant Township Engineer shall be and are hereby established and set forth in accordance with the provisions of N.J.S.A. 40:55D-53.2(a) as follows:

Township Engineer: in accordance with the rate schedule attached hereto and made a part hereof; and

Assistant Township Engineer: \$70.00 per hour; and

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

- a. Mayor Jonathan L. Hornik
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. Township Engineer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-246 (Renewal Additional Liquor Licenses July 1, 2010 - June 30, 2011) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-246

BE IT RESOLVED by the Township Council of the Township of Marlboro that the following Liquor Licenses be and they are hereby renewed for the period beginning July 1, 2010 through June 30, 2011.

- |                                       |                 |
|---------------------------------------|-----------------|
| 1. 476 Route 520 Corp.<br>T/A SamVera | 1328 33 002 012 |
| 2. Brooks Edge Plaza                  | 1328 33 019 001 |

BE IT FURTHER RESOLVED that pursuant to NJAC 13: 2-19.1, renewal of the aforementioned licenses shall not bar or abate any pending or anticipated disciplinary proceeding against any licensed establishment.

The following Res. # 2010-247 (Bond Reduction Lucas Construction - Amboy Road) was introduced by reference, offered by Councilwoman Mazzola and seconded Council President LaRocca. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-247

RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE  
GUARANTEES FOR THE PROPERTY KNOWN AS 173 AMBOY ROAD,  
BLOCK 178, LOT 292, MARLBORO TOWNSHIP, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for the release of Township held Performance Guarantees in the form of a bond and a cash deposit for site improvements ("Public Improvements") on the property known as 173 Amboy Road, Block 178, Lot 292, Marlboro, New Jersey, (the "Site") posted by Lucas Construction Group, Inc. (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated June 25, 2010 regarding the completion of the Public Improvements at the Site, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the aforesaid report recommends that a partial reduction be made in the current performance bond and cash deposit amounts being held by the Township; and

WHEREAS, the Township Council desires to reduce the performance bond and cash deposit amounts in accordance with the recommendation of the Township Engineer's June 25, 2010 report.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the current Performance Guarantees for the Site (as defined and described hereinabove) shall be reduced as follows:

1. The Performance Bond (Liberty Mutual Insurance Company, No. 327-008-149), in the original and present amount of \$147,068.08, shall be reduced by \$102,947.66, so that the remaining amount shall be \$44,120.42.
2. The Cash Deposit, in the original and present amount of \$16,340.90 shall be reduced by \$11,438.63, so that the

amount to remain shall be \$4,902.27;  
and

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

- a. Lucas Construction Group, Inc.
- b. Liberty Mutual Insurance Company
- c. Amboy Bank
- d. Mayor Jonathan L. Hornik
- e. Township Business Administrator
- f. Township Engineer
- g. Chief Financial Officer
- h. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-248 (Confirming Library Board Appointment - Judith Freilich) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-248

A RESOLUTION CONFIRMING THE APPOINTMENT OF JUDITH FREILICH TO THE BOARD OF TRUSTEES OF THE MARLBORO FREE PUBLIC LIBRARY

WHEREAS, Section 4-93 of the Marlboro Township Code establishes the Marlboro Township Free Public Library and its Board of Trustees; and

WHEREAS, said Board of Trustees shall consist of the Mayor, the Superintendent of Schools and five (5) citizens to be appointed by the Mayor with the advice and consent of the Township Council; and

WHEREAS, the Mayor has appointed Judith Freilich to the Board of Trustees for the Marlboro Township Free Public Library for a term of five (5) years, beginning August 12, 2010 and ending August 11, 2015; and

WHEREAS, the Township Council desires to consent to the Mayor's appointment of Judith Freilich to the Marlboro Township Free Public Library Board of Trustees for such five (5) year term, beginning August 12, 2010 and ending August 11, 2015.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED that the Township Council of the Township of Marlboro does hereby give its advice and consent to the appointment of Judith Freilich as a member of the Marlboro Township Free Public Library Board of Trustees for a five (5) year term, beginning August 12, 2010 and ending August 11, 2015 be and is hereby confirmed; and

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

- a. Judith Freilich
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-249 (Confirming Library Board Appointment - Bernard Jacks) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-249

A RESOLUTION CONFIRMING THE APPOINTMENT OF BERNARD JACKS TO  
THE BOARD OF TRUSTEES OF THE MARLBORO FREE PUBLIC LIBRARY

WHEREAS, Section 4-93 of the Marlboro Township Code establishes the Marlboro Township Free Public Library and its Board of Trustees; and

WHEREAS, said Board of Trustees shall consist of the Mayor, the Superintendent of Schools and five (5) citizens to be appointed by the Mayor with the advice and consent of the Township Council; and

WHEREAS, the Mayor has appointed Bernard Jacks to the Board of Trustees for the Marlboro Township Free Public Library for a term of five (5) years, beginning August 12, 2010 and ending August 11, 2015; and

WHEREAS, the Township Council desires to consent to the Mayor's appointment of Bernard Jacks to the Marlboro Township Free Public Library Board of Trustees for such five (5) year term, beginning August 12, 2010 and ending August 11, 2015.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED that the Township Council of the Township of Marlboro does hereby give its advice and consent to the appointment of Bernard Jacks as a member of the Marlboro Township Free Public Library Board of Trustees for a five (5) year term, beginning August 12, 2010 and ending August 11, 2015 be and is hereby confirmed; and

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

- a. Bernard Jacks
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-250 (Authorizing Contract Amendment - Affordable Housing Legal Counsel - Ken Biedzynski, Esq.) was introduced by reference, offered by Council Vice President Marder and seconded by Councilwoman Mazzola. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-250

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND KENNETH BIEDZYNSKI, ESQ. OF THE FIRM OF GOLDZWEIG, GREEN, EIGER & BIEDZYNSKI, LLC AS SPECIAL COUNSEL FOR AFFORDABLE HOUSING FOR THE TOWNSHIP OF MARLBORO FOR THE YEAR 2010

WHEREAS, the Township requires the services of an attorney as Special Counsel for Affordable Housing, (the "Professional Services"); and

WHEREAS, the Township requires additional services of Kenneth Biedzynski, Esq. in connection with a re-petition effort before the Council on Affordable Housing and various pending builders' remedy actions (the "Professional Services"); and

WHEREAS, the Township of Marlboro and Kenneth Biedzynski, Esq. of the firm of Goldzweig, Green, Eiger & Biedzynski, LLC have previously entered into a Professional Services Contract awarded under a non-fair and open process

in accordance with the provisions of N.J.S.A 19:44A-20.5, for compensation to be paid at an hourly rate of One Hundred Thirty-Five Dollars (\$135.00) for attorney services and an hourly rate of Eighty Dollars (\$80.00) for paralegal services, and seeks to amend such Contract to increase the total compensation therefor at an amount not to exceed \$175,000.00; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # T-18-56-858-028; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to amend the Professional Services Contract as set forth above as additional services are required in order to further the Township's Affordable Housing commitments and objectives; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, Kenneth Biedzynski, Esq. of the firm of Goldzweig, Green, Eiger & Biedzynski, LLC has previously completed and submitted a Business Entity Disclosure Certificate certifying that neither Kenneth Biedzynski, Esq. nor any principals of the firm of Goldzweig, Green, Eiger & Biedzynski, LLC have made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that an Amendment to the Professional Services Contract between the Township of Marlboro and Kenneth Biedzynski, Esq. of the firm of Goldzweig, Green, Eiger & Biedzynski, LLC, for services of an attorney as Special Counsel for Affordable Housing ("Professional Services") increasing the total compensation to be paid thereunder to an amount not to

exceed \$175,000.00; be and is hereby approved and authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Amendment to the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that a copy of the Amendment to the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, that notice of the amendment to this Professional Services Contract shall be published as required by law; and

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

- a. Mayor Jonathan Hornik
- b. Township Business Administrator
- c. Kenneth Biedzynski, Esq.  
of Goldzweig, Green, Eiger & Biedzynski
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-251 (Authorizing Contract Amendment - Affordable Housing Planner - Heyer, Gruel & Assoc.) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-251

RESOLUTION AUTHORIZING AN AMENDMENT TO THE  
PROFESSIONAL SERVICES CONTRACT BETWEEN THE TOWNSHIP  
OF MARLBORO AND HEYER, GRUEL & ASSOCIATES FOR  
SERVICES AS TOWNSHIP PLANNER FOR THE YEAR 2010

WHEREAS, the Township requires the services of a Township Planner, (the "Professional Services"); and

WHEREAS, the Township requires the additional services of the Township Planner in connection with various

affordable housing matters including a re-petition effort before the Council on Affordable Housing and pending builders' remedy actions(the "Professional Services"); and

WHEREAS, the Township of Marlboro and the firm of Heyer, Gruel & Associates have previously entered into a Professional Services Contract awarded pursuant to a fair and open process in accordance with the provisions of N.J.S.A 19:44A-20.5, for compensation to be paid at the hourly rates set forth in Heyer, Gruel & Associates December 15, 2009 Proposal, and seeks to amend such Professional Services Contract to increase the total compensation therefor at an amount not to exceed \$165,000.00; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # T-18-56-858-028; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to amend the Professional Services Contract as set forth hereinabove as additional services are required in order to further the Township's planning goals and objectives; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, Heyer, Gruel & Associates have previously completed and submitted a Business Entity Disclosure Certificate certifying that no principals of the firm have made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that an Amendment to the Professional Services Contract between the Township of Marlboro and Heyer, Gruel & Associates for services as Township Planner to the Township of Marlboro ("Professional Services") increasing the total compensation

to be paid thereunder to an amount not to exceed \$165,000.00 be and is hereby approved and authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Amendment to the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that a copy of the Amendment to the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, that notice of the amendment to this Professional Services Contract shall be published as required by law; and

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

- a. Mayor Jonathan Hornik
- b. Township Business Administrator
- c. Heyer, Gruel & Associates
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-252 (Authorizing Contract Amendment CME - Glenbrook Retaining Walls) was introduced by reference, offered by Councilwoman Mazzola, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-252

A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH THE RETAINING WALLS AT THE GLENBROOK COMPLEX

WHEREAS, Resolution 2009-377 authorized that the Township shall, by way of its Township Engineers, CME Associates, oversee, review and approve the design plans for the necessary retaining walls repairs at the Glenbrook complex ("the Project"); and

WHEREAS, CME Associates has provided a proposal dated June 1, 2010 (the "Proposal") for such Professional Services in connection with the Project; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$15,000.00 for such Professional Services, as further described and set forth in CME's Proposal, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # X-04-55-966-000; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the 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; and

WHEREAS, CME has previously completed and submitted a Business Entity Disclosure Certificate certifying that CME Associates has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include professional engineering services Township by way of its Township Engineers to oversee, review and approve plans and services in connection with the repair of retaining walls at the Glenbrook complex ("Professional Services"), at a fee not to exceed \$15,000.00 for such Professional Services, as further described and set forth in CME's Proposal dated June 1, 2010 ("Proposal"), be and is hereby authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$15,000.00 for such additional Professional Services for the Project as described in the Proposal; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-253 (Authorizing Contract Amendment CME - 2010 Road Improvements) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-253

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH TOWNSHIP ROAD IMPROVEMENTS

WHEREAS, the Township is undertaking various road improvements within the Township including the reconstruction and repaving of Union Hill Road ("the Project"); and

WHEREAS, the Township is need of design, bid phase and construction services in order to complete the required road improvements; and

WHEREAS, CME Associates has provided a proposal dated July 7, 2010 (the "Proposal") for such Professional Services in connection with the Project; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$140,000.00 for such Professional Services, as further described and set forth in CME's Proposal, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # X-04-55-965-901; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the

required additional Professional Services for the Project in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the 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; and

WHEREAS, CME has previously completed and submitted a Business Entity Disclosure Certificate certifying that CME Associates has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include professional engineering services Township by way of its Township Engineers to review concerns associated with localized flooding issues on Tennant Road ("Professional Services"), at a fee not to exceed \$140,000.00 for such Professional Services, as further described and set forth in CME's Proposal dated July 7, 2010 ("Proposal"), be and is hereby authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$15,000.00 for such additional Professional Services for the Project as described in the Proposal; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-254 (Authorizing Contract for Appraisal Services - BRB Valuation & Consulting Services) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-254

A RESOLUTION AUTHORIZING THE EXECUTION OF  
A PROFESSIONAL SERVICES CONTRACT BETWEEN  
BRB VALUATION AND CONSULTING SERVICES AND  
THE TOWNSHIP OF MARLBORO FOR VARIOUS  
APPRAISAL SERVICES

WHEREAS, the Township of Marlboro is in need of professional appraisal services in connection with certain projects; and

WHEREAS, the Township has requested proposals through a fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Township received a proposal dated June 3, 2010 for appraisal services (the "Proposal") from BRB Valuation (the "Business Entity") which sets forth the

terms and conditions under which such services are to be rendered by the Business Entity under a contract to be awarded pursuant to a fair and open process; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Accounts # T-18-56-858-028 and T-15-56-859-815; and

WHEREAS, the Business Entity has completed and submitted a Business Entity Disclosure Certification certifying that the Business Entity has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or to N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5 will be made during the term of the contract; and

WHEREAS, the Township has been provided with the Business Entity's Disclosure of Campaign Contributions at least ten (10) days prior hereto, as required by P.L. 2005, c. 271.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that:

1. The Township Council of the Township of Marlboro, hereby awards a Professional Services Contract to the firm of BRB Valuation and Consulting to provide appraisal services to the Township of Marlboro pursuant to a fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5; and

2. The Professional Services Contract is awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(a)(i), and shall provide for compensation at the rates specified in the Proposal in a total amount not to exceed \$25,000.00; and

3. The Mayor and Town Clerk are hereby authorized and directed to execute, seal and deliver the said Contract

for Professional Services on behalf of and in the name of the Township of Marlboro; and

4. The Business Entity Disclosure Certification, Business Entity Disclosure of Campaign Contributions, and Determination of Value shall be placed on file with this Resolution; and

5. That notice of the award of this contract shall be published as required by law; and

6. A certified copy of this Resolution shall be provided to each of the following:

- a. Mayor Jonathan Hornik
- b. Township Administrator
- c. BRB Valuation Service and Consulting Service.
- d. DeCotiis, Fitzpatrick & Cole, LLP

The following Res. # 2010-255 (Authorizing Contract for Appraisal Services - Timothy Hoffman, Inc.) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-255

A RESOLUTION AUTHORIZING THE EXECUTION OF A  
PROFESSIONAL SERVICES CONTRACT BETWEEN TIMOTHY  
HOFFMAN, INC. AND THE TOWNSHIP OF MARLBORO FOR  
VARIOUS APPRAISAL SERVICES

WHEREAS, the Township of Marlboro is in need of professional appraisal services in connection with the defense of tax appeals; and

WHEREAS, the Township has requested proposals through a fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Township received a proposal dated June 1, 2010 for appraisal services (the "Proposal") from Timothy Hoffman, Inc. (the "Business Entity") which sets forth the terms and conditions under which such services are to be rendered by the Business Entity under a contract to be awarded pursuant to a fair and open process; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # 0-01- -045-288; and

WHEREAS, the Business Entity has completed and submitted a Business Entity Disclosure Certification certifying that the Business Entity has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or to N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5 will be made during the term of the contract; and

WHEREAS, the Township has been provided with the Business Entity's Disclosure of Campaign Contributions at least ten (10) days prior hereto, as required by P.L. 2005, c. 271.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that:

1. The Township Council of the Township of Marlboro, hereby awards a Professional Services Contract to the firm of Timothy Hoffman, Inc. to provide appraisal services to the Township of Marlboro pursuant to a fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5; and

2. The Professional Services Contract is awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(a)(i), and shall provide for compensation at the rates specified in the Proposal in a total amount not to exceed \$40,000.00; and

3. The Mayor and Town Clerk are hereby authorized and directed to execute, seal and deliver the said Contract for Professional Services on behalf of and in the name of the Township of Marlboro; and

4. The Business Entity Disclosure Certification, Business Entity Disclosure of Campaign Contributions, and Determination of Value shall be placed on file with this Resolution; and

5. That notice of the award of this contract shall be published as required by law; and

6. A certified copy of this Resolution shall be provided to each of the following:

- a. Mayor Jonathan Hornik
- b. Township Administrator
- c. TIMOTHY HOFFMAN, INC.
- d. DeCotiis, Fitzpatrick & Cole, LLP

The following Res. # 2010-256 (Combining NJDOT 2008, 2009, 2010 Grant Awards for Union Hill Road) was introduced by reference, offered by Council Vice President Marder, seconded by Councilman Metzger and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-256

APPROVAL TO COMBINE THE FY-2008, FY-2009 AND  
FY-2010 NEW JERSEY DEPARTMENT OF TRANSPORTATION GRANT  
MONIES FOR THE UNION HILL ROAD IMPROVEMENT PROJECT

WHEREAS, the Township Council of Marlboro Township desires to combine FY-2008, FY-2009 and FY-2010 Grant Funds for Union Hill Road Improvement Project allocated to the Township of Marlboro through the Transportation Trust Fund Authority Act, New Jersey Department of Transportation (NJDOT), Municipal Aid Program; and

NOW, THEREFORE, BE IT RESOLVED that the Township Council of Marlboro Township, formally approves to combine the grant monies for the Union Hill Road Improvement Project.

The following Res. # 2010-257 (Authorizing Shared Services Agreement with the State of NJ for property maintenance services in connection with the Marlboro Psychiatric Hospital Grounds) was introduced by reference, offered by Council Vice President Marder, seconded by Council

President LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-257

A RESOLUTION AUTHORIZING A SHARED SERVICES AGREEMENT PURSUANT TO N.J.S.A. 40A:65-1 et seq., WITH THE STATE OF NEW JERSEY TO PROVIDE PROPERTY MAINTENANCE AND SNOW REMOVAL SERVICES AT THE MARLBORO STATE PSYCHIATRIC HOSPITAL GROUNDS

WHEREAS, the State of New Jersey has been contracting with a private agency to provide limited property maintenance and snow removal services at the former Marlboro State Psychiatric Hospital grounds ("the site"); and

WHEREAS, the State of New Jersey wishes to contract with the Township of Marlboro Department of Public Works to provide property maintenance and snow removal services at the site; and

WHEREAS, such an agreement with the State would enable the Township to generate additional revenue to offset the cost of already existing staff and resources; and

WHEREAS, the Township believes that an agreement between the State and the Township is in the best interest of the taxpayers of Marlboro Township.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, Monmouth County, New Jersey, that the Mayor and Township Clerk are hereby authorized to execute a shared services agreement in a form to be approved by the Township Attorney, with the State of New Jersey for provision of property maintenance and snow removal services at the Marlboro State Psychiatric Hospital grounds.

The following Res. # 2010-258 (Authorizing an exemption from certain land use application fees - Bris Avrohom) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-258

A RESOLUTION AUTHORIZING THE EXEMPTION OF BRIS  
AVROHOM, FROM CERTAIN LAND USE APPLICATION FEES

WHEREAS, §220-17 of the Code of the Township of Marlboro provides that, "Charitable, philanthropic, fraternal, athletic, recreational and religious nonprofit organizations holding a tax-exempt status under the Federal Internal Revenue Code of 1954 [26 U.S.C. § 501(c) or (d)] shall be exempt from the normal application fees required under this chapter. Said exemption shall be granted upon application to the Township Council, along with proof of said tax-exempt status. If granted, said exemption shall be confirmed by resolution of the Township Council"; and

WHEREAS, the above-referenced Code Section requires that a qualifying entity must submit an application for exemption to the Township Council, along with proof of the qualifying entity's tax exempt status under the Federal Internal Revenue Code of 1954 [26 U.S.C. §501(c) or (d)]; and

WHEREAS, Bris Avrohom, Inc. (the "Applicant") has submitted an application to the Township of Marlboro Zoning Board of Adjustment for modifications to the footprint and façade of the improvements on its property, known as Block 207, Lot 10 on the official tax map of the Township of Marlboro, Monmouth County, New Jersey; and

WHEREAS, the Applicant has submitted a request to the Township Council of the Township of Marlboro for an exemption from the requirement to pay administrative application fees normally required pursuant to Chapter 220, Land Use and Development; and

WHEREAS, the Applicant has provided proof of its status as a duly formed religious non-profit organization and of its tax exempt status pursuant to 26 U.S.C. §501(c) or (d); and

WHEREAS, the Township Council of the Township of Marlboro deems it proper and in conformance with the stated policies of the Township of Marlboro to grant the Applicant's requested exemption and desires to confirm same by resolution in accordance with the provisions of §220-17 of the Township Code.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that Bris Avrohom, Inc. is hereby exempted from paying the land use application fees associated with its application to the Township of Marlboro Zoning Board of Adjustment described hereinabove; and

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

- a. Bris Avrohom, Inc. c/o Kenneth Pape, Esq.  
Heilbrunn, Pape & Goldstein  
516 State Route 33 - Suite 101  
Millstone Township, 08535
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. Zoning Board of Adjustment
- e. Township Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-259 (Authorizing Contract NJ Recreation & Parks Assoc. for Purchase of Tickets - Summer Discount Ticket Program) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-259

WHEREAS, the New Jersey Recreation & Parks Association (NJRPA) is a not-for-profit Professional organization which provides a variety of services to recreation organizations throughout the State of New Jersey; and

WHEREAS, the Township of Marlboro Department of Recreation is a member of the NJRPA; and

WHEREAS, the Department of Recreation utilizes the services of the NJRPA for its Camp and Teen Programs, and for professional recreation training; and

WHEREAS, the NJRPA sponsors a "Community Service Summer Discount Program" which enables the Department of Recreation to purchase tickets for a variety of events at a substantial discount; and

WHEREAS, the total value of the services to be provided for 2010 are estimated at and shall not exceed \$55,000.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # T-17-56-867-817.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the Township Council of the Township of Marlboro, hereby authorizes the Mayor and Town Clerk to execute an agreement with the NJRPA, 13 April Lane Somerset, NJ 08873-5301 for the services described above.

The following Res. # 2010-260 (Refund Mt. Laurel Overpayment - 6 Jade Drive - B. 147.01, L. 3) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-260

A RESOLUTION OF THE TOWNSHIP OF MARLBORO TOWN  
COUNCIL PARTIALLY REFUNDING RESIDENTIAL DEVELOPMENT  
FEES PREVIOUSLY PAID BY TENNENT ESTATES, LLC

WHEREAS, Tennent Estates, LLC (hereinafter "the Developer"), was owner of real property which is identified as Lot 3, Block 147.01, in the Township of Marlboro, State of New Jersey, with said property being commonly known as 6 Jade Drive (hereinafter "the Home");

WHEREAS, on March 16, 2005, the Developer and the Township of Marlboro entered into a developers' agreement for the construction of thirty-five (35) single family homes with the Home being included in that project;

WHEREAS, the foregoing developers' agreement provided for the payment of development fees by the Developer in an amount of five percent (5%) "of the equalized assessed value for each additional unit which is realized beyond that which would have been permitted utilizing the density provisions that were in effect in the district in which the property was located...";

WHEREAS, the March 16, 2005, developers' agreement was modified and amended on June 1, 2005, by way of a letter agreement from the then Township Attorney to the Developer's attorney with said modification and amendment providing that the development fee amount shown above should have been six percent (6%) instead of five percent (5%);

WHEREAS, the Developer, having obtained all appropriate and necessary municipal approvals, did in fact construct a single family residential home at 6 Jade Drive;

WHEREAS, the Home was given an equalized assessed value of \$700,000 against which a development fee of six percent (6%) was assessed for a total fee of \$42,000;

WHEREAS, the Developer in fact paid the amount of \$42,000 to the Township of Marlboro with said payment being deposited into the Township's Affordable Housing Trust Fund;

WHEREAS, the Developer subsequently sold the Home for \$610,000;

WHEREAS, based upon the foregoing purchase price and upon further review by the Marlboro Township Engineering Department the foregoing development fee of \$42,000 which was paid by the Developer, was charged in error and it exceeded the appropriate amount to be charged since the equalized assessed value of the Home was \$610,000 and not \$700,000;

WHEREAS, based on the corrected equalized assessed value of \$610,000 the appropriate development fee should have been \$36,600;

WHEREAS, the Developer overpaid the appropriate development fee amount of \$36,600 by \$5,400;

WHEREAS, based on the foregoing overpayment by the Developer it is entitled to a refund of \$5,400 with said sum being paid from the Marlboro Township Affordable Housing Trust Fund;

WHEREAS, the refund of \$5,400 can be made at this time without awaiting approval of a proposed spending plan which

was submitted to COAH along with Marlboro Township's Housing Element and Fair Share Plan on December 30, 2008;

NOW, THEREFORE, BE IT RESOLVED, that the Developer is entitled to a refund of \$5,400 from Marlboro Township's Affordable Housing Trust Fund as a result of an overpayment of the appropriate development fee (\$42,000 - \$36,600 = \$5,400);

BE IT FURTHER RESOLVED, that the Chief Financial Officer and the Municipal Housing Liaison are hereby permitted to authorize the disbursement of the sum of \$5,400 from the Marlboro Township Affordable Housing Trust Fund to the Developer;

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

- a. Hon. Mayor Jonathan L. Hornik
- b. Tennent Estates, LLC
- c. Kenneth W. Biedzynski, COAH Special Counsel
- d. Engineering Department, Marlboro Township
- e. Chief Financial Officer
- f. Thomas P. Howley, Municipal Housing Liaison; and
- g. Cotiis, FitzPatrick & Cole, LLP, Township Attorney.

The following Res. # 2010-261 (Refund Mt. Laurel Overpayment - 8 Jade Drive - B. 147.01, L. 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: Cantor).

RESOLUTION # 2010-261

A RESOLUTION OF THE TOWNSHIP OF MARLBORO TOWN COUNCIL  
PARTIALLY REFUNDING RESIDENTIAL DEVELOPMENT FEES  
PREVIOUSLY PAID BY TENNENT ESTATES, LLC

WHEREAS, Tennent Estates, LLC (hereinafter "the Developer"), was owner of real property which is identified as Lot 4, Block 147.01, in the Township of Marlboro, State of New Jersey, with said property being commonly known as 8 Jade Drive (hereinafter "the Home");

WHEREAS, on March 16, 2005, the Developer and the Township of Marlboro entered into a developers' agreement for the construction of thirty-five (35) single family homes with the Home being included in that project;

WHEREAS, the foregoing developers' agreement provided for the payment of development fees by the Developer in an amount of five percent (5%) "of the equalized assessed value for each additional unit which is realized beyond that which would have been permitted utilizing the density provisions that were in effect in the district in which the property was located...";

WHEREAS, the March 16, 2005, developers' agreement was modified and amended on June 1, 2005, by way of a letter agreement from the then Township Attorney to the Developer's attorney with said modification and amendment providing that the development fee amount shown above should have been six percent (6%) instead of five percent (5%);

WHEREAS, the Developer, having obtained all appropriate and necessary municipal approvals, did in fact construct a single family residential home at 8 Jade Drive;

WHEREAS, the Home was given an equalized assessed value of \$700,000 against which a development fee of six percent (6%) was assessed for a total fee of \$42,000;

WHEREAS, the Developer in fact paid the amount of \$42,000 to the Township of Marlboro with said payment being deposited into the Township's Affordable Housing Trust Fund;

WHEREAS, the Developer subsequently sold the Home for \$610,000;

WHEREAS, based upon the foregoing purchase price and upon further review by the Marlboro Township Engineering Department the foregoing development fee of \$42,000 which was paid by the Developer, was charged in error and it exceeded the appropriate amount to be charged since the equalized assessed value of the Home was \$610,000 and not \$700,000;

WHEREAS, based on the corrected equalized assessed value of \$610,000 the appropriate development fee should have been \$36,600;

WHEREAS, the Developer overpaid the appropriate development fee amount of \$36,600 by \$5,400;

WHEREAS, based on the foregoing overpayment by the Developer it is entitled to a refund of \$5,400 with said sum being paid from the Marlboro Township Affordable Housing Trust Fund;

WHEREAS, the refund of \$5,400 can be made at this time without awaiting approval of a proposed spending plan which was submitted to COAH along with Marlboro Township's Housing Element and Fair Share Plan on December 30, 2008;

NOW, THEREFORE, BE IT RESOLVED, that the Developer is entitled to a refund of \$5,400 from Marlboro Township's Affordable Housing Trust Fund as a result of an overpayment of the appropriate development fee ( $\$42,000 - \$36,600 = \$5,400$ );

BE IT FURTHER RESOLVED, that the Chief Financial Officer and the Municipal Housing Liaison are hereby permitted to authorize the disbursement of the sum of \$5,400 from the Marlboro Township Affordable Housing Trust Fund to the Developer;

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

- a. Hon. Mayor Jonathan L. Hornik
  - b. Tennent Estates, LLC
  - c. Kenneth W. Biedzynski, COAH Special Counsel
  - d. Engineering Department, Marlboro Township
  - e. Chief Financial Officer
  - f. Thomas P. Howley, Municipal Housing Liaison;
- and
- g. DeCotiis, FitzPatrick & Cole, LLP, Township Attorney.

The following Res. # 2010-262 (Authorizing Public Officials Liability Tail Coverage) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman

Mazzola and seconded on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-262

RESOLUTION AUTHORIZING PUBLIC OFFICIALS LIABILITY  
COVERAGE FOR POTENTIAL MARLBORO TOWNSHIP MUNICIPAL  
UTILITIES AUTHORITY (MTMUA) TAIL CLAIMS  
FOR THE TOWNSHIP OF MARLBORO

WHEREAS, the Marlboro Township Municipal Utilities Authority (MTMUA) was dissolved January 31, 2010; and

WHEREAS, the Township of Marlboro Water Utility was established and subsequently assumed responsibility for the MTMUA functions;

WHEREAS, there is the potential for new claims to be initiated relative to the MTMUA's operations; and

WHEREAS, Holmes & McDowell, Inc., 34 West Main Street, Holmdel, NJ 07733, served as the broker of record and secured the Public Officials Liability Policy on behalf of the MTMUA from Selective Insurance Company of America, 40 Wantage Road, Branchville, NJ 07890; and

WHEREAS, Holmes & McDowell, Inc. has provided a quotation to the Township for Public Officials Liability "tail" coverage insurance of an annual premium of \$27,848; and

WHEREAS, insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services, and, accordingly, is exempt from public bidding pursuant to the Local Public Contracts Law, specifically N.J.S.A. 40A:11-5(1)(a)(ii); and

WHEREAS, the Township wishes to protect itself relative to any new claims that could be filed; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # 0-05- -500-486.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the Township Council of the

Township of Marlboro, hereby authorizes the Mayor and Town Clerk to secure Public Officials Liability insurance coverage from Selective Insurance Company of America, 40 Wantage Road, Branchville, NJ 07890 through Holmes & McDowell, Inc., 34 West Main Street, Holmdel, NJ 07733 in an amount not exceed to \$27,848.00 for potential MTMUA "tail" claims as described above.

The following Res. # 2010-263 (Award of State Contract - Spatial Data Logic Enterprise License and Portal) was introduced by reference, offered by Councilwoman Mazzola, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-263

RESOLUTION AUTHORIZING AWARD OF STATE CONTRACT  
#A72727 TO DELL MARKETING L.P. FOR SPATIAL DATA  
LOGIC ENTERPRISE LICENSE AND PORTAL FOR THE  
TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro currently utilizes Spatial Data Logic software for permitting and complaint tracking in the Engineering and Planning and Zoning departments; and

WHEREAS, the Township wishes to expand the usage of the software to all departments by purchasing an Enterprise License of Spatial Data Logic; and

WHEREAS, an Enterprise License will enable the Township to integrate Public Works and the Water Utility Division work order systems, complaint and permit tracking, licensing, and GIS, and will facilitate e-government for the same functions; and

WHEREAS, the Marlboro Township Information Technology Division has recommended that the Township purchase the Spatial Data Logic Enterprise License from Dell Marketing L.P., 850 Asbury Drive, Buffalo Grove, IL 60089 under State Contract #A72727 in an amount not to exceed \$37,921.67; 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 obtain the Spatial Data Logic Enterprise License and Portal the Township of Marlboro; and

WHEREAS, funds are available in Accounts 0-01- -060-281, 0-01- -060-277, T-23-56-850-875 and 0-01- -033-281 for a combined amount not to exceed \$37,921.67 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said software license;

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 Spatial Data Logic Enterprise License from Dell Marketing L.P., 850 Asbury Drive, Buffalo Grove, IL 60089 under State Contract #A72727 in an amount not to exceed \$37,921.67; and

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

- a. Dell Marketing L.P.
- b. Township Administrator
- c. Township Division of Information Technology
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-264 (Authorizing Developer Agreement - American Plaza/Costco) was introduced by reference, offered by Councilwoman Mazzola, seconded by Council Vice President Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION #2010-264

A RESOLUTION AUTHORIZING EXECUTION OF A DEVELOPER AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND AMERICAN PLAZA, LLC FOR SITE PLAN APPROVAL FOR THE SITE LOCATED ON BLOCK 176, LOTS 5.01, 5.02, 9, 10 AND 11, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY, AND BLOCK 21002, LOT 6,

TOWNSHIP OF OLD BRIDGE, MIDDLESEX COUNTY, NEW JERSEY AND OF  
THE PARKING FACILITY AGREEMENT BETWEEN AMERICAN PLAZA, LLC  
AND THE TOWNSHIP OF MARLBORO

WHEREAS, On June 6, 2007, the Planning Board of the Township of Marlboro adopted a resolution granting Final Major Site Plan Approval for the site located on property known as Block 176, Lots 5.01, 5.02, 9, 10 and 11, on the Official Tax Map of the Township of Marlboro, Monmouth County New Jersey and on Block 21002, Lot 6 on the Official Tax Map of the Township of Old Bridge, Middlesex County, New Jersey; and

WHEREAS, the Planning Board Resolution conditioned the approval upon the Developer entering into a Developer Agreement with the Township of Marlboro, posting all the necessary performance guarantees and entering into an agreement with the Township regarding the provision and maintenance of commuter parking stalls (the "Parking Facility Agreement"); and

WHEREAS, the Developer Agreement and Parking Facility Agreement have been negotiated by the parties, and the negotiation and preparation of same shall be paid for from Developer's escrow account held by the Township of Marlboro; and

WHEREAS, the Parking Facility Agreement was executed by the parties on February 9, 2010; and

WHEREAS, the necessary performance guarantees, cash deposits and insurance certificates shall be subject to the review and approval of the Township Attorney.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the Mayor and Township Clerk be and are hereby authorized to execute the Developer Agreement with Developer, American Plaza, LLC for the Final Major Site Plan Approval for the site known as Block 176, Lots 5.01, 5.02, 9, 10 and 11, on the Official Tax Map of the Township of Marlboro, Monmouth County New Jersey and on Block 21002, Lot 6 on the Official Tax Map of the Township of Old Bridge, Middlesex County, New Jersey, the negotiation and preparation of which shall be paid for from the Developer's escrow account held by the Township of Marlboro; and

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

- a. American Plaza, LLC, Salvatore Alfieri, Esq.
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Chief Financial Officer
- f. DeCotiis, FitzPatrick & Cole, LLP

The following Res. # 2010-266 (Authorizing Contract Amendment CME - Glenbrook Retaining Walls) 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: Cantor).

RESOLUTION # 2010-266

RESOLUTION AUTHORIZING THE MARLBORO TOWNSHIP  
ALLIANCE TO PREVENT ALCOHOLISM AND DRUG ABUSE  
TO APPLY FOR THE 2010 GRANT

WHEAREAS, the Marlboro Township Alliance to Prevent Alcoholism and Drug Abuse provides a wide range of educational services to the residents of Marlboro Township for the prevention of alcohol and drug abuse; and

WHEREAS, the Alliance to Prevent Alcoholism and Drug Abuse requires funding from the Monmouth County Board of Alcohol and Drug Abuse Services in order to continue to provide these services to the residents of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Mayor and Township Council of the Township of Marlboro that the appropriate municipal officials be and are hereby authorized to execute the 2010 Application for Funds and Services on behalf of the Alliance to Prevent Alcoholism and Drug Abuse for the purpose of obtaining funding for the provision of programs for the prevention of and education regarding alcohol and drug abuse, a copy of which is on file in the Township Clerk's office and available for public inspection; and

BE IT FURTHER RESOLVED that the Township Clerk is hereby directed to forward executed copies of the Agreement

to the Monmouth County Board of Alcohol and Drug Abuse Services.

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilwoman Mazzola, seconded Council Vice President Marder and passed on a roll call vote of 3 - 0 in favor with Council President LaRocca abstaining. (Absent: Cantor): Raffle License St. Gabriels Church - Off Premise 50/50, Refunds for Overpayments - Various, Redemption Tax Sale Cert. - Various and Authorizing Cancellation of Stale Checks - Municipal Court).

RESOLUTION # 2010-267

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 12-2010 (Off Premise 50/50) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on Nov. 14, 2010 at 1:00 PM at St. Gabriel's Church, 100 North Main Street, Marlboro, N. J. 07746.

RESOLUTION # 2010-268

WHEREAS, the attached list in the amount of \$5,879.17 known as Schedule "A", is comprised of amounts representing overpayments for 2010 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>2010 REFUND</u>
184	96	Allen B. & Zippora C. Levy 1 Washington Avenue Morganville, NJ 07751	\$5,879.17

RESOLUTION # 2010-269

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$182,172.40 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 \$182,172.40 to 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>
08-52 3 Lee Ct.	214/3.09	The Approved Realty Group, LLC 60 Chambersbridge Rd. Ste. 4 Lakewood, NJ 08701	\$4,793.74
10-62 3 Jewel Ct.	369/3.06	Edison Tax Services, LLC 1290 Wall St West Suite 301 Lyndhurst, NJ 07071	15,231.95
10-143 51 Manor Dr.	412/159	Brian Walsh 111 Sandalwood Dr. Marlboro, NJ 07746	387.29
10-18 75 Rockwell Circle	202/4	US Bank TLSG 50 S 16 <sup>th</sup> Street Suite 1950 Philadelphia, PA 19102	536.01
10-126 310 Deer Path	154/1.22	Royal Tax Lien Services, LLC 179 Washington Ln. Jenkintown, PA 19046	129,285.64
09-8 20 Ellis Ct.	147/32.18	Plymouth Park Tax Services, LLC P.O. Box 2288	31,937.77

Morristown, NJ  
07962-2288

TOTAL: 182,172.40

At 9:50 PM, Council President LaRocca moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Council Vice President Marder, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Cantor).

At 10:05PM, Council Vice President Marder moved that the meeting be opened. This was seconded by Council President LaRocca, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Cantor).

The following Resolution #2010-272/Ordinance #2010-18 (Purchase of Two Properties for Affordable Housing Purposes - 137 Route 9 South and 100 Amboy Road) was introduced by reference, offered by Council Vice President Marder, seconded by Councilwoman Mazzola and passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2010-272

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

ORDINANCE # 2010-18

AN ORDINANCE AUTHORIZING THE PURCHASE OF TWO PROPERTIES KNOWN AS 137 ROUTE 9 SOUTH, MARLBORO, NEW JERSEY AND 100 AMBOY ROAD, MARLBORO, NEW JERSEY FOR AFFORDABLE HOUSING PURPOSES

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 August 12, 2010 (meeting date later changed to August 24, 2010) 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 # 2010-18

AN ORDINANCE AUTHORIZING THE PURCHASE OF TWO  
PROPERTIES KNOWN AS 137 ROUTE 9 SOUTH, MARLBORO,  
NEW JERSEY AND 100 AMBOY ROAD, MARLBORO, NEW JERSEY  
FOR AFFORDABLE HOUSING PURPOSES

WHEREAS, Marlboro Motor Lodge, Inc. ("Owner 1") holds the right, title and interest in and to certain real property known as Block 270, Lot 14 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, commonly known as 137 Route 9 South, Marlboro, New Jersey ("Property 1"); and

WHEREAS, Amboy Industries, LLC ("Owner 2") holds the right, title and interest in and to certain real property known as Block 172, Lots 35 and 37 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, commonly known as 100 Amboy Road, Marlboro, New Jersey ("Property 2"); and

WHEREAS, Owner 1 and Owner 2 are sometimes referred to hereinafter collectively as the "Owners" and Property 1 and Property 2 are sometimes referred to hereinafter collectively as the "Properties"; and

WHEREAS, the Township of Marlboro ("Township") desires to acquire the Properties for Affordable Housing purposes within the Township and is ready to or has entered into contract negotiations with the Owners, to purchase, respectively, Property 1 and Property 2; 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

Properties in order to use the same for Affordable Housing purposes within the Township of Marlboro; and

WHEREAS, the acquisition of the aforesaid Properties would be in furtherance of the Township of Marlboro's commitment to providing Affordable Housing within the Township.

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 the property known as Block 270, Lot 14 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, commonly known as 137 Route 9 South, Marlboro, New Jersey ("Property 1"), for Affordable Housing purposes in the Township of Marlboro from Marlboro Motor Lodge, Inc., the owner of Property 1, such acquisition to be conditioned upon the receipt of the necessary governmental approvals to use the Township of Marlboro's Affordable Housing Trust Fund to complete the purchase of Property 1; 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 Property 1; and

3. The Mayor is hereby authorized to enter into contract negotiations for the purchase of the property known as Block 172, Lots 35 and 37 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, commonly known as 100 Amboy Road, Marlboro, New Jersey ("Property 2"), for Affordable Housing purposes in the Township of Marlboro from Amboy Industries, LLC, the owner of Property 2, such acquisition to be conditioned upon the receipt of the necessary governmental approvals to use the Township of Marlboro's Affordable Housing Trust Fund to complete the purchase of Property 2; and

4. 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 Property 2; 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.

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.

At 10:10PM, Council Vice President Marder moved that the meeting be adjourned. This was seconded by Councilwoman Mazzola, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Cantor).

MINUTES APPROVED: August 24, 2010

OFFERED BY: METZGER	AYES: 4
SECONDED BY: MAZZOLA	NAYS: 0
	ABSTAIN: CANTOR

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ALIDA MANCO  
MUNICIPAL CLERK

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FRANK LaROCCA  
COUNCIL PRESIDENT