

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

JANUARY 22, 2009

The Marlboro Township Council held its regularly scheduled meeting on January 22, 2009 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Rosenthal opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 2, 2009; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building posted on the Marlboro Township Website, and filed in the office of the Municipal Clerk,

The Clerk called the Roll.

PRESENT: Councilman Cantor, Council Vice President LaRocca Councilwoman Marder, Councilwoman Tragni and Council President Rosenthal.

Also present were: Mayor Jonathan L. Hornik, Ronald Gordon, Esq., Business Administrator Alayne Shepler, Municipal Clerk Alida Manco, and Deputy Clerk Deborah Usalowicz.

Council President Rosenthal read the following Res. #2009-064 (Advising and Consenting to Appointment of Chief of Police - Bruce E. Hall) into the record. The following Res. # 2009-64 (Advising and Consenting to the Appointment of Chief of Police - Bruce E. Hall) was introduced by reference, offered by Councilwoman Marder and seconded by Councilman Cantor and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-64

RESOLUTION ADVISING AND CONSENTING TO THE APPOINTMENT  
OF BRUCE E. HALL AS DIRECTOR OF THE DEPARTMENT OF  
PUBLIC SAFETY OF THE TOWNSHIP OF MARLBORO

WHEREAS, Section 4-97 of the Code of the Township of Marlboro establishes the Department of Public Safety, the Head of which shall be the Chief of Police; and

WHEREAS, Section 4-98 establishes the position of Chief of Police, which position shall be appointed by the Mayor; and

WHEREAS, Section 4-31(a) provides that each department head within the Township shall be appointed by the Mayor with the advice and consent of the Township Council; and

WHEREAS, the Mayor has appointed Bruce E. Hall as the Chief of Police of the Township of Marlboro; and

WHEREAS, the Township Council desires to provide its advice and consent as to the appointment of the Director of the Department of Public Safety; and

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

1. The Township Council hereby gives it advice and consent to the appointment of Bruce E. Hall as Director of the Department of Public Safety of the Township of Marlboro; and

2. This Resolution shall be effective to the extent that it does not conflict with any applicable laws or regulations.

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

- a. Bruce E. Hall
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer

Council Vice President LaRocca moved that the minutes of December 4, 18, 2008 be approved. This motion was seconded

by Council President Rosenthal and the minutes were passed on a roll call vote of 5 - 0 in favor.

Council Vice President LaRocca moved that the minutes of December 26, 2008 be approved. This motion was seconded by Council President Rosenthal and the minutes were passed on a roll call vote of 4 - 0 in favor with Council President Rosenthal abstaining.

The following Res. # 2009-40/Ord. # 2009-1 (No Parking - Willow Lane) was introduced by reference, offered by Councilwoman Marder and seconded by Council Vice President LaRocca and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-40

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

ORDINANCE # 2009-1

AN ORDINANCE AMENDING SECTION 138-38 "SCHEDULE I: NO PARKING" OF CHAPTER 138 "VEHICLES AND TRAFFIC", ARTICLE XIV "SCHEDULES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO PROHIBIT PARKING ON THE ENTIRE LENGTH OF WILLOW LANE ON BOTH SIDES IN THE TOWNSHIP OF MARLBORO

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 February 12, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-1

AN ORDINANCE AMENDING SECTION 138-38 "SCHEDULE I: NO PARKING" OF CHAPTER 138 "VEHICLES AND TRAFFIC", ARTICLE XIV "SCHEDULES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO PROHIBIT PARKING ON THE ENTIRE LENGTH OF WILLOW LANE ON BOTH SIDES IN THE TOWNSHIP OF MARLBORO

WHEREAS, Section 138-38 of the Code of the Township of Marlboro identifies those streets or parts of streets upon which parking is prohibited; and

WHEREAS, the Township of Marlboro Division of Police has recommended for public safety purposes that Section 138-38 be amended to prohibit parking on both sides of Willow Lane for the entire length of the roadway; and

WHEREAS, in the interest of the health, safety and general welfare of the residents of the Township of Marlboro, the Township Council desires to amend Section 138-38 in accordance with the recommendations of the Division of Police.

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 Chapter 138 "Vehicles and Traffic", Article XIV "Schedules", Section 138-38 "Schedule I: No Parking" of the Code of the Township of Marlboro is hereby amended and supplemented to add an additional prohibited parking area on the below-described portion of Willow Lane:

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Willow Lane	Both	For its entire length from Union Hill Road to State Highway #9

BE IT FURTHER ORDAINED, that all signs, posts, or other necessary materials, shall be installed to effectuate the intent of this Ordinance; 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.

The following Res. # 2009-41 (Authorizing Consent Order - Settlement Beacon Hill Litigation) was introduced by reference,

offered by Council Vice President LaRocca and seconded by Councilwoman Tragni. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-41

A RESOLUTION AUTHORIZING A CONSENT ORDER FOR SETTLEMENT OF THE LITIGATION KNOWN AS THE "BEACON HILL LITIGATION"

WHEREAS, Plaintiffs Beacon Hill Farm, LLC, Saul P. Schwartz, Arlene Schwartz, Russell R. Reeves and Kathleen C. Reeves (collectively, the "Plaintiffs") filed a Complain in Lieu of Prerogative Writs in the Superior Court of New Jersey on September 6, 2006, Docket No. MON-L-4100-06, against the Mayor and Township Council of the Township of Marlboro, Township of Marlboro and Joseph Pernice, Robert Kleinberg, Rosa Tragni, Steven Rosenthal, Patricia Morelli and Jeff Cantor; and

WHEREAS, the action sought, among other things, the removal of certain lands owned by the Plaintiffs known as Block 132, Lots 32-39, 51-56, Block 153, Lots 36, 46, 57-84, 86-137, Block 153.01, Lots 1-5 and Block 153.02, Lots 1-9 (collectively, the "Plaintiff's Property") from the LC Land Conservation District and the re-zoning of such lands as part of the R-80 Residential District; and

WHEREAS, the parties have agreed that the Township shall restore the zoning of the Plaintiff's Property from the LC Land Conservation District to the R-80 Residential District; and

WHEREAS, the Plaintiffs have agreed that in return for the re-zoning of the Plaintiff's Property, the properties known as Block 153, Lots 75, 76, 84, 86, 87 and 123 on the Official Tax Map of the Township of Marlboro, (Plaintiffs' Additional Properties") shall not be developed as a subdivision for more than thirty (30) single family lots and that said lots shall be subject to the R-80 Residential District standards as such standards exist at the time of the execution of the Consent Order; and

WHEREAS, the Consent Order further stipulates that in the event the Plaintiffs acquire any additional lands up to eight (8) acres, provided that such lands are contiguous to the Plaintiffs' Additional Properties, the Plaintiffs, their successors and assigns, shall have the right to develop up to four (4) additional lots; and

WHEREAS, Plaintiff shall cooperate with the Township regarding the preservation of Plaintiff's Additional Properties for open space, farm preservation or recreation and same shall be subject to

a right of first refusal on the part of the Township to purchase;  
and

WHEREAS, with respect to the property known as Block 132, Lot 50 on the Official Tax Map of the Township of Marlboro, belonging to Russell R. Reeves and Kathleen C. Reeves, such property shall return to the R-80 Residential District and there shall be no affect on the previously approved subdivision for this lot; and

WHEREAS, the Township Council of the Township of Marlboro is desirous of entering into such Consent Order.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the proposed Consent Order between the Township and Plaintiffs Beacon Hill Farm, LLC, Saul P. Schwartz, Arlene Schwartz, Russell R. Reeves and Kathleen C. Reeves, a copy of which is attached hereto and made a part hereof is hereby authorized and approved and that the Mayor and/or Business Administrator is hereby authorized to execute any documents necessary to effect the terms of the Consent Order; and

BE IT FURTHER RESOLVED, that pursuant to the Consent Order, the Township of Marlboro shall take the appropriate actions to introduce and adopt local legislation to re-zone the properties known as Block 132, Lots 32-39, 51-56, Block 153, Lots 36, 46, 57-84, 86-137, Block 153.01, Lots 1-5 and Block 153.02, Lots 1-9 as part of the R-80 Residential District.

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

- a. Beacon Hill Farm, LLC, Saul P. Schwartz, Arlene Schwartz, Russell R. Reeves and Kathleen C. Reeves
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Zoning Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-42/Ord. # 2009-2 (Amend Chapter 84 - Rezoning LC to R-80 to Implement Consent Order) was introduced by reference, offered by Councilwoman Tragni and seconded by Council Vice President LaRocca. After discussion, the resolution/ordinance was passed on a roll call vote of 4 - 0 in favor with Councilman Cantor abstaining.

RESOLUTION # 2009-42

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

ORDINANCE # 2009-2

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 84-29B ENTITLED "ZONING MAP", OF CHAPTER 84, ENTITLED "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO IMPLEMENT A CONSENT ORDER AND RE-ZONE CERTAIN LANDS FROM THE LAND CONSERVATION DISTRICT TO THE R-80 RESIDENTIAL DISTRICT

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 February 12, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-2

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 84-29B ENTITLED "ZONING MAP", OF CHAPTER 84, ENTITLED "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO IMPLEMENT A CONSENT ORDER AND RE-ZONE CERTAIN LANDS FROM THE LAND CONSERVATION DISTRICT TO THE R-80 RESIDENTIAL DISTRICT

WHEREAS, on October 25, 2006, the Mayor and Township Council of the Township of Marlboro adopted Ordinance 2006-15 re-zoning certain lots to the LC Land Conservation District; and

WHEREAS, on January 22, 2009, the Township entered into a Consent Order with the Plaintiffs, Beacon Hill Farm, LLC, Saul P. Schwartz, Arlene Schwartz, Russell B. Reeves and Kathleen C. Reeves, which Consent Order calls for the reinstatement of the R-80 Residential District in a certain area of the Township; and

WHEREAS, in accordance with the Consent Order, the Mayor and Township Council are restoring certain lots to the R-80 Residential District.

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 the following provisions of the Marlboro Code shall be amended and supplemented as follows:

Subsection 84-29 having been re-codified as Section 84-29B(1), shall be amended and supplemented to the effect that the zoning map adopted by said subsection shall be revised so as to delete the premises set forth hereinbelow from the LC Land Conservation District and add such premises to the R-80 Residential District:

Block 132, Lots 32-34, 35.01, 35.02, 35.03, 36-39, 51-56

Block 153, Lots 36, 46, 57-84, 86-137

Block 153.01, Lots 1-5

Block 153.02, Lot 1-9

BE IT FURTHER ORDAINED, that if any such 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 or provision so adjudicated and the remainder of the ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that if any ordinance or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict; and

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

The following Res. # 2009-43 (Authorizing Settlement Agreement Ohad) was introduced by reference, offered by Councilwoman Tragni and seconded by Council President Rosenthal. Discussion followed, after which the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-43

A RESOLUTION AUTHORIZING AN AMENDED SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO, THE PLANNING BOARD OF THE TOWNSHIP OF MARLBORO AND OHAD ASSOCIATES, LLC

WHEREAS, Ohad Associates, LLC ("Ohad") is the owner of Block 143, Lots 1.02 and 12 in Marlboro Township ("Township"), New Jersey (the "Property"); and

WHEREAS, Ohad filed an application with the Planning Board of the Township of Marlboro ("Planning Board") for

Amended Preliminary Site Plan approval (the "Amended Site Plan Application") on or about June 27, 2003 seeking amended approvals for the Northpointe ("Northpointe") project on the Property, which application was denied by resolution adopted on June 16, 2004 and published on June 19, 2004 by the Planning Board; and

WHEREAS, on July 30, 2004, Ohad filed a "Complaint In Lieu of Prerogative Writs and Under Mt. Laurel II" against the Planning Board, in the Superior Court of New Jersey, Law Division, Monmouth County seeking to have the Court overturn and reverse the Planning Board's denial of Ohad's earlier application for Amended Site Plan Approval for the Northpointe project, and to grant the full relief sought by Ohad in its Complaint in connection with the same; and

WHEREAS, on or about September 9, 2004, in accordance with N.J.A.C. 5:91-4.1, Ohad further filed a formal objection with the Council on Affordable Housing ("COAH") to the Affordable Housing Plan ("Objection") and in response to Ohad's objection with COAH, the Township of Marlboro and Ohad engaged in mediation and good faith negotiations as required by COAH through N.J.A.C. 5:91-7.1, et. seq.; and

WHEREAS, as a result of the mediation process, Ohad, the Township and the Planning Board reached a proposed settlement (the "Settlement") and the Township, the Planning Board and Ohad entered into a Settlement Agreement effective as of July 12, 2007; and

WHEREAS, subsequent to the Settlement, but prior to the adoption of an implementing ordinance, the New Jersey Legislature adopted changes in the Affordable Housing Law in New Jersey that directly affected the Settlement and resulted in the re-negotiation and amendment of the Settlement Agreement known as the First Addendum to the Settlement Agreement; and

WHEREAS, pursuant to the Agreement, the Township is obligated to re-zone the Property.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the amended Settlement Agreement known as the First Addendum to the Settlement Agreement between the Township of Marlboro, the Planning Board of the Township of Marlboro and Ohad Associates, LLC, a copy of which is attached hereto and made a part hereof, be and is hereby authorized and approved and that the Mayor and Clerk

are hereby authorized to execute and witness, respectively, the First Addendum to the Settlement Agreement and to execute any other documents necessary to effectuate the terms of the First Addendum to the Settlement Agreement; and

BE IT FURTHER RESOLVED, that pursuant to the First Addendum to the Settlement Agreement, the Township of Marlboro shall take the appropriate actions to re-zone the Ohad Associates' Property known Block 143, Lots 1.02 and 12, Marlboro Township, Monmouth County, New Jersey as part of the MFD-IV Multi-Family District Zone District.

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

- a. Ohad Associates, LLC
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Zoning Officer
- e. Ken Biedzynski, Esq.
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-44/Ord. # 2009-3 (Amend Chapter 84 - Rezoning MFD-IV to Implement Consent Order) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-44

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

ORDINANCE # 2009-3

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO REZONE CERTAIN LOTS TO THE MULTI-FAMILY DISTRICT IV (MFD-IV) ZONE IN ACCORDANCE WITH THE SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP AND OHAD ASSOCIATES, LLC

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 February 12, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be

given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-3

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO REZONE CERTAIN LOTS TO THE MULTI-FAMILY DISTRICT IV (MFD-IV) ZONE IN ACCORDANCE WITH THE SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP AND OHAD ASSOCIATES, LLC

WHEREAS, Ohad Associates, LLC ("Ohad") is the owner of Block 143, Lots 1.02 and 12 in Marlboro Township ("Township"), New Jersey (the "Property"); and

WHEREAS, Ohad filed an application with the Planning Board for Amended Preliminary Site Plan approval (the "Amended Site Plan Application") on or about June 27, 2003 seeking amended approvals for the Northpointe ("Northpointe") project on the Property, which application was denied by resolution adopted on June 16, 2004 and published on June 19, 2004 by the Planning Board; and

WHEREAS, on July 30, 2004, Ohad filed a "Complaint In Lieu of Prerogative Writs and Under Mt. Laurel II" against the Planning Board, in the Superior Court of New Jersey, Law Division, Monmouth County seeking to have the Court overturn and reverse the Planning Board's denial of Ohad's earlier application for Amended Site Plan Approval for the Northpointe project, and to grant the full relief sought by Ohad in its Complaint in connection with the same; and

WHEREAS, on or about September 9, 2004, in accordance with N.J.A.C. 5:91-4.1, Ohad further filed a formal objection with the Council on Affordable Housing ("COAH") to the Affordable Housing Plan ("Objection") and in response to Ohad's objection with COAH, the Township of Marlboro and Ohad engaged in mediation and good faith negotiations as required by COAH through N.J.A.C. 5:91-7.1, et. seq.; and

WHEREAS, as a result of the mediation process, Ohad and the Township reached a proposed settlement (the "Settlement") and the Township adopted a Resolution authorizing the Settlement and executed an Agreement with Ohad memorializing the terms of the Settlement; and

WHEREAS, subsequent to the Settlement, but prior to the adoption of an implementing ordinance, the New Jersey Legislature adopted changes in the Affordable Housing Law in New Jersey that directly affected the Settlement and resulted in the re-negotiation and amendment of the Settlement Agreement; and

WHEREAS, pursuant to the Agreement, the Township is obligated to rezone the Property.

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 §§84-29(B) of the Marlboro Township Code is hereby amended and supplemented to rezone Block 143, Lot 1.02 from the Multi-Family District (MFD) Zone to the Multi-Family District IV (MFD-IV) Zone and to rezone Block 143, Lot 12 from the R-60 Residential District to the MFD-IV Zone District to be developed as the Northpointe multi-family residential housing project; and

BE IT FURTHER ORDAINED, that a new §§84-48.6 MFD-IV Multi-Family District IV shall be added to read as follows:

§ 84-48.6 MFD-IV Multi-Family District IV

The following regulations shall apply in the Multi-Family District IV:

A. Permitted principal uses: clustered townhouses (sometimes herein referred to as "units"), as defined under §84-4, and garden apartments (sometimes herein referred to as "units"), as defined under §84-4, and estate homes (sometimes herein referred to as "units"), as defined under §84-4.

B. Permitted accessory uses: noncommercial swimming pools, tennis courts and other recreational facilities for the exclusive use of residents and their guests, off-street parking facilities and, in association with units, noncommercial parking garages for the exclusive use of site residents only.

C. For any units to be developed in this district, the following regulations and provisions shall apply:

(1) Minimum lot size. No building which is intended or designed to be used, in whole or in part, as a unit herein shall be erected or constructed upon a lot containing an area of less than 10 acres.

(2) With respect to clustered townhouses and buildings containing low and moderate income units only, the distance between two adjacent buildings side to side shall not be less than 30 feet. With respect to garden apartments, the average distance between two adjacent buildings shall not be less than one and one-half (1 ½) times the height of the taller adjacent building, but in no instance

shall the distance be less than 30 feet. With respect to estate homes, the distance between two adjacent buildings side to side shall not be less than 10 feet. With respect to clustered townhouses, the distance between two adjacent buildings rear to rear shall not be less than 50 feet and side to rear shall not be less than 30 feet. With respect to estate homes, the distance between two adjacent buildings rear to rear shall not be less than 50 feet and side to rear shall not be less than 25 feet.

(3) Density. No more than eight (8) units shall be permitted per gross acre.

(4) Rooms. Each separate dwelling unit shall contain separate bedroom, separate bathroom, separate living room and separate kitchen facilities, which kitchen facilities all be located separate and apart from other rooms. A bedroom shall be construed as any separate room, other than a dining room, kitchen or bathroom.

(5) Lot coverage. The maximum lot coverage of buildings shall be 20%.

(6) Open space. The minimum percent of the required open space of the total area of the tract shall be not less than 40%.

(7) Building plan. Building elevations and floor plans for each typical unit shall be required.

(8) Height. The height of the habitable part of the building shall not exceed three stories, and the total height of the building shall not exceed 35 feet. No basement units shall be permitted.

(9) Sound control. All units shall be designed and constructed with a soundproofing barrier between adjoining units with a sound transmission as tested by the American Society for Testing and Materials (E-90).

(10) Energy conservation. Where practical, all units shall be oriented to the greatest extent feasible so as to maximize sun exposure as per the guidelines published by the New Jersey Department of Community Affairs.

(11) Recreational facilities. Both active and passive recreational facilities shall be provided with the approval of the Planning Board. Recreational requirements, as set forth by the Planning Board, shall be met and developed with facilities suitable to serve the residents of the dwelling units. Said facilities shall

be located so as not to be detrimental to adjacent property owners by virtue of noise, light, glare of any other objectionable features emanating therefrom.

(12) Minimum frontage. Minimum road frontage shall be 400 feet.

(13) Parking. All parking facilities shall have adequate screening and landscaping.

(14) Setbacks. There shall be a front yard setback of at least 50 feet and side and rear yard minimum setbacks of 40 feet from streets. The minimum setbacks from private roads and interior parking areas (curbline) shall be 25 feet.

(15) Buffer and landscaping. All areas of a development not used for the construction of buildings, roads, accessways, parking area or sidewalks shall be fully landscaped. Where a development boundary line abuts a lot in a residential zone, which lot is not owned by the developer, there shall not be cut, uprooted, destroyed or taken away any existing trees, shrubbery or other plantings within the area of 60 feet inside the boundary line of the development abutting a residential lot. If no adequate trees, shrubs or other plantings exist in the sixty-foot area in the natural state of the premises before the development, the area shall be provided with an adequate approved planting plan to provide a belt of screening within the sixty-foot area in accordance with §84-63 of this Chapter. Where a development boundary line abuts a lot in a multifamily district residential zone, the sixty-foot area described above shall be reduced to 40 feet.

(16) Interior roads. All roads and other accessways within the development shall be private roads constructed, paved and curbed to a width of not less than 30 feet. All private roads shall have a minimum radius at the center line of the road of 50 feet and a minimum curb return radius at intersections of 25 feet. A minimum center line tangent of at least 50 feet shall be introduced between reverse curves on all such roads. Driveways serving more than one estate home shall be private roads constructed, paved and curbed to a width of not less than 24 feet, with a maximum length of 200 feet (measured from the private road curbline to the beginning of the turnaround area) and a minimum turnaround area of not less than fifty by fifty (50 x 50) feet. At the developer's option, public roads may be installed to Township standards. All such construction, paving and curbing shall be completed in accordance with the Subdivision Regulations of Marlboro Township.

(17) Parking. No parking shall be permitted on any road or accessway within the development. All parking shall be confined to the areas specifically designated on the site plan for that purpose. Parking spaces of nine by eighteen (9 x 18) feet for each car shall be required to the extent of 2.35 spaces per unit. If garages are provided, each garage may be counted for the equivalent of one parking space for the purpose of this provision.

(18) Principal buildings.

(a) No principal building shall:

[1] Be designated for or occupied by more than 24 families.

[2] Exceed 170 feet in length in its longest dimension; provided, however that buildings containing townhouse units only may exceed the foregoing length so long as they do not contain more than six units.

[3] Allow or contain outside television antennas. All television antenna requirements shall be built into the building to eliminate individual antennas being upon the roof. This subsection shall not apply to a common antenna tower.

[4] Allow any air-conditioning unit to project more than six inches from the face of the wall of the building on which it is installed.

(b) Roof design and construction must be other than a flat roof.

(c) The elevation and setbacks should be varied.

(19) Utilities. For all developments, the applicant for the site plan approval shall arrange with the serving utility for the underground installation of the utilities distribution supply of the applicable standard terms and conditions incorporated as part of its tariff on file with the State of New Jersey Board of Public Utility Commissioners and shall submit to the Planning Board prior to the granting of site plan approval a written instrument from each serving utility which shall evidence full compliance with the provisions of this subsection; provided, however, that sites which abut existing streets where overhead electric or telephone distribution supply lines have therefor been installed on any portion of the streets involved may be supplied with electric and telephone service from the overhead lines of extensions, but the

service connections from the utilities' overhead lines shall be installed underground.

(20) Application fees concerning the Mt. Laurel II proposals (low and moderate income housing units only) shall be waived. Application fees for the balance of the project shall apply.

(21) Fire walls. There shall be a fire wall between each unit.

(22) Detention/retention facilities. Notwithstanding anything contained elsewhere in this Chapter 84, in those instances in which adjacent conditions [such as existing retention basin(s)] impact upon the design and/or location of drainage facilities, the Board may, in its discretion, permit:

(a) The top of the excavation or the toe of the outside slope to be set back 25 feet from an adjoining property line of a lot on which there is multifamily residential use.

(b) The edge of the design high water for detention/retention basins to be set back 50 feet from existing or proposed dwelling units.

(c) The top of the excavation or the toe of the outside slope to be set back 25 feet from the edge of the pavement from adjoining roads.

(d) Wet detention/retention basins.

(23) A clubhouse shall be provided at a minimum of ten (10) square feet of clubhouse floor area per residential unit.

(24) Parking requirements for clubhouses and pools shall be one (1) parking space per 360 square feet of clubhouse and/or pool area.

D. Affirmative devices requirements. All requirements contained in §84-48A of this Chapter shall apply in the MFD-IV Zone, except that a minimum of twenty percent (20%) of all units proposed to be constructed on-site shall be affordable to moderate and low income households as defined by the United States Department of Housing and Urban Development and the Council on Affordable Housing ("COAH"). The project known as "Northpointe" proposed for the property known as Block 143, Lots 1.02 and 12 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey shall

be developed as multi-family residential housing with two hundred ninety-nine (299) market-rate rental or for-sale units and eighty-five (85) affordable housing family rental units to be built on-site.

E. The requirements found in the Marlboro Township Code at § 84-94D(8) to locate trees of 9 inch caliper or more shall be waived provided that the applicant submits representative samplings that are found to be acceptable by the Planning Board.

F. The requirements found in the Marlboro Township Code at § 84-30D(24)E requiring maximum lawn grades of 4:1 shall be waived and a ratio of 3:1 shall be provided instead.

G. The requirements found in the Marlboro Township Code at § 84-104J(8) requiring high water design of basins 100 feet from a proposed dwelling shall be waived and a requirement of 50' shall be provided instead.

H. For existing stormwater basins, the requirements found in the Marlboro Township Code at §84-104J(9) requiring a basin setback to right of way twenty-five feet (25') shall be waived and a basin setback right of way of 0' shall be provided instead.

I. The requirements found in the Marlboro Township Code at §84-30(F) regarding stream corridor buffer setbacks shall not apply within the MFD-IV Zone District.

J. The requirements found in the Marlboro Township Code at § 84-59D(1) regarding pool size are not applicable within the MFD-IV Zone District. However, a minimum of six (6) square feet of pool area per unit shall be required.

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

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

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

The following Res. # 2009-45/Ord. # 2009-4 (Amend Chapter 103 - Commuter Parking Fees) was introduced by reference, offered by Council Vice President LaRocca and seconded by Council President Rosenthal and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-45

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

ORDINANCE # 2009-4

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 103, "PARKING: MUNICIPAL FACILITIES", ARTICLE I, "COMMUTER PARKING AREAS", SECTION 103-4, "PERMITS", SUB-SECTION 103-4(C) "FEES" OF THE CODE OF THE TOWNSHIP OF MARLBORO

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 February 12, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-4

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 103, "PARKING: MUNICIPAL FACILITIES", ARTICLE I, "COMMUTER PARKING AREAS", SECTION 103-4, "PERMITS", SUB-SECTION 103-4(C) "FEES" OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, permit parking is currently permitted within parking areas established by the Township of Marlboro for commuters at or near Route 9, within the Township for an annual fee of \$120.00 per year; and

WHEREAS, the Mayor and the Township Council now desire to increase the fee for parking in said commuter parking section from \$120.00 per year to \$150.00 per year.

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 Chapter 103, "Parking: Municipal Facilities", Article I, "Commuter Parking Areas", Section 103-4, "Permits", Sub-Section 103-4(C) "Fees", of the Code of the Township Of Marlboro be and is hereby amended and supplemented in its entirety to provide for an increase in yearly commuter parking fees as follows:

§§ 103-4(C). Fees

(1) The application for the permit and permission to use the same shall be charged at the rate of \$150.00 per Permit Year, payable at the time of application.

(2) A pro rata amount of \$12.50 per month, payable in one sum at the time of application, will be charged for commuters requesting a permit after April 1<sup>st</sup> of any Permit Year.

(3) A permit holder who no longer resides within the Township of Marlboro or Manalapan during the course of the Permit Year must surrender his or her permit and may apply for a pro rata refund for the remainder of the Permit Year upon surrender of said permit to the Township Clerk.

(4) Replacement fee for lost permit. Upon application for a replacement permit and the filing of a proper certification, the Township Clerk may issue a replacement permit for which an additional fee of \$25.00 shall be imposed.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions 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.

The following Res. # 2009-46 (Bond Release Hawley Estates) was introduced by reference, offered by Councilman Cantor and seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-46

RESOLUTION AMENDING RESOLUTION #2008-408 AUTHORIZING  
RELEASE OF A PERFORMANCE GUARANTEE BOND POSTED BY THE  
PREVIOUS DEVELOPER FOR HAWLEY ESTATES SUBDIVISION, BLOCK  
176, LOT 65.02, 65.03, 65.04, 65.05 AND 65.06,  
(FORMERLY KNOWN AS BLOCK 176, LOT 65.01)  
MARLBORO, NEW JERSEY

WHEREAS, on December 18, 2008 the Township of Marlboro adopted Resolution #2008-408 authorizing: (1) the release of the Performance Guarantee Bond in the amount of \$275,625.69 posted by the previous developer and the acceptance of the replacement Performance Guarantee Bond posted by the Successor Developer, Pantheon Homes, LLC; and (2) acknowledging that the cash bond in the amount of \$30,625.49 and escrows posted by the previous developer were assigned to the Successor Developer, Pantheon Homes, LLC and remain in full force and effect; and

WHEREAS, the previous developer for the subject development was BWB Developers, LLC; and

WHEREAS, Resolution #2008-408 contained a typographical error designating the previous developer as "Mandalay at Old Hooper", which requires clarification through an amending Resolution; and

WHEREAS, the Township desires to authorize the release of the Performance Guarantee Bond in the amount of \$275,625.69 posted by the previous developer BWB Developers, LLC and the acceptance of the replacement Performance Guarantee Bond posted by the Successor Developer, Pantheon Homes, LLC and further desires to acknowledge that the cash bond in the amount of \$30,625.49 and escrows posted by the previous developer BWB Developers, LLC were assigned to the Successor Developer, Pantheon Homes, LLC and remain in full force and effect for the reasons set forth in Resolution #2008-408.

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 Performance Guarantees posted by the previous developer, BWB Developers, LLC for the Hawley Estates Subdivision Site

Improvements, Block 176, Lots 65.02, 65.03, 65.04, 65.05 and 65.06, (formerly known as Block 176, Lot 65.01) Marlboro, New Jersey, in the form of a Bond #0414848 issued by International Fidelity Insurance Company in the amount of \$275,625.39 shall be released in its entirety and that the cash bond in the amount of \$30,625.49 and any escrows posted by the previous developer shall remain with the Township in full force and effect, as such cash bond and escrows were assigned to the Successor Developer, Pantheon Homes, LLC; an

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

- a. BWB Developers, LLC
- b. International Fidelity Insurance Company
- c. Pantheon Homes, LLC
- d. First Indemnity of America Insurance Co.
- e. Mayor Hornik
- f. Township Business Administrator
- g. Township Engineer
- h. Chief Financial Officer
- i. DeCotiis, FitzPatrick, Cole & Wisler, LLP

Township Engineer Ernest J. Peters, Jr. was present to discuss Res. # 2009-47 (Bond Release Conover Hills Section 1) and Res. # 2009-48 (Bond Release Conover Hills Section 2). There was a brief discussion between Council members, Mr. Peters and Ronald Gordon, Esq. Consensus of Council was to have Ronald Gordon, Esq. reach out to Kenneth Pape, Esq., the applicant's attorney, and advise him of their concerns. Motion to table Res. #2009-47 and Res. #2009-48 to the Feb. 12<sup>th</sup> meeting was made by Councilman LaRocca, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor of tabling.

The following Res. # 2009-49 (Authorizing Prof. Services Contract CME - Improvements to Union Hill Road) was introduced by reference, offered by Councilman Cantor and seconded by Councilwoman Marder and then passed on a roll call vote of 5 - 0 in favor. Township Engineer Ernest J. Peters, Jr. answered Council's questions.

RESOLUTION # 2009-49

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR ENGINEERING SERVICES RELATED TO IMPROVEMENTS TO UNION HILL ROAD, MARLBORO TOWNSHIP

WHEREAS, the Township of Marlboro is in need of professional engineering services related to improvements to Union Hill Road in Marlboro, Township, New Jersey; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, the Township of Marlboro and CME Associates have previously entered into a Professional Services Contract, awarded under a non-fair and open process and seeks to amend such Contract to expand the scope of services to include the above described services for a fee not exceed \$36,000.00 for the detailed scope of services set forth in CME's written proposal dated December 11, 2008 (the "Proposal"), such Proposal being attached hereto and made a part hereof; and

WHEREAS, the value of the contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, funds will be available for this purpose in the 2009 Municipal Budget; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire CME Associates to provide the required professional services 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 Section 26 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 the Mayor is hereby authorized to execute a contract amendment, in a form legally acceptable to the Township Attorney, between CME Associates and the Township of Marlboro to provide the above described professional services in accordance with the Proposal (as defined hereinabove), pursuant to a non-fair and open process; 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 \$36,000.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number X-04-55-962-933; and

BE IT FURTHER RESOLVED, notice of award of this 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. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-50 (Authorizing Prof. Services Contract CME - Traffic Signal Control Revisions Cambridge Square) was introduced by reference, offered by Councilman Cantor and seconded by Councilwoman Marder and then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-50

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP

OF MARLBORO FOR ENGINEERING SERVICES RELATED TO TRAFFIC  
SIGNAL CONTROL REVISIONS AT THE INTERSECTION OF UNION HILL  
ROAD AND CAMBRIDGE SQUARE/MARLBORO COMMUTER LOT IN  
MARLBORO TOWNSHIP

WHEREAS, the Township of Marlboro is in need of professional engineering services related to traffic signal control revisions at the intersection of Union Hill Road and Cambridge Square/Marlboro Commuter Lot in Marlboro, Township, New Jersey; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, the Township of Marlboro and CME Associates have previously entered into a Professional Services Contract, awarded under a non-fair and open process and seeks to amend such Contract to expand the scope of services to include the above described services for a fee not exceed \$7,900.00 for the detailed scope of services set forth in CME's written proposal dated December 22, 2008 (the "Proposal"), such Proposal being attached hereto and made a part hereof; and

WHEREAS, the value of the contract will not exceed \$17,500.00 in the aggregate; and

WHEREAS, funds will be available for this purpose in the 2009 Municipal Budget; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire CME Associates to provide the required professional services 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 Section 26 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 the Mayor is hereby authorized to execute a contract amendment, in a form legally acceptable to the Township Attorney, between CME Associates and the Township of Marlboro to provide the above described professional services in accordance with the Proposal (as defined hereinabove), pursuant to a non-fair and open process; 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 \$7,900.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number X-04-55-960-938; and

BE IT FURTHER RESOLVED, notice of award of this 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. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-51 (Authorizing Agreement NJ Transit - Bus Shelter - Route 9 & Ivy Hill Road) was introduced by reference, offered by Councilwoman Marder, seconded by Council Vice President LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-51

A RESOLUTION REQUESTING THE INSTALLATION OF A BUS SHELTER FOR THE BUS STOP ESTABLISHED AT THE INTERSECTON OF ROUTE 9 AND IVY HILL ROAD, TOWNSHIP OF MARLBORO, NEW JERSEY AND AUTHORIZING AN AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO

AND THE NEW JERSEY TRANSIT CORPORATION FOR THE  
INSTALLATION AND MAINTENANCE OF SUCH BUS SHELTER

WHEREAS, New Jersey Transit Corporation has the funds for the purchase of bus shelters throughout the State of New Jersey; and

WHEREAS, the governing body of a municipality in New Jersey or the Board of Chosen Freeholders of a county may apply to the New Jersey Transit Corporation for the purchase and installation of bus shelters at legally designated bus stops; and

WHEREAS, the Township of Marlboro, in the interest of promoting public transportation, conservation of energy, traffic safety and for the convenience of the public, endorses the concept of providing bus shelters within its jurisdiction; and

WHEREAS, there is legally established a bus stop at the intersection of Route 9 and Ivy Hill Road; and

WHEREAS, the Township Council of the Township of Marlboro desires to place a bus shelter at such bus stop.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, Monmouth County, New Jersey, that application is hereby made to the New Jersey Transit Corporation for the installation and maintenance of a bus shelter at the bus stop located at the intersection of Route 9 and Ivy Hill Road, Marlboro Township, Monmouth County, New Jersey; and

BE IT FURTHER RESOLVED, that the Mayor and Clerk are hereby authorized to execute and witness, respectively, an Agreement between the Township of Marlboro and the New Jersey Transit Corporation for the installation and maintenance of such bus shelter, in a form substantially similar to that attached hereto; and

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized and directed to send copies of this resolution to the following:

1. New Jersey Div. of Transportation  
Attn: Michael Moran, Regional Maintenance Engineer
2. New Jersey Transit - Attn: Daniel O'Gorman
3. Mayor Jonathan L. Hornik
4. Business Administrator
5. The Chief of the Police
6. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-20 (Tabled 1/1 - Youth Exchange Advisory Committee Appts. - Monica Agor, James Mione & Herbert Resnick - three year terms, Paula Truppo, Chairperson one year term) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-20

A RESOLUTION APPOINTING MEMBERS OF THE  
YOUTH EXCHANGE ADVISORY COMMITTEE AND DESIGNATING  
A CHAIRPERSON OF SAID COMMITTEE

WHEREAS, pursuant to Section 4-12.C of the Code of the Township of Marlboro, the Township Council established the Youth Exchange Advisory Committee as a special committee of the Township Council to oversee the administration, management and planning of the Youth Exchange Program between the Township of Marlboro and the Town of Johana (renamed Nanto City), Toyama Prefecture, Japan; and

WHEREAS, pursuant to Section 4-12.C, the Youth Exchange Advisory Committee is to consist of twelve (12) members appointed by the Township Council; and

WHEREAS, pursuant to Section 4-12.C, the Township Council shall appoint a Chairperson to act as the presiding officer of the Youth Exchange Advisory Committee for a term of one (1) year; and

WHEREAS, the terms of three (3) of the members of the Youth Exchange Advisory Committee and the term of the Chairperson have expired; and

WHEREAS, the Township Council now desires to fill those vacancies on the Youth Exchange Advisory Committee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that MONICA AGOR, JAMES MIONE and HERBERT RESNICK are hereby reappointed to the Youth Exchange Advisory Committee for terms of three (3) years and until the appointment and qualification of his or her successor; and

BE IT FURTHER RESOLVED, that the Township Council designates PAULA TRUPPO Chairperson of the Youth Exchange Advisory Committee for a term of one (1) year.

The following Res. # 2009-52 (Waiving Participation in American Dream Litigation) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-52

A RESOLUTION AUTHORIZING EXECUTION OF A WAIVER FROM THE TOWNSHIP OF MARLBORO'S RIGHT TO PARTICIPATE IN THE LITIGATION KNOWN AS "AMERICAN DREAM AT MARLBORO, L.L.C. V. THE PLANNING BOARD OF THE TOWNSHIP OF MARLBORO, ET. ALS"

WHEREAS, on December 10, 2008, the Township of Marlboro ("Township") was served a Summons and Second Amended Complaint in the litigation known as "American Dream at Marlboro, L.L.C., v. Planning Board of the Township of Marlboro, et. als", (the "Litigation"); and

WHEREAS, such Litigation named the Township as an additional defendant pursuant to an Order dated November 7, 2008 issued by the Honorable Ronald E. Bookbinder, A.J.S.C. which required that the Township be named as an indispensable party due to its ownership of property in the Beacon Woods Estates I subdivision; and

WHEREAS, such Order allows the Township and all other defendants the option to not participate in the Litigation by execution of a waiver; and

WHEREAS, the Township Council has deemed that the costs of such Litigation would far outweigh any perceived benefit to the Township and that it is in the best interests of the municipality to waive its right to participate in the Litigation.

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 Township of Marlboro hereby waives its right to participate in the Litigation known as, "American Dream at Marlboro, L.L.C., v. Planning Board of the Township of Marlboro, et. als", and that the Mayor or Business Administrator is hereby authorized to execute the Waiver provided with the Complaint in the form attached hereto; 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 Administrator
  - c. DeCotiis, FitzPatrick, Cole & Wisler, LLP
- Council Vice President LaRocca recused himself from Item #24 (Res. #2009-053 - Award of Bid - HVAC and left the room.

The following Res. # 2009-53 (Award of Bid - HVAC) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilwoman Marder. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: LaRocca).

RESOLUTION # 2009-53

A RESOLUTION AWARDING A CONTRACT TO AIRHANDLERS MECHANICAL SERVICES, INC. TO MAINTAIN AND SERVICE THE HEATING, VENTILATING AND AIR CONDITIONING (HVAC) SYSTEMS FOR VARIOUS TOWNSHIP BUILDINGS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids to maintain and service the heating, ventilating and air conditioning (HVAC) systems for various Township buildings and on December 23, 2008, received six (6) bids therefor; and

WHEREAS, the six (6) bids received were as follows:

Contractor	Bid Price
Air Systems Maintenance, Inc. Kenilworth, New Jersey	\$32,360.00
Airhandlers Mechanical Services, Inc. Haddon Heights, New Jersey	\$34,498.00
Binsky Service Piscataway, New Jersey	\$35,900.00
Carrier Corporation Fairfield, New Jersey	\$38,000.00
Core Mechanical, Inc. Pennsauken, New Jersey	\$39,100.00

Peterson Service Company, Inc.  
Medford, New Jersey

\$72,170.00

WHEREAS, the bid from the apparent lowest bidder, Air Systems Maintenance, Inc., must be rejected as it the consent of surety contained in the bidder's response is insufficient as per the requirements of N.J.S.A. 40A:11-22, and, as such, is a fatal, non-curable defect and must be rejected as non-responsive pursuant to N.J.S.A. 40A:11-23.2(b); and

WHEREAS, the Township Administration and the Director of Public Works have reviewed the said bids received and recommended that same be awarded to Airhandlers Mechanical Services, Inc. as the lowest responsible bidder; and

WHEREAS, funds are available for this purpose in the 2009 municipal budget; and

WHEREAS, the Mayor and Township Council have indicated their desire to engage Airhandlers Mechanical Services, Inc. of Haddon Heights, New Jersey to maintain and service the heating, ventilating and air conditioning (HVAC) systems for various Township buildings for a total contract amount not to exceed \$34,498.00.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract be awarded to Airhandlers Mechanical Services, Inc. of Haddon Heights, New Jersey to maintain and service the heating, ventilating and air conditioning (HVAC) systems for various Township buildings for a total contract amount not to exceed \$34,498.00; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute and the Township Clerk to witness a Contract with Airhandlers Mechanical Services, Inc. of Haddon Heights, New Jersey to maintain and service the heating, ventilating and air conditioning (HVAC) systems for various Township buildings for a total contract amount not to exceed \$34,498.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has certified that sufficient funds will be made available for aforesaid contract in the amount of \$34,498.00 from the following Account: 9-122-276 \$31,623) and 10-122-276 (\$2,875); and

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

- a. Airhandlers Mechanical Services, Inc.
- b. Mayor Jonathan Hornik
- c. Township Business Administrator
- d. Township Chief Financial Officer
- e. Township Director of Public Works
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolutions were tabled to the February 12<sup>th</sup> agenda pending proper insurance certificates:  
Res. # 2009-54 (Award of Bid - farming former DiMeo Property) and Res. # 2009-55 (Award of Bid - farming former McCarron Property). Motion to table was made by Council President Rosenthal, seconded by Councilman Cantor, and passed on a roll call vote of 5 - 0 in favor of tabling.

As the consent agenda, the following Resolutions were introduced by reference, offered by Council Vice President LaRocca, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor: Res. #2009-56 (Tax Assessor - Various Duties & Requirements), Res. #2009-57 (Redemption Tax Sale Certs. - Various). Res. #2009-58 (Refund to WMUA - B. 412, L. 2), Res. #2009-59 (Mon. County Judgment Refunds - Various), Res. #2009-60 (Disabled Veteran Exemption - B. 214, L. 3.14), Res. #2009-61 (Tax Court Judgment Refund - B. 193.12, L. 9).

RESOLUTION # 2009-56

RESOLUTION AUTHORIZING THE TAX ASSESSOR TO PERFORM VARIOUS DUTIES ASSOCIATED WITH HIS POSITION

WHEREAS, statutory provision is made for the review and correction of errors by the local Tax Assessor prior to certification of an assessment list; and

WHEREAS, statutory provision is also made for the discovery and correction of errors by the local Tax Assessor during the establishment of the tax rate; and

WHEREAS, changes in the property ownership at times necessitates adjustments in the Veterans and/or Senior Citizen deductions allowed on the assessment list; and

WHEREAS, responsibility for maintenance and correction of the assessment list rests with the local Tax Assessor subject to laws and regulations; and

WHEREAS, in certain instances outlined in N.J.S.A. 54:3-21, taxpayers and taxing districts are authorized to file appeals to the county board of taxation or, if the statutory requirements are satisfied, to file a complaint directly with the Tax Court; and

WHEREAS, in the case of an appeal or complaint filed by a taxpayer, the taxing district may file a cross petition of appeal or counterclaim; and

WHEREAS, the Township Council now desires to authorize the Tax Assessor to perform certain duties associated with his position.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that, in addition to those powers given to the Tax Assessor by statute, the Tax Assessor may authorize the filing with the Monmouth County Board of Taxation or Tax Court such appeals or complaints as may be necessary to maintain the accuracy and equality in the assessment list of the Township of Marlboro, in accordance with the procedures set forth by the applicable statutory provisions and/or approved by the New Jersey Division of Taxation and/or the New Jersey Attorney General's Office; and

BE IT FURTHER RESOLVED that the Tax Assessor is hereby authorized to file complaints on behalf of the Township of Marlboro based upon farmland and rollback procedures; and

BE IT FURTHER RESOLVED that, with respect to appeals or complaints filed by a taxpayer with the Monmouth County Board of Taxation or Tax Court, the Tax Assessor may authorize the filing of cross petitions of appeal and counterclaims; and

BE IT FURTHER RESOLVED that the Tax Assessor is authorized to negotiate settlements of appeals or complaints filed with the Monmouth County Board of Taxation or the Tax Court and to authorize settlements of such appeals without obtaining the Township Council's approval in the event the settlement involves \$50,000 or less per parcel per tax year on behalf of the Township of Marlboro.

RESOLUTION # 2009-57

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$106,016.62 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 \$106,016.62 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIEN HOLDER</u>	<u>AMOUNT</u>
08-4	133/27	Crusader Lien Services	\$29,486.84 26
	Harrington Terrace 179	Washington Lane	
		Jenkintown, PA 19046	
08-15	178/2 C0159	Fidelity Tax, LLC	14,981.46
	159 Tanglewood Pl.	P.O. Box 5707	
		Fort Lauderdale, FL 33310	
08-19	214.06/6	Fidelity Tax, LLC	61,548.32
	6 Breton Court	P.O. Box 5707	
		Fort Lauderdale, FL 33310	
TOTAL:			<u>\$106,016.62</u>

RESOLUTION # 2009-58

WHEREAS, current sewer charges in the amount of \$224.68 for Block 412 Lot 240, located at 39 Kingfisher Court, assessed to Rima Vulikh, have been paid by Crusader Lien Services, lienholder of the Tax Sale Certificate #07-41 on the above-referenced property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned sewer charges in the amount of \$224.68 be refunded to the Western Monmouth Utilities Authority.

RESOLUTION # 2009-59

WHEREAS, the Monmouth County Board of Taxation has granted judgments for 2008 Added Assessments as per the attached Schedule "A",

WHEREAS, taxes for the year 2008 have been paid in full, the Tax Collector is directed to refund the amount of \$1,458.10 as per the attached Schedule "A",

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$1,458.10 as noted above.

RESOLUTION # 2009-60

WHEREAS, the Tax Assessor has granted a disabled veteran exemption for 2008 for James B. Ewart, Block 214 Lot 3.14, located at 23 Dunn Drive,

WHEREAS, taxes for the year 2008 have been paid in full on the above-referenced block & lot,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$10,229.50 to the above-referenced taxpayer.

RESOLUTION # 2009-61

WHEREAS, the Tax Court of New Jersey has granted judgments for the 2005 & 2006 Added Assessments totaling the amount of \$1,151.23 on Block 193.12 Lot 9, located at 162 Scarborough Way, assessed to Burton & Barbara Hollender,

WHEREAS, taxes for the years 2005 and 2006 have been paid in full on the above-mentioned block & lot,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$1,151.23 as stated above.

The following Res. # 2009-63 (Authorizing Purchase Office Supplies on State Contract) was introduced by reference, offered by Council Vice President LaRocca and seconded by

Councilwoman Tragni. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-63

RESOLUTION AUTHORIZING THE PURCHASE OF OFFICE SUPPLIES FOR  
THE TOWNSHIP OF MARLBORO  
STATE CONTRACT #A59754

WHEREAS, the Marlboro Township Administration Department has recommended that the Township purchase office supplies from Action Office Supplies, PO Box 277, Adelphia, NJ 07710 under State Contract #A59754 not to exceed \$10,000; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide office supplies to the Township of Marlboro; and

WHEREAS, funds are available in various accounts listed below for a combined amount not to exceed \$10,000 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Certified Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available from the following account numbers:

- |                      |   |          |          |           |
|----------------------|---|----------|----------|-----------|
| 1) Administration    | - | 9-01-    | -030-209 | (\$6,500) |
| 2) Police Department | - | 9-01-    | -106-209 | (\$1,750) |
| 3) Traffic & Safety  | - | 9-01-    | -107-208 | (\$250)   |
| 4) Building          | - | T-23-56- | 850-845  | (\$1,500) |

WHEREAS, the Township Council desires to approve the purchase of said office supplies;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase office supplies from Action Office Supplies, PO Box 277, Adelphia, NJ 07710 under State Contract #A59754 not to exceed \$10,000; and

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

- a. Action Office Supplies, Adelphia, NJ
- b. Township Administrator

