

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

FEBRUARY 3, 2005

The Marlboro Township Council held a regularly scheduled Council meeting on February 3, 2005 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Pernice opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular 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 7, 2005; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Cantor, Councilman Denkensohn, Councilman Mione, Council Vice President Morelli and Council President Pernice.

Also present were: Mayor Robert Kleinberg, Andy Bayer, Esq., Acting Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta and Deputy Clerk Deborah Usalowicz.

The following Resolution #2005-66 (Amending Fees Recreation Programs) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-66

A RESOLUTION AUTHORIZING THE 2005 RECREATIONAL FEES FOR THE MARLBORO TOWNSHIP RECREATION AND PARKS COMMISSION

WHEREAS, Section 117-2 of the Code of the Township of Marlboro requires that fees for all recreational programs established by the Recreation and Parks Commission must be authorized by the Township Council on an annual basis; and

WHEREAS, the Recreation and Parks Commission has recommended to the Township Council fees for its recreational programs for 2005.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is granted for the Recreation and Parks Commission to set its 2005 Recreational Fees at the same rates authorized by Resolution #2004-49 for 2004, except that the following addition shall be made:

Summer Camp Optional 7<sup>th</sup> Week - \$100.00 per child; fee is non-refundable after July 1<sup>st</sup>.

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

- a. Recreation and Parks Commission
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP.

The following Resolution #2005-46 (carried from mtg. 1/20 - Authorizing Professional Services Contract - THP, Inc. - Monmouth Housing Alliance Litigation) was introduced by reference, offered by Council President Pernice, seconded by Council Vice President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-46

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR PROFESSIONAL SERVICES BETWEEN THP, INC. AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF EXPERT WITNESS SERVICES IN CONNECTION WITH THE MONMOUTH HOUSING ALLIANCE LITIGATION

WHEREAS, the Township is a party Defendant in the litigation captioned Monmouth Housing Alliance, et al. v. Marlboro Township, et al. Docket Number MON-L-804-01 (as consolidated) (the "Litigation"); and

WHEREAS, counsel for the Township has advised that expert services are required to properly defend the Township's legal interests in the Litigation and the costs these experts shall be borne equally between the Township and its insurance fund; and

WHEREAS, the Township received a proposal from THP, Inc. (Art Bernard, P.P.) to provide the Township with expert planning advice concerning the affordable housing claims asserted by Monmouth Housing Alliance in the Litigation; 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.

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, in a form legally acceptable to the Township Attorney, between THP, Inc. and the Township of Marlboro for the provision of planning services in connection with the Litigation and in accordance with the terms, specifications and conditions of the Proposal in an amount not to exceed \$10,000.00; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

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

- a. THP, Inc.
- b. Acting Business Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP

The following Resolution #2005-47 (carried from mtg. 1/20 - Authorizing Professional Services Contract - JPM Construction - Monmouth Housing Alliance Litigation) was introduced by reference, offered by Councilman Cantor, seconded by Council

Vice President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-47

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR PROFESSIONAL SERVICES BETWEEN JPM CONSTRUCTION CONSULTANTS, INC. AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF EXPERT WITNESS SERVICES IN CONNECTION WITH THE MONMOUTH HOUSING ALLIANCE LITIGATION

WHEREAS, The Township is a party Defendant in the litigation captioned Monmouth Housing Alliance, et al. v. Marlboro Township, et al. Docket Number MON-L-804-01 (as consolidated) (the "Litigation"); and

WHEREAS counsel for the Township has advised that expert services are required to properly defend the Township's legal interests in the Litigation and the costs of these experts shall be borne equally between the Township and its insurance fund; and

WHEREAS THE Township received a proposal from JPM Construction Consultants, Inc. (Joseph P. Majewski, P.E.), dated November 19, 2004 to provide the Township with expert advice concerning the damage claims asserted by Monmouth Housing Alliance in the Litigation; 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.

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, in a form legally acceptable to the Township Attorney, between JPM Construction Consultants, Inc. and the Township of Marlboro for the provision of expert witness services in connection with the Litigation and

in accordance with the terms, specifications and conditions of the Proposal in an amount not to exceed \$10,000.00; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

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

- a. JPM Construction Consultants, Inc.
- b. Acting Business Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP

The following Resolution #2005-48 (carried from mtg. 1/20 - Authorizing Professional Services Contract - Thomas Planning Assoc. LLC - Monmouth Housing Alliance Litigation) was introduced by reference, offered by Councilman Cantor, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-48

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR PROFESSIONAL SERVICES BETWEEN THOMAS PLANNING ASSOCIATES, LLC. AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF EXPERT WITNESS SERVICES IN CONNECTION WITH THE MONMOUTH HOUSING ALLIANCE LITIGATION

WHEREAS, The Township is a party Defendant in the litigation captioned Monmouth Housing Alliance, et al. v. Marlboro Township, et al. Docket Number MON-L-804-01 (as consolidated) (the "Litigation"); and

WHEREAS counsel for the Township has advised that expert services are required to properly defend the Township's legal interests in the Litigation and the costs these experts shall be borne equally between the Township and its insurance fund; and

WHEREAS THE Township received a proposal from Thomas Planning Associates, LLC (Thomas A. Thomas, P.P.) dated October 26, 2004 to provide the Township with expert planning advice concerning the claims asserted by Monmouth Housing Alliance in the Litigation; 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.

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, in a form legally acceptable to the Township Attorney, between Thomas Planning Associates, LLC. and the Township of Marlboro for the provision of expert witness services in connection with the Litigation and in accordance with the terms, specifications and conditions of the Proposal in an amount not to exceed \$10,000.00; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

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

- a. Thomas Planning Associates, LLC
- b. Acting Business Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP

The following Resolution #2005-52 (carried from mtg. 1/20 - Authorizing Professional Services Contract - Labor Counsel - Matthew Giacobbe, - Scarinci & Hollenbeck) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Cantor and passed on a roll call vote of 4 - 1 in favor with Councilman Mione voting no.

RESOLUTION # 2005-52

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR SPECIAL  
COUNSEL SERVICES BETWEEN THE TOWNSHIP OF MARLBORO AND MATTHEW  
GIACOBBE, ESQ. OF SCARINCI AND HOLLENBECK, LLC

WHEREAS, there exists a need for the Township Attorney, Michael H. Gluck, to employ special counsel to provide legal services to the Township of Marlboro with respect to labor matters; and

WHEREAS, the Township Attorney, Michael H. Gluck, is authorized pursuant to Section 4-70 of the Township Code of the Township of Marlboro and the Professional Services Agreement between the Township of Marlboro and GluckWalrath, LLP to hire such additional counsel as he deems necessary, with the authorization of the Township Council; and

WHEREAS, the Township Attorney, Michael H. Gluck, has deemed it necessary and in the best interest of the municipality to hire Matthew Giacobbe, Esq. of Scarinci and Hollenbeck, LLC to provide legal services to the Township of Marlboro on labor matters for an amount not to exceed \$50,000.00; 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.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Township Attorney, Michael H. Gluck, is hereby authorized to execute a contract between Matthew Giacobbe, Esq. of Scarinci and Hollenbeck, LLC and the Township of Marlboro for the provision of legal services on labor matters for an amount not to exceed \$50,000.00. Mr. Giacobbe shall perform only those legal services authorized by the Township Attorney.

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

- a. Matthew Giacobbe, Esq. of Scarinci and Hollenbeck, LLC
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP

Motion to consider Ralph Genco to serve as Zoning Board alternate was made by Councilman Mione. There was no second to the motion. There was a brief discussion between Council members. Consensus of Council was to ask that prospective appointees attend future Council meetings. The following Resolution #2005-67 (Appointment to Zoning Board - Alternate #1 - two-year term - Michael Schnurr) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Cantor and passed on a roll call vote of 4 - 1 in favor with Councilman Mione voting no.

RESOLUTION # 2005-67

RESOLUTION APPOINTING ZONING BOARD  
OF ADJUSTMENT MEMBER

WHEREAS, the Marlboro Township Zoning Board of Adjustment was created pursuant to N.J.S.A. 40: 55D-69 and Section 84-8 of the "Code of the Township of Marlboro, New Jersey" which provide that the members thereof shall be appointed by the governing body; and

WHEREAS, the Township Council wishes to appoint MICHAEL SCHNURR as a member of the Zoning Board of Adjustment, as Alternate #1, for a two-year term, such term to expire December 31, 2006.

NOW, THEREFORE BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

That it hereby appoints MICHAEL SCHNURR to serve as member of the Marlboro Township Zoning Board of Adjustment in the position specified above, and for the term indicated above.

The following Resolution #2005-68 (Appointment of Council Liaison - Marlboro Twp. Board of Education - Vita Rizzo) was introduced by reference, offered by Councilman Mione, seconded

by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-68

BE IT RESOLVED by the Township Council of the Township of Marlboro that the following is hereby appointed as Council Liaison, such term to expire December 31, 2005:

Marlboro Township Board of Education - Vita Rizzo

The following Resolution #2005-69 (Appointment of Recycling/Clean Communities Coordinator - Suzanne Rubenstein) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Mione and passed on a roll call vote of 5 - 0 in favor. Public Works Director Robert DiMarco and Suzanne Rubenstein were present for a brief discussion. Mayor Kleinberg and Council members expressed their approval for the appointment.

RESOLUTION # 2005-69

RESOLUTION SUPPORTING THE APPOINTMENT OF SUZANNE RUBENSTEIN AS THE CLEAN COMMUNITIES COORDINATOR AND RECYCLING COORDINATOR

WHEREAS, Section 72-24 of the Code of the Township of Marlboro authorizes the Mayor to appoint a Clean Communities Coordinator and Recycling Coordinator; and

WHEREAS, the Mayor has appointed Suzanne Rubenstein as the Clean Communities Coordinator and Recycling Coordinator.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Township Council supports the appointment of Suzanne Rubenstein as the Clean Communities Coordinator and Recycling Coordinator.

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

- a. Suzanne Rubenstein
- b. Township Administrator
- c. Director of Public Works
- d. Gluck Walrath, LLP.

The following Resolution #2005-70 (Supporting Western Monmouth Development Plan) was moved to a future agenda.

The following Resolution #2005-71 (Transfers) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-71

RESOLUTION AUTHORIZING BUDGET TRANSFERS DURING  
FIRST THREE MONTHS OF THE FISCAL YEAR

WHEREAS, N.J.S.A. 40A: 4-59 provides for appropriation transfers during the first three (3) months of the fiscal year, when it has been determined that it is necessary to expend for any of the purposes specified in the budget an amount in excess of the sum appropriated therefore and where it has been further determined that there is an excess in any appropriation over the above the amount deemed to be necessary to fulfill the purpose of such appropriation,

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Calendar Year 2004 Budget in accordance with the attached schedule:

See Attachment

CURRENT FUND DEPARTMENT	ACCOUNT #	AMOUNT FROM	AMOUNT TO
From: Landfill Disposal	OE	30,000.00	
To: Street Lighting	OE		25,000.00
Natural Gas	OE		5,000.00

The following Resolution #2005-72 (Canceling Outstanding Checks) was introduced by reference, offered by Councilman Cantor, seconded by Council Vice President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-72

WHEREAS, there exists various checks that have been outstanding for more than one year or have been held in the cash reconciliation of the Current Fund, Recreation Account, Swim Operating and

WHEREAS, these checks have been investigated and it is determined that these checks should be cancelled and the necessary entries be made in the books and records of the Township of Marlboro.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, that the following checks be cancelled and the necessary entries be made in the books and records of the Township of Marlboro.

CURRENT FUND ACCOUNT # 2021113910187

CHECK #	DATE OF ISSUE	AMOUNT	PAYEE
31758	9/25/02	\$ 5.88	NJ Emissions Program
32845	01/14/03	7.10	M. Tischler
40576	03/24/04	364.07	K. Hovnanian
40882	04/28/04	42.63	NJ Emissions Program
41180	05/26/04	18.00	L. Storer
41359	06/16/04	8.00	Bryon O'Hare

RECREATION TRUST ACCOUNT #2030267959425

CHECK #	DATE OF ISSUE	AMOUNT	PAYEE
6849	10/23/02	\$10.00	L. Tourish
8682	12/03/03	20.00	G. Wertman
8702	12/10/03	7.50	N. Berson
8737	12/10/03	15.00	L. Prince
8793	12/17/03	75.00	S. Morgenstern

9166	05/12/04	20.00	J. Schlossberg
9225	06/16/04	45.00	G. Berkowitz

**SWIM OPERATING ACCOUNT #2000009710483**

1349	09/17/03	12.00	L. & S. Rosen
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The following Resolution #2005-73 (Reject and Rebid - 4 X 4 Utility Vehicle for DPW) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-73

BE IT RESOLVED by the Township Council of the Township of Marlboro that all bids heretofore received for

4x4 Utility Vehicle for DPW

are hereby rejected and the Business Administrator is authorized and directed to return the bid bond or other security to the appropriate bidder.

BE IT FURTHER RESOLVED that the Business Administrator be and she is hereby authorized and directed to advertise for open, competitive bids for

4x4 Utility Vehicle for DPW

as required by law.

Council discussed Res. #2005-38/Ord. #2005-3 (Amending Chapter 4 - Historic Preservation), reviewed several provisions and changed one of the provisions. After discussion, Res. #2005-38/Ord. #2005-3 was introduced as amended by reference, offered by Council President Pernice, seconded by Council Vice President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2005-38

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

ORDINANCE # 2005-3

AN ORDINANCE REPEALING SECTIONS 4-110 THROUGH 4-112 OF CHAPTER 4, "ADMINISTRATION OF GOVERNMENT", ARTICLE XVI, "DEPARTMENT OF COMMUNITY RELATIONS" AND ADOPTING A NEW ARTICLE ENTITLED CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE IX, "HISTORIC PRESERVATION"

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 March 15, 2005 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 # 2005-3

AN ORDINANCE REPEALING SECTIONS 4-110 THROUGH 4-112 OF CHAPTER 4, "ADMINISTRATION OF GOVERNMENT", ARTICLE XVI, "DEPARTMENT OF COMMUNITY RELATIONS" AND ADOPTING A NEW ARTICLE ENTITLED CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE IX, "HISTORIC PRESERVATION"

WHEREAS, N.J.S.A. 40:55D-107 included within the Municipal Land Use Law allows for the creation by ordinance of a historic preservation commission with the power to make recommendations to the governing body, the planning board and the zoning board of adjustment regarding applications for development in historic zoning districts or on historic sites; and

WHEREAS, the Township desires to safeguard the heritage of the Township of Marlboro by preserving resources within the Township which reflect elements of its cultural, social, economic, archaeological and architectural history; and

WHEREAS, the Township has concluded that the best method for accomplishing this goal is to established a historic preservation commission and to create a framework of regulations that will be employed by the commission and used to review all applications for development in historic zoning districts or on historic sites.

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 Sections 4-110 through 4-112 of Chapter 4, "Administration of Government", Article XVI, "Department of Community Relations" are repealed; and

BE IT FURTHER ORDAINED, that a new Article entitled Chapter 84 "Land Use Development and Regulations", Article IX "Historic Preservation" is hereby adopted as follows:

§ 84-143 ESTABLISHMENT OF A SYSTEM OF HISTORIC PRESERVATION, REGULATIONS, AND HISTORIC PRESERVATION MAP

A. There is hereby created in the Township of Marlboro an agency to be known as "The Historic Preservation Advisory Commission" and is referred to in this ordinance as the "Commission."

B. In adopting this ordinance, it is the intention of the Township of Marlboro to create a framework of regulations that will be employed by the Commission and used to review all development activities involving the exterior of individually designated historic properties, objects, or buildings and structures located within designated historic districts. It is the intention of the Township of Marlboro to create an agency that will work with and advise the Planning Board, the Zoning Board and individual property owners on the effect of applications on designated historic properties or improvements within a historic district.

C. This ordinance does not require or prohibit any particular architectural style; rather its purpose is to preserve the past by making the past compatible with and relevant to the present. To that end, new construction upon or near an historic property should not necessarily duplicate the exact style of the property; it must be compatible with and not detract from the historic property.

D. The boundaries of the locally designated historic district are as depicted on the Township of Marlboro zoning or official map or identified in any component of the Master Plan. Additionally, there are over 130 designated individual historic properties in the Township that are not located within the historic district, but do fall under the jurisdiction of this ordinance. Other historic districts or individually designated historic properties may be established from time to time according to the criteria enacted by this ordinance.

§ 84-144 INTENDED PURPOSES

These historic preservation regulations are intended to effect and accomplish the protection, enhancement and perpetuation of especially noteworthy examples or elements of the Township's environment in order to:

- A. Safeguard the heritage of the Township of Marlboro by preserving resources within the Township, which reflect elements of its cultural, social, economic, archaeological and architectural history;
- B. Enhance the visual and aesthetic character, diversity, continuity and interest in the Township;
- C. Encourage the continued use of historic properties and facilitate their appropriate use;
- D. Maintain and develop an appropriate and harmonious setting for the historic and architecturally significant buildings, structures, sites, objects, or districts within the Township of Marlboro;
- E. Stabilize and improve property values for historically significant buildings and for buildings within the historic district, and foster civic pride in the built environment;
- F. Promote appreciation of historic properties for education, pleasure and the welfare of the local population;
- G. Encourage beautification and private reinvestment;
- H. Manage change by averting alteration or new construction not in keeping with the historic districts or individually designated historic properties;
- I. Discourage the unnecessary demolition of historic resources;
- J. Recognize the importance of individual historic properties located outside of historic districts by urging property owners and tenants to maintain their properties in accordance with the requirements and standards of this ordinance;
- K. Encourage the proper maintenance and preservation of historic settings and landscapes;

L. Encourage appropriate alterations of historic properties;  
and

M. Promote the conservation of historic sites and districts,  
and invite and encourage voluntary compliance.

**§ 84-145** DEFINITIONS

As used in this ordinance, the following terms shall have the meanings indicated:

ADDITION shall mean the construction of a new improvement as part of an existing improvement when such new improvement changes the exterior architectural appearance of any individually designated historic property or any structure within a designated historic district.

ADMINISTRATIVE OFFICER shall be the Township Construction Officer, who will handle the administration of historic project review applications as well as the coordination of building permit applications as referred in this ordinance.

AFFECTING AN HISTORIC PROPERTY OR HISTORIC DISTRICT shall mean any development activity which alters the exterior architectural appearance of an historic property or any improvement within an historic district.

ALTERATION shall mean any work done on any improvement which (1) is not an addition to the improvement, and (2) constitutes a change by addition or replacement in the exterior architectural appearance of an improvement.

APPLICANT shall mean any private person, persons or any representative of any private entity, private organization, association, or public agency with legal authority to make an alteration, addition, renovation and repair, or demolish a structure that is governed under this ordinance.

ARCHITECTURAL FEATURE shall mean any element or resource of the architectural style, design or general arrangement of a structure that is visible from the outside including, but not limited to, the style and placement of all windows, doors, cornices, brackets, porch spindles, railings, shutters, the roof, the type, color and texture of the building materials, signs and other decorative and architectural elements.

BUILDING shall mean a structure designed for the habitation, housing or enclosing of persons, shelter, storage, trade, manufacture, religion, business, education and the like, enclosing a space within its walls, and usually, but not necessarily, covered with a roof.

CERTIFICATE OF APPROPRIATENESS shall mean the certificate issued by the Planning Board, Zoning Board or Administrative Officer, after review of the Certificate of Appropriateness application by the Historic Preservation Advisory Commission. This certificate is required prior to undertaking rehabilitation, restoration, renovation, alteration, ordinary and non-ordinary repair work or demolition work undertaken within an historic district or on an individually designated historic structure pursuant to this ordinance.

DEMOLITION shall mean partial or total raising or destruction of any historic property or of any improvement within an historic district.

DISREPAIR shall mean the condition of being in need of repairs; a structure or building in disrepair.

HISTORIC DISTRICT shall mean a geographically definable area, urban or rural, small or large, possessing a significant concentration, linkage, or continuity of sites, buildings, structures and/or objects which, viewed collectively:

- a. represent a significant period(s) in the development of the Township of Marlboro; or
- b. have a distinctive character resulting from their architectural style; or
- c. because of their distinctive character can readily be viewed as an area or neighborhood (district) distinct from surrounding portions of the Township.

HISTORIC DISTRICT RESOURCES shall mean those resources within an historic district classified as key, contributing, or non-contributing, which are defined as:

*KEY* shall mean any buildings, structures, sites or objects which -- due to their significance -- would individually qualify for historic property status.

*CONTRIBUTING* shall mean any buildings, structures, sites or objects, which are integral components of the historic district either because they date from a time period for which the

district is significant, or because they represent an architectural type, period, or method for which the district is significant.

*NON-CONTRIBUTING* shall mean any buildings, structures, sites or objects which are not integral components of the historic district because they neither date from a time period for which the district is significant nor represent an architectural type, period, or method for which the district is significant.

HISTORIC PRESERVATION ADVISORY COMMISSION shall mean the body which, for the purposes of this ordinance, acts as the Historic Preservation Commission as cited in the Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*

HISTORICALLY CERTIFIED COLORS shall mean those paint colors that are found to be traditionally associated with specific architectural styles or periods of architectural design.

HISTORIC PROPERTY(S) shall mean any buildings, structures, sites or objects that possess integrity of location, design, setting, materials, workmanship or association and which have been designated pursuant to the terms of this ordinance to be:

- a. of particular historic significance to the Township of Marlboro by reflecting or exemplifying the broad cultural, political, economic or social history of the nation, state, or community; or
- b. associated with historic personages important in national, state, or local history; or
- c. the site of an historic event which had a significant effect on the development of the nation, state, or community; or
- d. an embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering; or
- e. representative of the work of an important builder, designer, artist or architect; or
- f. significant for containing elements of design, detail, materials, or craftsmanship which represent a significant innovation; or
- g. able or likely to yield information important in prehistory or history.

IMPROVEMENT shall mean any structure or any part thereof installed upon real property by human endeavor and intended to be kept at the location of such construction of installation for a period of not less than one hundred twenty (120) days.

INTEGRITY shall mean the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

INVENTORY is a list of historic properties determined to meet specified criteria of significance.

MASTER PLAN shall mean The Master Plan of the Township of Marlboro, as amended from time to time, compiled pursuant to the Municipal Land Use Law.

MUNICIPAL LAND USE LAW shall mean the Municipal Land Use Law of the State of New Jersey, P.L. 1975, C.291 (N.J.S.A. 40:55D-1, et seq.), as amended from time to time.

NATIONAL REGISTER CRITERIA is the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

NON-ORDINARY REPAIR shall mean any repair which does not constitute an "ordinary repair" under the definition of that term as set forth in this ordinance.

OBJECT shall mean a thing of functional, aesthetic, cultural, historic, or scientific value that may be, by nature of design, movable yet related to a specific setting or environment—such as a monument or boundary marker.

ORDINANCE shall mean a legislative act of the governing body of a municipality adopted in accordance with statutory requirements as to notice, publicity, and public hearings as required by law.

ORDINARY MAINTENANCE OR REPAIR shall mean repairing any deterioration, wear or damage to a structure, or any part thereof, in order to return the same as nearly as is practicable to its condition and appearance prior to the occurrence of such deterioration, wear or damage. Ordinary maintenance shall further include replacement of exterior elements or accessory hardware, using the same materials or modern materials as determined appropriate, having the same appearance.

OVERLAY ZONE DISTRICT shall mean a zoning district made up of underlying zone districts or parts of zone districts as shown on the Township of Marlboro Zoning Map. An overlay zone district controls certain standards with the exception of bulk and use requirements, which are controlled by the underlying zone district(s).

PRACTICAL shall mean a determination regarding whether the applicant has demonstrated sufficient negative criteria or provided sufficient special reasons explaining how the preservation, rehabilitation, restoration or reconstruction of an historic resource will impact the applicant's ability to use the property in accordance with the guidelines as set forth in the Standards of the Secretary of the Interior, or as may be set forth in the local zoning requirements.

PRESERVATION shall mean the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic building, structure, or property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials. New exterior additions are not within the scope of this particular activity; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems, and other code-required work to make properties functional is appropriate within a preservation activity.

PROTECTION is the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury.

RECONSTRUCTION shall mean the act or process of depicting, by means of new construction, the exact form, features and detailing of a non-surviving site, landscape, building, structure or object, or any part thereof, for the purpose of replicating its appearance at a specific period of time and in its historic location.

REHABILITATION shall mean the act or process of making possible a compatible use for a property through repair, alterations, and

additions while preserving those proportions or features which convey its historical, cultural or architectural values.

REPAIR shall mean any work done on any improvement which:

- a. is not an addition to the improvement; and
- b. does not change the exterior architectural appearance of any improvement.

REPLACEMENT shall mean the act or process of replicating any exterior architectural feature that is used to substitute for an existing and deteriorated or extensively damaged architectural feature.

REMOVAL shall mean to partially or completely cause a structure or portion of a structure to change to another location, position, station or residence.

RESTORATION shall mean the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period that is selected. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within the scope of restoration activities.

SITE shall mean the place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupations or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may also be the location of a ruined building, structure, or object if the location itself possesses historic, cultural, or archeological significance.

STRUCTURE shall mean a combination of materials used to form a construction for the purposes of occupancy, use or ornamentation, having a fixed location on, above or below the surface of land or attached to something having a fixed location on, above, or below the surface of the land. The word "structure" shall also include fences; walls (other than retaining walls); independent radio, telephone, or television antennae; gasoline pumps; gazebos; pergolas, and swimming pools.

UNDERLYING ZONE DISTRICT shall mean a zoning district, which forms a constituent part of an overlay zone district. Underlying zone districts control bulk and use requirements.

§ 84-146 APPLICATION OF PROVISIONS

The following regulations shall apply to all historic resources in a district and to any other historic properties which are designated in accordance with the procedures outlined in Section 84-150.

§ 84-147 PERMITTED USES

Uses permitted within an historic district or on an historic site shall be the same as those permitted in the underlying zoning district.

§ 84-148 AREA AND HEIGHT REGULATIONS

The maximum building height, minimum lot size, maximum coverage, etc., shall be as provided in the zoning ordinance for the respective zones, except that the Planning Board or Zoning Board may grant variances and waivers from such regulations where necessary to preserve historic characteristics of a building, structure, historic property or site.

§ 84-149 HISTORIC PRESERVATION ADVISORY COMMISSION

A. Establishment. There is hereby established a commission that shall be known as the Township of Marlboro Historic Preservation Advisory Commission. The Commission shall consist of nine (9) members, who shall serve without compensation, except that Commission members shall be reimbursed for reasonable and necessary expenses incurred in the performance of official business within the guidelines of the budget established by the Township Council for the Commission.

B. Membership and Officers. Commission members shall be appointed by the Mayor. People who are interested in and qualified to contribute to the preservation of historic buildings, structures, sites, objects and districts shall fill the positions. Pursuant to N.J.S.A. 40:55D-107, at the time of appointment the members shall be designated by the following categories:

Class A- A person who is knowledgeable in building design and construction or architectural history.

Class B- A person who is knowledgeable, or with a demonstrated interest, in local history.

Class C- Persons who are residents of the Township of Marlboro and who hold no other municipal office, position or employment, except for membership on the Planning Board or Zoning Board, and who shall have a demonstrated interest, competence or knowledge in historic preservation.

Members Emeritus- Persons who have previously served on the Commission, who still have a strong interest in the Commission, but do not serve as active or voting members. These persons can serve on special committees and partake in special events.

There should be at least one (1) member each from Class A and Class B. Although a person who is not a resident of the Township of Marlboro may serve as a Class A or Class B member, preference shall be given to residents having a degree in architecture, history or archeology who satisfy the requirements of the National Historic Preservation Act. A member of the Township Council shall be designated as a non-voting liaison between the Commission and the Township Council.

C. Terms. The terms of members shall be for four (4) years. The terms of the initial members appointed under this ordinance shall be staggered, to the extent possible, evenly over the first four years after their appointment. The term of any member common to the Commission and the Planning Board shall be for the term of membership on the Planning Board; and the term of any member common to the Commission and the Zoning Board shall be for the term of membership on the Zoning Board. All members, at the expiration of their terms, may be eligible for appointment to an additional four-year term. Appointments to fill vacancies shall be only to complete the unexpired terms. Vacancies shall be filled within sixty (60) days. The Commission shall annually elect a Chairperson and Vice-Chairperson from its members and select a Secretary, who may be a member of the Commission or a municipal employee. A member of the Commission may, after public hearing if requested, be removed by the Township Council for cause.

D. Meetings and Hearings.

(1) All meetings and hearings of the Commission shall be open to the public, except where otherwise provided by law. All public meetings and hearings shall be held at times and places

specified by the Chairperson, agreed to by the Commission, and in accordance with law.

(2) Public notice shall be given of the schedule of regular meetings at the beginning of each calendar year and shall state the regular dates, times, and places of such meetings. Public notice of any special meeting, or of any rescheduled regular meeting, or any reconvened meeting shall be given at least twenty four hours before each meeting, unless reconvened within twenty four hours; provided, however, no additional public notice of reconvened meetings need be made where announcement of the time and place of the reconvened meeting is made at the original meeting, and where there is no change in the agenda. In the event a change is made in a regular meeting date, notice of such change shall be given, according to law, by publication in a newspaper of general circulation in the Township of Marlboro area.

(3) Quorum for the transaction of all business shall be five (5) members.

(4) No Commission member shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest.

#### E. Records.

The Commission shall keep minutes of all its proceedings. All Commission minutes and records are public records, subject to the provisions of N.J.S.A. 47:1A-1 *et seq.* Photostatic copies of public records may be obtained upon written request and the cost of such copies shall be borne by the person or persons requesting same.

#### F. Expenses and Experts.

The Township Council shall make provision in its budget and appropriate funds for the expenses of the Commission. The Commission may employ, contract for and fix the compensation of experts and such services as it shall deem necessary. Notwithstanding the foregoing, the hiring of all professionals by the Commission is subject to the approval of the Administration. The Commission shall obtain its legal counsel from the Township attorney at the rate of compensation determined by the Township Council. Expenditures shall not exceed, exclusive of gifts or grants, the amount appropriated by the Township Council for the Commission's use.

G. Responsibilities and Duties.

(1) Review historical survey material and, if necessary, update said material at least every other year to incorporate any newly acquired historical documentation and to reflect changes to a resource's integrity or condition.

(2) Recommend to the Planning Board and the Township Council, pursuant to N.J.S.A. 40:55D-65.1, any additional sites to be designated as historic properties in accordance with the procedures established in Section 8.

(3) Conduct research on and, if feasible, nominate historically significant properties to the State and National Registers of Historic Places. If the Township of Marlboro is certified under the State's Certified Local Government (CLG) Program, the Commission shall, in accordance with the State's CLG guidelines, review and comment on all State and National Register nominations for historic buildings and sites within the Township of Marlboro.

(4) Advise the Planning Board and Zoning Board, pursuant to N.J.S.A. 40:55D-110, on how development and zoning applications affect historic properties in accordance with the procedures established in Section 10. The recommendations of the Commission to the Planning Board or Zoning Board shall not be binding.

(5) Advise the Planning Board and Zoning Board, upon request, as to any applications before those bodies which are not within but which may substantially affect any historic district or historic site. The recommendations of the Commission to the Planning Board or Zoning Board shall not be binding.

(6) Make recommendations to the Planning Board, in accordance with N.J.S.A. 40:55D-111 and the procedures established in Section 11, regarding applications for building permits with respect to work to be performed involving buildings that fall within the provisions of this Ordinance or improvements within an historic district. The recommendations of the Commission to the Planning Board shall not be binding. The Planning Board shall then render its report to the Administrative Officer. The Administrative Officer is bound by the Planning Board's decision.

(7) Assist other public bodies in aiding the public in understanding the significance and methods of preservation of historic properties, by having available materials on the importance, guidelines and techniques of historical preservation.

(8) Prepare and distribute material to be utilized for applications reviews, and foster appropriate rehabilitation, reconstruction and/or restoration of historic properties and historic districts.

(9) Advise and assist property owners and other persons and groups, including neighborhood organizations, which are interested in historic preservation.

(10) Assist in educational programs including the preparation of publications and the placing of historic markers.

(11) Carry out such advisory, educational and informational functions as will promote historic preservation in the community and, as necessary consult with the Township of Marlboro Historical Society as well as the Monmouth County Historical Association on matters pertaining to the protection of the Township's historic resources.

(12) Advise the Township Council on the relative merits of proposals involving public lands to restore, preserve and protect historical buildings, places and structures, including the preparation of a long range plan; therefore securing state, federal and other grants in aid to assist therein and monitoring such projects once underway.

(13) Secure the voluntary assistance of the public and (within the limits of the budget established by the Township Council for the Historic Preservation Advisory Commission's operation or within the limits of any gifts or grants) retain consultants and experts and incur expenses to assist the Commission in its work. The hiring of all professionals must be approved by the Administration.

(14) Seek from local, County, State or National historic societies, governmental bodies and organizations grants to maximize their contributions to the intent and purposes of this ordinance.

(15) Request the Zoning Officer to seek, on his/her own motion or otherwise, injunctive relief for violations of this ordinance

or other actions contrary to the intent or purposes of this ordinance.

(16) Advise the Planning Board in writing during the preparation and/or update of the Township Master Plan, regarding the Historic Preservation Plan Element of the Master Plan.

(17) Within the limits of the budget established by the Township Council for the Commission's operation or within the limits of any gift or grants, prepare and distribute an historic properties guideline handbook to be utilized for application reviews and foster appropriate rehabilitation within the historic district(s).

(18) Report at least annually in writing to the Township Council on the state of historic preservation in the Township and recommend measures to improve same.

(19) Advise all municipal agencies regarding the goals and techniques of historic preservation.

(20) Perform any other lawful activities which may be deemed necessary to further the purposes of this ordinance.

§ 84-150 DESIGNATION OF HISTORIC PROPERTIES AND ADDITIONAL HISTORIC DISTRICTS

A. In addition to the properties and structures already identified in the Historic Preservation Plan Element of the Township's Master Plan, the Commission shall consider for historic property designation, historic site or historic district designation any additional buildings, structures, objects, sites or districts within the Township which merit historic designation and protection, by reason of possessing integrity of location, design, setting, materials, workmanship of association, and being:

(1) Of particular historic significance to the Township of Marlboro by reflecting or exemplifying the broad cultural, political, economic or social history of the nation, state, or community; or

(2) Associated with historic personages important in national, state, or local history; or

(3) The site of an historic event which had a significant effect on the development of the nation, state, or community; or

(4) An embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering; or

(5) Representative of the work of an important builder, designer, artist or architect; or

(6) Significant for containing elements of design, detail, materials, or craftsmanship which represent a significant innovation; or

(7) Able or likely to yield information important in prehistory or history.

B. Based on its review or upon the recommendation of other municipal bodies or of concerned citizens, the Commission may make a list of additional properties recommended for historic property designation, and for sections of the Township recommended for historic district designation. For each proposed historic property or for each proposed historic district, there shall be a brief description of the property or district, a statement of the significance of the property or district pursuant to the criteria in subsection A of this Section, a description of location and boundaries of the property or district, and a map siting. The Commission shall, by certified mail:

(1) Notify each owner that his property is being considered either for historic property designation or inclusion within a designated historic district, and the reasons for each designation.

(2) Advise each owner of the significance and consequences of such designation, and advise him of his opportunities and rights to challenge or contest such a designation.

(3) Notify each owner of the public meeting to be held in accordance with subsection C of this Section.

C. The list of potential additional historic properties and potential historic districts as well as the descriptions, significance, location, boundaries and map siting of each shall be subject to review at a Commission public hearing. At least ten (10) calendar days before such a hearing, a preliminary list and map showing proposed historic properties and proposed historic districts shall be published, together with a notice of the hearing, in an official newspaper of the Township. At the

hearing, interested persons shall be entitled to present their opinions, suggestions and objections regarding the proposed recommendations. The Commission shall then prepare a concise report including a list and a map of its recommendations for sites, structures, buildings, objects or districts to be designated as historic properties or historic districts. Copies of the report shall be delivered to the Mayor, Township Council, Planning Board and the Township Clerk and a notice of the report shall be published by the Commission in an official newspaper of the Township. The public notice shall state the Commission's recommendations and also that final designation will be made by the Township Council at a public meeting specified on a date not less than fifteen (15) days nor more than forty-five (45) calendar days from the date of publication.

D. The Township Council shall then consider the designation list and map, and may approve, reject or modify same by ordinance. Such a final determination by the Township Council shall create historic property status and/or historic district status. Copies of the designation list and official map as adopted shall be made public and distributed to all municipal agencies reviewing development applications and building permits.

E. Once adopted, the designation list and map may be amended in the same manner it was adopted. Following adoption, certificates of designation shall be served by certified mail upon the property owner of each historic property designation, and a true copy thereof shall be filed with the Tax Collector and Tax Assessor who shall maintain a record of all historic designations on the tax rolls. Copies of the designation list and map as adopted shall be made public and distributed to all municipal agencies reviewing development applications, construction and zoning permits.

F. Upon adoption, the designation list and map also shall be incorporated by reference into the Township's Master Plan and Zoning Ordinance as required by State enabling legislation.

**§ 84-151 ACTIONS REQUIRING REVIEW BY THE HISTORIC PRESERVATION ADVISORY COMMISSION**

A. All permits and development applications involving any of the following activities that affect an historic property or an improvement within an historic district, as designated in the Historic Preservation Plan Element of the Township's Master Plan, shall be reviewed by the Commission, except as set forth

in subsection B of this Section. Such review shall be required for, but not limited to, the following actions:

- (1) Demolition, in whole or in part, of a historic property or of any improvement within an historic district.
- (2) Relocation of an historic property or an improvement within an historic district.
- (3) Significant, non-historic changes in exterior appearance by means of repainting (not in the same color or a historically certified color).
- (4) Changes in exterior appearance by means of non-ordinary repairs, replacement, rehabilitation, alteration or addition to any historic property or any improvement within a designated historic district.
- (5) New construction taking place within a designated historic district.
- (6) Changes in or additions of new signage or exterior lighting.
- (7) Zoning variances affecting an historic property or any improvement within a designated historic district.
- (8) Site plans or subdivisions affecting an historic property or an improvement within an historic district.
- (9) Roadway widening projects.

In making a recommendation on an application, the Commission shall be aware of the importance of finding a way to meet the current needs of the applicant. The Commission shall also recognize the importance of making recommendations that will be both consistent with the purposes of this ordinance and reasonable for the applicant to carry out. Before an applicant prepares plans, he or she may bring a tentative proposal to the Commission for informal review and comment.

B. A review by the Commission is not required for the following, no matter where located:

- (1) When immediate and emergency repairs are required to preserve the continued habitability of an historic property or improvement within a historic district, and/or health and safety of its occupants or others. Emergency repairs may be performed

in accordance with the Township codes, without the necessity of first obtaining the Commission's review. Under such circumstances, the repairs performed shall be only such as are necessary to protect the health and safety of the occupants or others, and/or to maintain the habitability of the structure. A request for the Commission's review and issuance of a Certificate of Appropriateness shall be made as soon as possible. No additional work shall be performed upon the structure until a Certificate of Appropriateness is obtained in accordance with the procedures set forth in this ordinance. All work done under this section shall conform to the criteria set forth in Section 12.

(2) For changes to the interior of buildings and structures.

(3) For ordinary repairs and maintenance that do not constitute a change to the appearance of the structure, as would be appropriate to the style and period. The following are the only activities that do not require Commission review according to these criteria:

a. Repair of existing windows and doors, using the same material. Installation of storm windows that are compatible with the architectural period or design of the subject structure;

b. Maintenance and repair of existing roof material, involving no change in the design, scale, material, or appearance of the structure;

c. Repair of existing roof structures (such as cupolas, dormers and chimneys) using the same materials, which will not alter the exterior architectural appearance of the structure;

d. Repair/replacement in kind of existing shingles, clapboards or other siding maintaining the architectural integrity of the structure;

e. Repairs to existing signs, shutters, outdoor displays, fences, hedges, street furniture, awnings, off-street driveway and parking materials and sidewalks, using the same material for those items noted above being repaired;

f. Exterior painting of existing structures in historically certified colors;

g. Replacement or installation of screens;

h. Replacement of exterior rainwater gutters, downspouts and leaders;

i. Repair or replacement of any exterior trim, decoration or moldings; and

j. Repair of any part of a porch or stoop, which does not structurally support a roof above.

**§ 84-152 PROCEDURES FOR THE REVIEW OF DEVELOPMENT AND ZONING APPLICATIONS**

A. For all applications presented to the Planning Board and/or Zoning Board which meet the criteria set forth in Section 84-151A, the property owner shall also submit to either Board, as appropriate, an application for review and request for issuance of a Certificate of Appropriateness. Such an application shall pertain solely to the proposed site review or zoning request. If building permits are required, those actions will be reviewed separately by the Commission in accordance with the procedures outlined in Section 84-153.

B. The Planning Board or Zoning Board, shall forward to the Commission a complete set of all application materials as well as the application for review and request for issuance of a Certificate of Appropriateness. Such referral shall be made when the application is deemed complete or is scheduled for a hearing, whichever is sooner. The Commission shall be allowed at least fourteen (14) calendar days from the day it receives a complete application to prepare its recommendations to either the Planning Board or Zoning Board regarding whether the Certificate of Appropriateness should be approved or denied. Said recommendations shall be in the form of a written report, which may be orally conveyed to the appropriate Board through the Commission's delegate at a hearing on the application.

C. The Commission's recommendation shall focus on how the proposed undertaking would affect an historic property's historical or architectural significance as outlined in Section 84-150A. In considering the Commission's recommendations, the Planning Board or Zoning Board shall be guided by the review criteria established in Section 84-154. The recommendation of the Commission shall not be binding upon the Planning Board or the Zoning Board.

§ 84-153 PROCEDURES FOR THE REVIEW OF BUILDING PERMITS AND ALTERATIONS

A. Prior to undertaking any action affecting the exterior architectural appearance of an historic property or an improvement within an historic district, regardless of whether a building permit is required, the property owner shall complete and submit to the Administrative Officer an application for review and request for issuance of a Certificate of Appropriateness.

B. An Application for a Certificate of Appropriateness shall be submitted on forms provided by the Administrative Officer. Each application submission shall include, at a minimum, the following information:

(1) Those drawings, plans, photographs, manufacturer specifications, and sample materials that are required by the Administrative Officer, and/or as may be noted in the application checklist.

(2) Detailed drawings, when required by the Administrative Officer, which shall be drawn at the appropriate scales and shall depict the exact work to be performed, including renderings of the exterior of any proposed new building and/or structure or any exterior alterations to existing improvements. A detailed plot plan delineating the relationship of the renderings of the proposal in relation to adjacent improvements, buildings and/or structures or surrounding lands may be required as determined by the Administrative Officer. Drawings shall be prepared and sealed by either a New Jersey licensed registered architect or other New Jersey licensed design professional or by the residing property owner of a single family dwelling under his/her ownership with an accompanying affidavit of ownership, as required by P.L. 1989, Chapter 277 (commonly known as the "Building Design Services Act") or other applicable laws of the State of New Jersey.

C. The Administrative Officer shall refer the application to the Commission for its recommendation. The Commission or its designee shall review the application for technical completeness. Any application found to be incomplete shall be returned to the applicant within ten (10) calendar days of the receipt of the application.

D. When an application is found to be technically complete, the Commission shall schedule a review of the application at its

next regularly scheduled meeting. The applicant shall be notified of the meeting date and shall be allowed an opportunity to speak at the meeting. The Commission may recommend the denial of any application that is not properly represented at the hearing.

E. The Commission shall report to the Planning Board within twenty-five (25) calendar days after the application is deemed complete. The report shall set forth the Commission's recommendation regarding whether the Certificate of Appropriateness should be approved, denied, or conditionally approved; and it shall explain, in writing, the reasons for its recommendation. In accordance with subsection F of this Section, if the application involves demolition or removal, the Commission may also recommend postponement. The Commission's recommendation shall focus on how the proposed undertaking would affect a property's historic or architectural significance pursuant to the review criteria set forth in Section 84-154. The Commission's recommendation shall not be binding upon the Planning Board.

F. When making its determination on the application for a Certificate of Appropriateness, the Planning Board should be guided by the review criteria set forth in Section 84-154. The Planning Board should consider the Commission's recommendations with the same care it affords all expert information. The Planning Board may accept, reject or modify the Commission's recommendations. The Planning Board shall provide its report to the Administrative Officer for the appropriate action within forty-five (45) days of his or her referral of the application to the Commission. Failure to report within the 45-day period shall be deemed to constitute a report in favor of the application for a Certificate of Appropriateness, without conditions. The Administrative Officer is bound by the Planning Board's decision.

G. The Planning Board, upon affirmative vote of a majority of the membership, may approve, deny or postpone demolition of an historic property ancillary to a development application for up to one (1) year. The Planning Board and the Commission may utilize this time period to consult with the New Jersey State Historic Preservation Office, the Monmouth County Historical Commission or other similarly qualified organizations to ascertain how the Township may preserve the structure, when demolition or moving thereof would be a great loss to the Township. The Planning Board may request that the Township Council initiate such actions as may lead to the preservation of

the premises within the one-year hiatus. In its review of an application to demolish a site pursuant to this section, the Commission may require the applicant to prepare a financial analysis which may include any or all of the following:

(1) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased.

(2) Assessed value of the land and improvements thereon according to the most recent assessment.

(3) For depreciable properties, a *pro forma* financial statement prepared by an accountant or broker of record.

(4) All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property.

(5) Bona fide offers of the property for sale or rent, price asked and offers received, if any.

(6) Any consideration by the owner as to profitable, adaptive uses for the property.

The Commission shall study the question of economic hardship for the applicant and shall determine whether the site or the property in the historic district can be put to beneficial use without the approval of the demolition application. In the case of an income-producing building, the Commission shall also determine whether the applicant can obtain a reasonable return from his existing building. The Commission may ask applicants for additional information to be used in making these determinations.

#### § 84-154 CRITERIA FOR REVIEW OF APPLICATIONS

In reviewing an application for its effect on a building, improvement or structure within an historic district or an historic property, the following criteria shall be used by the Commission, the Planning Board and the Zoning Board. The criteria set forth in subsection A relate to all projects affecting an historic site or an improvement within an historic district. The criteria set forth in subsections B through D relate to specific types of undertakings and shall be used in addition to the general criteria set forth in subsection A.

A. In regard to all applications affecting an historic site or an improvement within an historic district, the following factors shall be considered:

(1) The impact of the proposed change on the historic and architectural significance of the site or the historic district;

(2) The site's importance to the Township and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest;

(3) The use of any structure involved;

(4) The extent to which the proposed action would adversely affect the public's view of an historic site within an historic district from a public street;

(5) If the proposed undertaking affects a structure within an historic district, the impact the proposed change would have on the district's architectural or historic significance and the structure's visual compatibility with the buildings, places and structures to which it would be visually related in terms of the visual compatibility factors set forth below.

B. With respect to applications for Certificates of Appropriateness relating to changes in exterior appearance, new construction, alteration(s), addition(s), non-ordinary repair(s), rehabilitation, replacement(s), signage or exterior lighting, excavation, or ground disturbance, involving a historic property or any improvement within the historic district, the following shall be considered:

(1) The use of any building and/or structure involved.

(2) The historical or architectural value and significance of the building and/or structure and its relationship to the historic value of the surrounding area.

(3) The effectiveness of the proposal in adhering to the building and/or structure's original style or destroying or otherwise affecting the exterior texture, materials and architectural features.

(4) The overall effect that proposed work would have upon the protection, enhancement, perpetuation and the use of the

property, adjoining properties and the historic district in which it is located.

(5) The general compatibility of exterior design, arrangement and materials proposed to be used and any other factor, including aesthetic, which is found to be pertinent.

(6) The practicality of performing the work with materials or workmanship of a type equivalently or similar to the historical or architectural era during which the structure, building or place was constructed.

(7) The impact of the proposed change upon archaeological resources.

(8) The general purposes of the Municipal Land Use Law set forth in N.J.S.A. 40:55D-2, including, but not limited to the following:

a. Appropriate use or development of all lands in a manner, which promotes the public health, safety, morals and general welfare;

b. Promotion of a desirable visual environment through creative development, techniques and good civic design and arrangements;

c. Conservation of historic sites and districts, open space, energy resources and valuable natural resources to prevent degradation of the environment through improper use of land;

d. Encouraging coordination of the various public and private procedures and activities, shaping land development with a view of lessening the cost of such development and to the more efficient use of land.

C. In assessing visual compatibility, the following factors (commonly known as "Visual Compatibility Factors") shall be considered in reviewing applications for new construction, alterations, additions, or replacements affecting an historic property or an improvement within an historic district:

(1) Height - The height of the proposed building and/or structure should be visually compatible with adjacent buildings and/or structures.

(2) Proportion of the Building's Front Facade - The relationship of the width of the building and/or structure to the height of

the front elevation should be visually compatible with buildings and/or structures and places to which it is visually related.

(3) Proportion of Openings Within the Facility - The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and places to which it is visually related.

(4) Rhythm of Spacing of Buildings on Streets - The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with buildings and places to which it is visually related.

(5) Rhythm of Solids to Voids on Facades Fronting on Public Places - The relationship of solids to voids in such facades of buildings shall be visually compatible with buildings and places to which it is visually related.

(6) Rhythm of Entrance and/or Porch Projections - The relationship of entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.

(7) Relationship of Materials, Texture, and Color- The relationship of materials, texture, and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related.

(8) Roof -- The roof shape of a building shall be visually compatible with the buildings to which it is visually related.

(9) Walls of Continuity - Appurtenances of a building and/or structure such as walls, open-type fencing, evergreen-landscaping masses and so forth, should form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the building and/or structure and places to which it is visually related.

(10) Scale of Buildings - The size of a building, mass of a building in relation to open spaces, the windows and door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.

(11) Exterior Features - A structure's related exterior features such as lighting, fences, signs, sidewalks, driveways and parking areas shall be compatible with the features of those

structures to which it is visually related and shall be appropriate for the historic period for which the structure is significant.

(12) Directional Expression - A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this is vertical character, horizontal character or non-directional character.

It is not the intent of this ordinance to discourage contemporary architectural expression or to encourage new construction which emulates existing buildings of historic or architectural interest or of a certain period or architectural style, but rather to preserve the integrity and authenticity of historic districts and to insure the compatibility of new structures therein.

D. In addition to the Visual Compatibility Factors listed in the preceding subsection, the following standards for rehabilitation as promulgated by the U. S. Secretary of the Interior should be considered with respect to work proposals dealing with historic properties:

(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building, structure and its site and environment.

Every reasonable effort shall be made to provide a compatible use for a property, which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purposes.

The proposed design and materials will conform to the building's original architectural style.

(2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed.

The removal or alteration of any historic material or distinctive architectural features shall be avoided.

(3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings shall not be undertaken.

Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved, and this significance shall be recognized and respected.

(5) Distinctive stylistic features, finishes, and construction techniques or examples of craftsmanship which characterize a building, structure or site shall be preserved.

(6) Deteriorated historic features (e.g., windows, doors, shutters, trim, siding, etc.) shall be repaired rather than replaced, wherever possible using the Secretary of the Interior's Standards for Rehabilitation. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence, rather than conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of buildings and/or structures, if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property, neighborhood and its environment.

Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(10) New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(11) Synthetic siding is not acceptable on key buildings. Metal or vinyl siding may be used to resurface facades of low public visibility on contributing buildings that were originally wood-sided only if the substitute siding is similar in design, width and texture to the original clapboard and will not endanger the physical condition and structural life of the building. Architectural trim must be retained.

(12) The number, size and locations of original window and door openings shall be retained. Window and door openings shall not be reduced to fit stock material. New window and door openings shall not be added on elevations that are subject to view from a public street. Vinyl, vinyl clad, aluminum, aluminum clad windows and doors are not acceptable on key buildings. Non-wood surfaced window frames and doors may be used on side and rear exposures of low public visibility on contributing buildings that were originally wood windows and doors when the substitute windows and doors are similar in design, width and texture to the original wood windows or doors and will not endanger the physical condition and structural life of the building. Architectural trim and adornments must be retained. Non-wood surfaced window frames and doors are acceptable on non-contributing buildings.

E. With respect to applications for demolition, it should first be considered whether preservation of the historic property in place is feasible or, failing that option, whether preservation of the historic property at another location is feasible.

(1) In determining whether preservation of the historic property in place is feasible, the following shall be considered:

a. Whether the historic property represents the last or best remaining example of its kind in the Township that possesses research potential or public education values.

Its historic, architectural, cultural or scenic significance.  
Its importance to the Township and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.

b. Whether the historic property can be preserved by protecting its location from disturbance.

If it is within an historic district, the significance of the structure in relation to the historic character of the district and the probable impact of its removal on the district.

The probability of significant damage to the historic site.

c. Whether affirmative measures, such as stabilization, rehabilitation, restoration or reuse, can result in preservation of the structure in order to comply with the requirements of the Uniform Construction Code.

Its structural condition and the economic feasibility of alternatives to the proposal.

The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could be reproduced only with great difficulty and expense.

d. Whether redesign of the development proposal to avoid impact can result in preservation.

e. Whether the steps necessary to preserve the historic property are feasible and practical.

f. Whether the protective measures will result in long-term preservation of the historic property.

g. The extent to which the historic property is an attraction for tourists and students.

The extent to which its retention would promote the general welfare by maintaining and increasing the real estate values, generating business, attracting tourists, attracting new residents, stimulating interest and study in architecture and

design, or making the Township an attractive and desirable place in which to live.

If the proposed new location is within an historic district, visual compatibility factors as set forth in subsection C of this Section.

If it is to be removed from the Township, the proximity of the proposed new location to the Township including the accessibility to the residents of the Township and other citizens.

h. The historic, architectural, aesthetic and social significance of the structure and/or importance and uniqueness to the Township and extant archaeological resources.

If it is within an historic district, the probable impact of its removal upon the ambience of the historic district.

(2) In determining whether preservation of the historic property at another location is feasible, the following shall be considered:

a. Whether the historic property can be removed and still retain its historic significance

The historic loss to the site of original location and, where applicable, the historic district as a whole.

The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the protection of interest and values referred to in this ordinance.

b. Whether the historic property is sufficiently well preserved to permit relocation.

c. Whether alternative locations compatible with the historic property are available.

d. Whether it is feasible and practical to relocate the historic property.

e. Whether the relocation will result in long-term preservation of the historic property.

f. The reasons for not retaining the building improvement or structure at its present location.

g. Any consideration by the owner as to profitable, adaptive uses for the property.

(3) Nothing in this section shall preempt the administrative authority of the municipal Construction Code Official.

**§ 84-155 EFFECT OF PROJECT APPROVAL; DENIAL; APPEAL**

A. Approval of an application for a Certificate of Appropriateness by the Planning Board, Zoning Board or Administrative Officer shall be deemed to be final approval pursuant to this ordinance. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other Township ordinance to be made prior to undertaking the action requested concerning the historic site or improvement in an historic district.

B. Denial of an application for a Certificate of Appropriateness for a development application or a building permit shall be deemed to bar the applicant from undertaking the activity which would affect the historic property or improvement in an historic district.

C. An applicant for a Certificate of Appropriateness for a development application shall have all appeal rights afforded to him or her by law and by Chapter 84 of the Code of the Township of Marlboro.

D. An applicant for a Certificate of Appropriateness for a building permit shall appeal the decision of the Administrative Officer to the Zoning Board pursuant to N.J.S.A. 40:55D-70.2.

**§ 84-156 VIOLATIONS AND PENALTIES**

A. Any person, including the owner of the property, contractors, and those acting at the request, or by the authority of the owner and/or contractor, who shall undertake an activity which would cause a change in the exterior architectural appearance of any improvement within an historic district or of any historic property by addition, alteration or replacement without first having obtained approval of the activity, shall be deemed to be in violation of this ordinance.

B. Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the historic property to the condition it was in prior to the violation occurring. If the owner cannot be personally served within the Township with the said notice, a copy shall be posted on the site and a copy sent to the owner by certified mail, return receipt requested, at his/her last known address as it appears on the municipal tax rolls.

C. In the event that the violation is not abated within ten (10) days of serving notice or posting on the site, whichever is earlier, the Zoning Officer shall cause to be issued a summons and complaint, returnable in the Municipal Court, specifying the wrongful conduct of the violator. Each separate day the violation continues to persist shall constitute a separate and new offense.

D. The penalty for violations shall be as follows:

- (1) For each day, up to 10 days - not more than \$100 per day.
- (2) For each day, 11 to 25 days - not more than \$150 per day.
- (3) For each day beyond 25 days - not more than \$200 per day.

E. If any person shall undertake an activity which would cause a change in the exterior architectural appearance of any improvement within an historic district or of any historic site by addition, alteration or replacement without first having obtained approval of the site, he shall be required to immediately stop the activity, apply for approval, and take any necessary measures to preserve the site affected pending a decision. If the project is denied, he shall immediately restore the site to its pre-activity status. The Zoning Officer is hereby authorized to seek injunctive relief regarding a stop action on restoration in the Superior Court, Chancery Division, not less than ten (10) days after the delivery of notice pursuant to subsection B. Such injunctive relief shall be in addition to the penalties authorized under subsection D.

F. In the event that any action which would permanently affect an historic property or an improvement within an historic district, or a demolition is about to occur, without a Certificate of Appropriateness having been issued, the Zoning Officer is empowered to apply to the Superior Court for injunctive relief as is necessary to prevent such action.

G. The Business Administrator of the Township, in the absence of the Zoning Officer, shall perform all of aforementioned duties as granted to said officer by this ordinance.

§ 84-157 INTERPRETIVE STATEMENTS

A. Nothing contained within this ordinance shall supersede the powers of other local legislative or regulatory bodies or relieve any property owner of complying with the requirements of any other state statutes or municipal ordinances or regulations.

B. In the event of any inconsistency, ambiguity or overlapping of requirements between these provisions and any other requirements enforced by the municipality, the more restrictive shall apply, to the effect that state and/or federal legislation has not preempted the municipality's power to enforce more stringent standards.

C. All other ordinances and provisions inconsistent or conflicting with the provisions of this ordinance are hereby repealed to the extent of such conflict or inconsistency provided that they are not otherwise required by law.

D. In no case shall the ordinance be interpreted to review or regulate activities for repair or installation of public utility lines, including water, sewer, telephone, gas, electric; or any underground improvement; any other utility improvement that does not affect the exterior of an existing structure or does not constitute a new building or structure; or improvements within the public right-of-way.

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; and

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; and

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

The following Resolution # 2005-75 (Council Senior Ad Hoc Committee - Jeff Cantor) was introduced by reference, offered by Council President Pernice, seconded by Council Vice President Morelli and passed on a roll call vote of 5 - 0 in favor. All Council members spoke in favor of the appointment.

RESOLUTION # 2005-75

BE IT RESOLVED by the Township Council of the Township of Marlboro that the following is hereby appointed as Council Liaison, such term to expire December 31, 2005:

Mayor's Senior Citizen Advisory Committee - Jeff Cantor

The following Items were carried to the February 17<sup>th</sup> agenda:

Item # 22 (Res./Ord. - First Reading - Traffic Ordinances -

- a. Regulating Streets - Kensington Gate Development
- b. Speed Limit Conover Road
- c. Speed Limit Falson Lane
- d. Speed Limit Buckley Road
- e. Speed Limit Willow Lane
- f. Speed Limit Ryan Road;

Item # 23 (Res. - Authorizing Professional Services Contract - CME - Route 79 & School Road East Access Permit) - Councilman Denkensohn asked for clarification of these projects and asked Administration for an itemized list of 2004 Engineering expenses;

Item # 24 (Res. - Authorizing Professional Services Contract - Birdsall Engineering

- Station Road Design/Permit
- Union Hill Construction Administration
- Hobart St./Willis Street Final Design
- Wyncrest Rd./Route 79/Pleasant Valley Rd. intersection feasibility study;

Item # 25 (Res. - Authorizing Professional Services Contract - Arcari/Iovino Architects - Feasibility Study Expansion Police Dept.;

Item # 26 (Res. - Award of Contract - Janitorial Services - Baileys Square Janitorial Service;

Item # 27 (Res. - Award of Contract - Website Support - City Connections;

Item # 28 (Res. - Award of Contract - Fleet Maintenance Software - Arsenault;

Item # 29 (Res. - Award of Contract - Electrical Engineering Service - Emergency Generator Public Works;

Item # 30 (Res. - Authorization to Bid - Leasing Farming Rights/Di Meo Property);

Item # 31 (Res.- Tax Collector Resolutions).

At 10:40PM, Councilman Denkensohn moved that the meeting go into executive session for reason of discussing bargaining unit contracts, personnel and COAH mediation. This was seconded by Councilman Cantor, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the executive session commenced at 10:50 PM.

RESOLUTION # 2005-74

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 3rd day of February, 2005 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely bargaining unit contracts, personnel and COAH mediation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 90 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 12:20PM, Councilman Denkensohn moved that the meeting be opened. This was seconded by Councilman Mione, and as there was no objection, the Clerk was asked to cast one ballot.

The following Resolution #2005-76 (Special Meeting - Feb. 9<sup>th</sup> - Acquisition of Property) was introduced by reference, offered by Councilman Denkensohn, seconded by Council President Pernice and passed on a roll call vote of 5 - 0 in favor.

