

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

December 18, 2008

The Marlboro Township Council held a rescheduled meeting of the Township Council of the Township of Marlboro on December 18, 2008 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Cantor opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this rescheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on December 5, 2008; 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 LaRocca, Council Vice President Rosenthal, Councilwoman Tragni and Council President Cantor.

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

Councilwoman Tragni moved that the minutes of November 13, 2008 be approved. This motion was seconded by Councilman LaRocca and the minutes were passed on a roll call vote of 4 - 0 in favor, with Councilwoman Marder abstaining.

Councilman LaRocca motioned to table opened the Public Hearing on Ordinance # 2008-28 (As Amended) Amend Chapter 84 - Fences Certain Rear Yards on Vanderburg Road - Tabled 10/16, 11/13, 12/4). This was seconded by Councilwoman Tragni and motion to table was passed on a roll call vote of 5 - 0 in favor.

Council President Cantor opened the Public Hearing on Ordinance # 2008-40 (Amend Chapter A-157 - Cable Franchise Renewal). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2008-403/Ord. # 2008-40 (Amend Chapter A-157 - Cable Franchise Renewal) was introduced by reference, offered by Council Vice President Rosenthal, seconded by Councilman LaRocca and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-403

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

ORDINANCE # 2008-40

AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE TOWNSHIP OF MARLBORO, NEW JERSEY TO CABLEVISION OF MONMOUTH, INC.

which was introduced on December 4, 2008, public hearing held December 18, 2008, be adopted on second and final reading this 18th day of December, 2008.

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

Council President Cantor opened the Public Hearing on Ordinance # 2008-41 (Amend Section 84-104 - Stormwater Management). After the Public Hearing was held and closed, the following Resolution # 2008-404/Ord. # 2008-41 (Amend Section 84-104 - Stormwater Management) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Marder and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-404

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

ORDINANCE # 2008-41

AN ORDINANCE DELETING SECTION 84-104 "STORMWATER MANAGEMENT", ARTICLE VIII "SUBDIVISIONS: DESIGN AND

PERFORMANCE STANDARDS", CHAPTER 84 "LAND USE DEVELOPMENT  
AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO  
AND ADOPTING NEW SECTIONS 84-104 THROUGH 84-104.12  
CONCERNING STORMWATER MANAGEMENT

which was introduced on December 4, 2008, public hearing held  
December 18, 2008, be adopted on second and final reading this 18th  
day of December, 2008.

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

Council President Cantor opened the Public Hearing on  
Ordinance # 2008-42 (Deleting Article IX - Stormwater  
Management Sections 84-150 through 84-161). As there was  
no one who wished to speak, the Public Hearing was closed.  
The following Resolution # 2008-405/ Ordinance # 2008-42  
(Deleting Article IX - Stormwater Management Sections 84-  
150 through 84-161) was introduced by reference, offered by  
Council Vice President Rosenthal, seconded by Councilman  
LaRocca and was passed on a roll call vote of 5 - 0 in  
favor.

RESOLUTION # 2008-405

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

ORDINANCE # 2008-42

AN ORDINANCE DELETING ARTICLE IX "STORMWATER MANAGEMENT",  
SECTIONS 84-150 THROUGH 84-161 WITHIN CHAPTER 84 "LAND USE  
DEVELOPMENT" OF THE CODE OF THE TOWNSHIP OF MARLBORO IN  
ITS ENTIRETY AND RESERVING SUCH ARTICLE IX FOR FUTURE USE

which was introduced on December 4, 2008, public hearing held  
December 18, 2008, be adopted on second and final reading this 18th  
day of December, 2008.

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

Council President Cantor opened the Public Hearing on Ord.  
# 2008-43 (Prohibiting Left Turn Into and Out of Ambten  
Road Assoc. Development - Tennent Road). As there was no

one who wished to speak, the Public Hearing was closed. The following Resolution # 2008-406/Ord. # 2008-43 (Prohibiting Left Turn Into and Out of Ambten Road Assoc. Development - Tennent Road) was introduced by reference, offered by Council Vice President Rosenthal, seconded by Councilwoman Tragni and was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-406

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

ORDINANCE # 2008-43

AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLE XIII, "SEMIPUBLIC AND PRIVATE ROADS AND PARKING AREAS", SECTION 138-37 "ADDITIONAL PARKING AND TRAFFIC REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO PROHIBIT LEFT TURNS INTO AND OUT OF THE AMBTEN ROAD ASSOCIATES DEVELOPMENT SITE, LOCATED ON TENNENT ROAD BETWEEN AMBOY ROAD AND COMMERCIAL COURT CREATING AND ESTABLISHING A NEW SUB-SECTION 138-37(K)

which was introduced on December 4, 2008, public hearing held December 18, 2008, be adopted on second and final reading this 18th day of December, 2008.

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

The following Res. # 2008-407 (Petitioning COAH for Substantive Certification with an Adopted Housing Element and Fair Share Plan) was introduced by reference, offered by Councilwoman Marder and seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-407

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO PETITIONING THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING WITH AN ADOPTED HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, the Planning Board of the Township of Marlboro, Monmouth County, State of New Jersey, adopted the Housing Element of the Master Plan on December 17, 2008; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element is attached hereto pursuant to N.J.A.C. 5:96-2.2(a)2; and

WHEREAS, the Planning Board adopted the Fair Share Plan on December 17, 2008; and

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

NOW THEREFORE BE AND IT IS HEREBY RESOLVED, that the Township Council of the Township of Marlboro, Monmouth County, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Planning Board of the Township of Marlboro; and

BE IT FURTHER RESOLVED, that the Township Council of the Township of Marlboro, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3.2(a), submits this Petition for Substantive Certification of the Housing Element and Fair Share Plan to the New Jersey Council on Affordable Housing for review and certification; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the petition; and

BE IT FURTHER RESOLVED that notice of this petition for substantive certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven (7) days of issuance of the notification letter from the New Jersey Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Township of Marlboro's Municipal Clerk's office located at 1979 Township Drive, Marlboro, New Jersey 07746, during the hours of 9:00 a.m. to 4:30 p.m. on Monday through Friday for a period of forty-five (45) days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

The following Res. # 2008-408 (Bond Release - Hawley Estates, B. 176, L. 65.01) was introduced by reference, offered by Councilwoman Tragni and seconded by Council Vice President

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

RESOLUTION # 2008-408

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

WHEREAS, Mandalay at Old Hooper, LLC and Philip Kramer, collectively as developer for the subdivision known as Hawley Estates, Block 176, Lots 65.02, 65.03, 65.04, 65.05 and 65.06 (formerly known as Block 176, Lot 65.01) duly posted with the Township of Marlboro Performance Guarantees for Site Improvements in the amount of \$275,625.69 as Bond and \$30,625.49 as cash; and

WHEREAS, Pantheon Homes, LLC, the successor Developer ("Successor Developer") acquired by assignment all governmental approvals, plans, engineering, architectural and cash deposits for the Hawley Estates Subdivision; and

WHEREAS, the cash bond in the amount of \$30,625.49 and any escrow amounts posted by the previous developer to the Township have been assigned to the Successor Developer and remain unchanged and in full force and effect; and

WHEREAS, the Township of Marlboro has received a request for the release of Township held Performance Guarantee Bond for the Hawley Estates Subdivision Site Improvements that was issued by the previous developer, Mandalay at Old Hooper, LLC and Philip Kramer in the amount of \$275,625.69; and

WHEREAS, the Successor Developer has duly posted a replacement Performance Guarantee Bond in the amount of \$275,625.69 for the Hawley Subdivision Site Improvements in a form acceptable to the Township Attorney; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated December 3, 2008, a

copy of which is attached hereto and made a part hereof;  
and

WHEREAS, the report recommends that the current Performance Guarantee Bond in the amount of \$275,625.69 posted by the previous developer, Mandalay at Old Hooper, LLC and Philip Kramer be released upon the approval and acceptance of the replacement Performance Guarantee Bond posted by the Successor Developer, Pantheon Homes, LLC, and that the cash bond in the amount of \$30,625.49 and escrows posted by the previous developer Mandalay at Old Hooper, LLC and Philip Kramer have been assigned to the Successor Developer and remain in full force and effect; and

WHEREAS, the Township Council now wishes to take the following action regarding the aforesaid Performance Guarantees, Bond and Cash.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Guarantees posted by the previous developer, Mandalay at Old Hooper, LLC and Philip Kramer for the Hawley Estates Subdivision Site Improvements, Block 176, Lots 65.02, 65.03, 65.04, 65.05 and 65.06, (formerly known as Block 176, Lot 65.01) Marlboro, New Jersey, in the form of a Bond #0414848 issued by International Fidelity Insurance Company in the amount of \$275,625.39 shall be released in its entirety and that the cash bond in the amount of \$30,0625.49 and any escrows posted by the previous developer shall remain with the Township in full force and effect, as such cash bond and escrows were assigned to the Successor Developer, Pantheon Homes, LLC; and

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

- a. Mandalay at Old Hooper, LLC and Philip Kramer
- b. International Fidelity Insurance Company
- c. Pantheon Homes, LLC
- d. First Indemnity of America Insurance Co.
- e. Mayor Hornik
- f. Township Business Administrator
- g. Township Engineers
- h. Chief Financial Officer

i. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2008-353 (Tabled 10/16 & 12/4 - Bond Reduction Triangle Valley/Saratoga Estates) was introduced by reference, offered by Council Vice President Rosenthal and seconded by Councilman LaRocca. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-353

RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE GUARANTEES FOR THE DEVELOPMENT KNOWN AS TRIANGLE VALLEY (SARATOGA ESTATES), BLOCK 159, LOT 10, TOWNSHIP OF MARLBORO, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request from K. Hovnanian at Marlboro Township IV, LLC ("Developer") for the reduction of Township held performance guarantees in the form of a Bond and Cash for site improvements at a development known as Triangle Valley (Saratoga Estates) on the property known as Block 159, Lot 10, on the Official Tax Map of Marlboro Township, Monmouth County, State of New Jersey; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed the Township Engineer's report dated October 6, 2008, a copy of which is attached hereto and made a part hereof; and

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

WHEREAS, the Township Council desires to reduce the performance guarantee bond and cash amount in accordance with the recommendation of the Township Engineer.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the performance guarantees in the form of a bond and cash amounts posted for the development known as Triangle Valley (Saratoga Estates) shall be reduced as follows:

1. The Performance Guarantee Bond (Westchester Fire Insurance Company, Bond #K07007693), in the original and present amount of \$1,134,927.20, shall be reduced by \$794,449.04,

so that the remaining amount shall be \$378,309.07.

2. The Cash Bond, in the original and present amount of \$126,103.02 and shall be reduced by \$88,272.12, so that the amount to remain shall be \$37,830.91; and

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the posting of all review and/or inspection escrow fees required by the Planning Board and/or Developer's Agreement for the aforesaid development and the resolution of valid homeowner's complaints.

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

- a. K. Hovnanian at Marlboro Township IV, LLC
- b. Westchester Fire Insurance Company
- c. Mayor Hornik
- d. Business Administrator
- e. Township Engineer
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2008-409 (Bond Release Pleasant Valley Estates Sections 1 & 2) was introduced by reference, offered by Councilwoman Tragni and seconded by Council Vice President Rosenthal. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-409

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES  
FOR PLEASANT VALLEY ESTATES, SECTIONS 1 AND 2,  
BLOCK 153, LOT 62, MARLBORO, NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for the release of Township held Performance Guarantees for site improvements for the Development known as Pleasant Valley Estates - Sections 1 and 2, Block 153, Lot 62, Marlboro, New Jersey posted by Bayview Builders, Inc. (the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed reports from the former Township Engineer Birdsell Engineering dated September 8, 2008 regarding

Pleasant Valley Estates - Sections 1 and 2, copies of which are attached hereto and made a part hereof; and

WHEREAS, as to Sections 1 and 2, the reports recommend that the current Performance Guarantees, cash and bond, being held by the Township may be released in their entirety; and

WHEREAS, the release of the Performance Guarantees for Sections 1 and 2 shall be conditioned upon Developer: (1) posting a two (2) year maintenance bond in the amount of \$139,287.45, representing fifteen percent (15%) of the cost of improvements of \$928,583.00 and the posting of \$1,000.00 in escrow for final inspection and project closeout at termination of the maintenance period as to Section 1; and (2) posting a two (2) year maintenance bond in the amount of \$96,186.81, representing fifteen percent (15%) of the cost of improvements of \$641,245.40 and the posting of \$1,000.00 in escrow for final inspection and project closeout at termination of the maintenance period as to Section 2; and

WHEREAS, the Township Council now wishes to take the following action regarding the aforesaid Performance Guarantees, Bond and Cash.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the above-described Performance Guarantees, cash and bond, posted by Developer for the site improvements at the Pleasant Valley Estates Development, Sections 1 and 2, Block 153, Lot 62, Marlboro, New Jersey, shall be released in their entirety; and

BE IT FURTHER RESOLVED, that the release of the Performance Guarantees is conditioned upon Developer: (1) posting a two (2) year maintenance bond in the amount of \$139,287.45, representing fifteen percent (15%) of the cost of improvements of \$928,583.00 and the posting of \$1,000.00 in escrow for final inspection and project closeout at termination of the maintenance period as to Section 1; and (2) posting a two (2) year maintenance bond in the amount of \$96,186.81, representing fifteen percent (15%) of the cost of improvements of \$641,245.40 and the posting of \$1,000.00 in escrow for final inspection and project closeout at termination of the maintenance period as to Section 2; and

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

- a. Bayview Builders, Inc.

- b. Jeffrey Gale, Esq.
- c. Mayor Hornik
- d. Township Business Administrator
- e. Township Engineers
- f. Chief Financial Officer
- g. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2008-410 (Authorizing Agreement between Marlboro Twp. & Gordon's Corner Water Co.) was introduced by reference, offered by Councilwoman Marder and seconded by Council Vice President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-410

A RESOLUTION AUTHORIZING EXECUTION OF A DEVELOPER  
AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO  
AND GORDON'S CORNER WATER COMPANY

WHEREAS, the Planning Board of the Township of Marlboro adopted a resolution approving a development by Gordon's Corner Water Company (the "Developer") for property known as Block 214.07, Lot 64.01, formerly known as Block 214.07, Lot 64 and Block 215, Lot 4.01 on the official tax map of the Township of Marlboro, County of Monmouth, State of New Jersey; and

WHEREAS, the Resolution was conditioned upon the Developer entering into a Developers Agreement with the Township of Marlboro and the posting of the necessary performance guarantees; and

WHEREAS, a Developer Agreement has been prepared by the Township Attorney, the negotiation and preparation of which shall be paid for from Developer's escrow account held by the Township of Marlboro; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the Mayor and Township Clerk be and are hereby authorized to execute the Developer Agreement with Developer, Gordon's Corner Water Company, the negotiation and preparation of which shall be paid for from Developer's escrow account held by the Township of Marlboro.

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

- a. Gordon's Corner Water Company
- b. Mayor Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Chief Financial Officer
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2008-411 (Authorizing Municipal Assistance/Shared Services Agreement with Monmouth County) was introduced by reference, offered by Councilwoman Marder and seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-411

A RESOLUTION AUTHORIZING A MUNICIPAL ASSISTANCE/SHARED SERVICES AGREEMENT WITH THE COUNTY OF MONMOUTH

WHEREAS, the New Jersey Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq., authorizes local units, such as the Township of Marlboro, to enter into shared services agreements with other local units; and

WHEREAS, the County of Monmouth, a local unit, has offered to provide municipal assistance/shared services to the Township of Marlboro; and

WHEREAS, it is in the best interests of the Township of Marlboro to enter into the proposed Municipal Assistance/Shared Services Agreement with the County of Monmouth.

NOW THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that that Mayor and Municipal Clerk be and are hereby authorized to execute and witness, respectively, the attached Municipal Assistance/Shared Services Agreement with the County of Monmouth in a form substantially similar to that attached hereto and made a part hereof; and

BE IT FURTHER RESOLVED, that the Municipal Clerk shall provide a certified copy of this Resolution, along with the executed Municipal Assistance/Shared Services Agreement to each of the following:

- a. Clerk of the Board of Chosen Freeholders, County of Monmouth, Hall of Records, 1 East Main Street, Freehold, New Jersey 07728
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2008-412 (Setting Reorganization Meeting - January 5, 2008) was introduced by reference, offered by Councilwoman Marder and seconded by Councilman LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-412

BE IT RESOLVED by the Township Council of the Township of Marlboro that it will hold its Reorganization Meeting on January 5, 2008 at 8 PM at the Town Hall, 1979 Township Drive, Marlboro, New Jersey 07746.\*

\*This was later changed to January 1, 2009 at 5 PM.

The following Res. # 2008-413 (Authorizing Developer Agreement Hawley Estates) was introduced by reference, offered by Councilwoman Tragni and seconded by Council Vice President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-413

A RESOLUTION AUTHORIZING EXECUTION OF A DEVELOPER AGREEMENT  
BETWEEN THE TOWNSHIP OF MARLBORO AND PANTHEON HOMES,LLC  
FOR THE HAWLEY ESTATES SUBDIVISION, BLOCK 176, LOTS 65.02, 65.03,  
65.04, 65.05 AND 65.06, MARLBORO, NEW JERSEY

WHEREAS, the Planning Board of the Township of Marlboro adopted a resolution approving the Hawley Subdivision for property known as Block 176, Lot 65.01 and now known as Block 176, lots 65.02, 65.03, 65.04, 65.05 and 65.06 on the official tax map of the Township of Marlboro, County of Monmouth, State of New Jersey; and

WHEREAS, such subdivision approval was assigned to Pantheon Homes, LLC as the successor developer, hereinafter the "Developer"; and

WHEREAS, the Resolution was conditioned upon the Developer entering into a Developer Agreement with the Township of Marlboro and the posting of the necessary performance guarantees; and

WHEREAS, a Developer Agreement has been prepared by the Township Attorney, the negotiation and preparation of which shall be paid for from Developer's escrow account held by the Township of Marlboro; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the Mayor and Township Clerk be and are hereby authorized to execute the Developer Agreement with Developer, Pantheon Homes, LLC, for the Hawley Subdivision property, known as Block 176, lots 65.02, 65.03, 65.04, 65.05 and 65.06 on the Official Tax Map of the Township of Marlboro, County of Monmouth, State of New Jersey, the negotiation and preparation of which shall be paid for from the Developer's escrow account held by the Township of Marlboro.

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

- a. Pantheon Homes, LLC
- b. Mayor Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Chief Financial Officer
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2008-414 (Authorizing Developer Agreement Harrington Estates) was introduced by reference, offered by Councilman LaRocca and seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-414

A RESOLUTION AUTHORIZING EXECUTION OF A DEVELOPER AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND PANTHEON HOMES, LLC FOR THE HARRINGTON ESTATES SITE PLAN, BLOCK 133, LOTS 13, 15, 16, 17, 18, 19, 20, 21 & 22, MARLBORO, NEW JERSEY

WHEREAS, the Planning Board of the Township of Marlboro adopted a resolution approving A Field Change and Approved Grading and Site Improvement Plan for the Harrington Estates Site Plan for the property known as Block 133, Lots 13, 15, 16, 17, 18, 19, 20, 21 & 22 on the official tax map of the Township of Marlboro, County of Monmouth, State of New Jersey; and

WHEREAS, such approval was assigned to Pantheon Homes, LLC as the successor developer, hereinafter the "Developer"; and

WHEREAS, the Resolution was conditioned upon the Developer entering into a Developer Agreement with the Township of Marlboro and the posting of the necessary performance guarantees; and

WHEREAS, a Developer Agreement has been prepared by the Township Attorney, the negotiation and preparation of which shall be paid for from Developer's escrow account held by the Township of Marlboro; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro that the Mayor and Township Clerk be and are hereby authorized to execute the Developer Agreement with Developer, Pantheon Homes, LLC, for the Harrington Estates Site Plan property, known as Block 133, Lots 13, 15, 16, 17, 18, 19, 20, 21 & 22 on the Official Tax Map of the Township of Marlboro, County of Monmouth, State of New Jersey, the negotiation and preparation of which shall be paid for from the Developer's escrow account held by the Township of Marlboro.

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

- a. Pantheon Homes, LLC
- b. Mayor Hornik
- c. Township Business Administrator
- d. Township Engineer
- e. Chief Financial Officer
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2008-423 (Transfers) was introduced by reference, offered by Council Vice President Rosenthal,

seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-423

RESOLUTION AUTHORIZING BUDGET TRANSFERS  
DURING LAST TWO MONTHS OF THE FISCAL YEAR

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriation transfers during the last two (2) 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 2008 Municipal Budget as follow:

From:

Police S&W	10,000.00
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To:

Engineering OE	10,000.00
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Totals	10,000.00	10,000.00
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As the consent agenda, the following Resolutions were introduced by reference, offered by Council Vice President Rosenthal, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor: Res. #2008-415 (Redemption Tax Sale Cert. - B. 176, L. 121.01), Res. #2008-416 (Refunds for Overpayments - Various), Res. #2008-417 (Senior Citizen Deductions - Various), Res. #2008-418 (Refunds to WMUA - Various), Res. #2008-419 (Veteran Deductions - B.116, L. 24), Res. #2008-420 (Authorizing Return Check Fee for Tax Collector) and Res. #2008-421 (Raffle License - Solomon Schechter - Casino Night).

RESOLUTION # 2008-415

WHEREAS, Tax Sale Certificate #06-10 for Block 176 Lot 121.01, assessed to Jocama Holding, LLC, located on Route 79, has been redeemed in the amount of \$42,299.02,

WHEREAS, the holder of the above-mentioned tax sale certificate, Crusader Servicing Corp., is entitled to the amount of the sale plus interest and costs totaling \$42,299.02,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$42,299.02 be refunded to the holder of said certificate as above.

RESOLUTION # 2008-416

WHEREAS, the attached list in the amount of \$4,894.44 known as Schedule "A", is comprised of amounts representing overpayments for 2008 taxes,

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

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
178	2	C0417 Robert & Robyn Keating	\$ 308.97
417 Yorkshire Place		c/o Andrew M. Newman, Esq. 4400 Route 9 South Freehold, NJ 07728 (Former Assessed Owners)	
360.02	18.58	Michael & Cheryl Aquino	4,585.47
19 Whipple Way		19 Whipple Way Marlboro, NJ 07746	
TOTAL:			<u>\$ 4,894.44</u>

RESOLUTION # 2008-417

WHEREAS, Senior Citizen deductions totaling \$1,000.00 have been granted as per the attached Schedule "A"

for the year 2008,

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund these deductions to the respective taxpayers as per Schedule "A".

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
305	180	Ricaurte A. & Rosario Camilo	\$250.00
22 Brunswick Drive		22 Brunswick Drive Morganville, NJ 07751	
371	229	Angela Coloprisko	250.00
51 Caldwell Terrace		51 Caldwell Terrace Marlboro, NJ 07746	
371	248	Edna Wolfson	250.00
11 Hampton Drive		11 Hampton Drive Marlboro, NJ 07746	
396	1 C0034	Nancy B. Hornik	250.00
34 Orange Drive		34 Orange Drive Marlboro, NJ 07746	
TOTAL:			<u>\$1,000.00</u>

RESOLUTION # 2008-418

WHEREAS, current sewer charges totaling \$1,214.67 have been paid by the lienholder of the Tax Sale certificates as per Schedule "A",

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned sewer charges in the amount of \$1,214.67 be refunded to the Western Monmouth Utilities Authority.

SCHEDULE "A"

<u>CERT#</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
TSC#08-2	107/7	NASDOM, Inc.	\$328.19
13 Wicker Place			

TSC#08-13	173/7 C0008	Plymouth Park Tax Services	115.34
8 Vassar Place			
TSC#08-14	176/7 C1059	Fidelity Tax, LLC	110.75
1059 Roseberry Court			
TSC#08-32	392/28.04	Plymouth Park Tax Services	115.62
7 Molly Pitcher Road			
TSC#08-52	214/3.09	Approved Realty Group, LLC	115.44
3 Lee Court			
TSC#08-55	299/106	CCTS Tax Lien I, LLC	35.94
11 Clayton Road			
TSC#08-60	346/1	Approved Realty Group, LLC	112.37
28 Collingwood Road			
TSC#08-61	349/10	Approved Realty Group, LLC	115.84
2 Eaton Court			
TSC#08-62	359.01/19	CCTS Tax Lien I, LLC	69.54
28 Witherspoon Way			
TSC#08-64	392/27.03	CCTS Tax Lien I, LLC	95.64
5 Rodeo Drive			
TOTAL:			\$1,214.67

RESOLUTION # 2008-419

WHEREAS, a Veteran deduction in the amount of \$250.00 has been allowed for the year 2008 for Block 116 Lot 24, located on 25 Lloyd Road, assessed to Stanley & Diane Makarczyk,

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$250.00 to the above-mentioned taxpayers.

RESOLUTION # 2008-420

WHEREAS, P.L. 1990, Chapter 105, supplementing Title 40 of the New Jersey State Revised Statutes has been enacted to allow a municipality the authority to impose a service charge of \$20.00 to be added on an account which was by check or other written instrument returned for insufficient funds; and,

WHEREAS, whenever an account is owing a municipality for property taxes, the service charge authorized by this section shall be included on whatever list of delinquent accounts is prepared for the enforcement of the lien,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that, Shirley Giaquinto, Tax Collector, be and hereby is authorized to charge the aforementioned fee at a rate of \$20.00 per check or other written instrument for all checks returned for insufficient funds, and,

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Tax Collector may require future payments to be tendered in cash or by certified or cashier's check.

RESOLUTION # 2008-421

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License RL: 22-08/9 be and it is hereby granted to Solomon Schechter Day School of Greater Monmouth County, 22 School Road East, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle (Non-draw - Casino Night) will be held on February 7, 2009 from 8 to 12PM at the Marlboro Jewish Center, 103 School Road West, Marlboro, New Jersey 07746.

At 9:15 PM, Councilman La Rocca moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Councilwoman Marder, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the executive session reconvened at 9:45PM.

RESOLUTION # 2008-422

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 4th day of December, 2008 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 30 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 10:45 PM, Councilwoman Marder moved that the meeting be opened. This was seconded by Council Vice President Rosenthal, and as there was no objection, the Clerk was asked to cast one ballot.

At 10:55 PM, Councilwoman Marder moved that the meeting be adjourned. This was seconded by Council President Cantor, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: January 22, 2009

OFFERED BY: La Rocca                      AYES:     5

SECONDED BY: Rosenthal                      NAYS:     0

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ALIDA MANCO  
MUNICIPAL CLERK

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JEFF CANTOR  
COUNCIL PRESIDENT