

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

December 26, 2008

The Marlboro Township Council held a special meeting of the Township Council of the Township of Marlboro on December 26, 2008 at 10:00 A.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 special 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 23, 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.

James Mione led the Salute to the Flag.

The Clerk called the Roll.

PRESENT: Councilman LaRocca, Councilwoman Marder, Councilwoman Tragni and Council President Cantor (Absent: Rosenthal).

Also present were: Mayor Jonathan L. Hornik, Jonathan Williams, Esq. and Deputy Clerk Deborah Usalowicz.

At 10:10AM, Councilwoman Marder moved that the meeting go into executive session for reason of discussing personnel issues, contract issues and such other matters as Township Council may deem necessary and appropriate. This was seconded by Councilman LaRocca, as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the executive session reconvened at 10:15AM.

RESOLUTION # 2008-424

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the

26th 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, personnel issues and contract issues and such other matters as the Township Council may deem necessary and appropriate.

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 50 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 11:05AM, Councilwoman Marder moved that the meeting be opened. This was seconded by Councilman LaRocca, and as there was no objection, the Clerk was asked to cast one ballot. (Absent: Rosenthal).

The following Resolution #2008-425 (Budget Transfers) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilman LaRocca, and passed on a roll call vote of 4 - 0 in favor (Absent: Rosenthal).

RESOLUTION # 2008-425

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	155,000.00	
To:		
Legal OE		100,000.00
Res for Accumulated Absence		55,000.00
Totals	155,000.00	155,000.00

The following Resolution #2008-426 (Labor Counsel Contract) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman LaRocca, and passed on a roll call vote of 4 - 0 in favor (Absent: Rosenthal).

RESOLUTION # 2008-426

RESOLUTION AWARDING A PROFESSIONAL SERVICES CONTRACT TO DECOTIIS, FITZPATRICK, COLE & WISLER, LLP AS LABOR COUNSEL FOR THE TOWNSHIP OF MARLBORO FOR THE YEAR 2008

WHEREAS, the Township requires and has required the legal services of Labor Counsel, such services to be rendered and have been rendered by the law firm of DeCotiis, FitzPatrick, Cole & Wisler, LLP (the "Business Entity") under a contract to be awarded pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A 19:44A-20.5; and

WHEREAS, such services are to be performed and rendered by a person or persons licensed and authorized to practice law in the State of New Jersey and, accordingly, constitute professional services exempt from public bidding pursuant to the Local Public Contracts Law, specifically N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, DeCotiis, FitzPatrick, Cole & Wisler, LLP has been performing such services under its appointment as Director of Law and General Counsel since January 1, 2008; and

WHEREAS, the Chief Financial Officer of the Township of Marlboro has determined and certified in writing that the value of the contract will exceed \$17,500.00; and

WHEREAS, funds are available for this purpose and a Certificate of Availability has been filed by the Chief

Financial Officer with the Township Clerk in accordance with the Local Budget Law, N.J.S.A. 40A:4-57 and N.J.A.C., 5:34-5.2; and

WHEREAS, the Business Entity has completed and submitted a Business Entity Disclosure Certification certifying that the Business Entity has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Section 26 or to N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5 will be made during the term of the contract; and

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

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

1. The Township Council of the Township of Marlboro, hereby awards a Professional Services Contract to the firm of DeCotiis, FitzPatrick, Cole & Wisler, LLP to provide labor counsel to the Township of Marlboro pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5 effective as of January 1, 2008; and

2. The Professional Services Contract is awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(a)(i), and shall provide for compensation at an hourly rate of One Hundred Thirty-Five Dollars (\$135.00) for legal services provided by an attorney and an hourly rate of Eighty Dollars (\$80.00) for paralegal and law clerk services; and

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

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

4. A copy of this Resolution shall be published as required by law within ten (10) days of its passage; and

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

- a. Mayor Jonathan Hornik
- b. Township Administrator
- c. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution #2008-427 (Authorizing Separation Agreement - Robert C. Holmes, Sr.) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Marder, and passed on a roll call vote of 4 - 0 in favor (Absent: Rosenthal).

RESOLUTION # 2008-427

A RESOLUTION AUTHORIZING A SEPARATION AGREEMENT AND SETTLEMENT AGREEMENT WITH ROBERT C. HOLMES. SR.

WHEREAS, the Mayor and Administration have negotiated a Separation Agreement and Settlement Agreement with Robert C. Holmes, Sr.; and

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 is authorized the execute and the Municipal Clerk to witness a Separation Agreement and Settlement Agreement with Robert C. Holmes, Sr. in substantially similar form to the Agreement attached hereto and made a part hereof.

At 11:30AM , Councilwoman Marder moved that the meeting be adjourned. This was seconded by Councilman LaRocca, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Rosenthal).

MINUTES APPROVED: January 22, 2009

OFFERED BY: La Rocca

AYES: 5

SECONDED BY: Rosenthal

NAYS: 0

ABSTAIN: Rosenthal

ALIDA MANCO
MUNICIPAL CLERK

JEFF CANTOR
COUNCIL PRESIDENT