

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

February 12, 2009

The Marlboro Township Council held its regularly scheduled meeting on February 12, 2009 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

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

The Clerk called the Roll.

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

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

The following Res. # 2009-87 (Requesting Legislature and Governor to Suspend Requirements of New Jersey Fair Housing Act) was introduced by reference, offered by Councilman Cantor, seconded by Council Vice President LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-87

A RESOLUTION OF THE TOWNSHIP OF MARLBORO REQUESTING THAT THE NEW JERSEY LEGISLATURE AND THE GOVERNOR OF THE STATE OF NEW JERSEY IMMEDIATELY SUSPEND THE REQUIREMENTS OF THE NEW JERSEY FAIR HOUSING ACT DUE TO EXTREME AND UNUSUAL ECONOMIC CIRCUMSTANCES FACING THE UNITED STATES OF AMERICA AND THE STATE OF NEW JERSEY, AND BECAUSE OF

UN SOUND, POOR AND UNREASONABLE PLANNING AND DEVELOPMENT DIRECTIVES
ORIGINATING FROM THE FAIR HOUSING ACT, AND BECAUSE OF THE ARBITRARY,
CAPRICIOUS AND UNREASONABLE REGULATIONS PROMULGATED, ENFORCED, AND
INTERPRETED BY THE COUNCIL ON AFFORDABLE HOUSING

WHEREAS, the Honorable Mayor Jonathan L. Hornik and the Marlboro Township Council (hereinafter "the Council") find that the United States of America and the State of New Jersey are both facing unprecedented economic strife which has resulted in high unemployment, plummeting real estate values, an alarming increase in home foreclosures and personal insolvency, as well as the virtual collapse and halting of residential and commercial development;

WHEREAS, Mayor Hornik and the Council find that concomitantly the State of New Jersey and municipalities such as the Township of Marlboro are facing a planning and development crisis in that overdevelopment, destruction of open space and conservation, and, the placement of undue stress upon local infrastructures such as schools and roads has become unmanageable and unworkable;

WHEREAS, Mayor Hornik and the Council find that municipal sources needed to combat an economic and planning/development crisis, namely tax dollars and assistance from federal and state governments is presently lacking or non-existent;

WHEREAS, Mayor Hornik and the Council find that the foregoing conditions require immediate and swift remedial action that only prudent government can provide;

WHEREAS, Mayor Hornik and the Council find that the foregoing conditions, if left to continue and if left unabated, will result in irreparable harm to not only the New Jersey economy but will also result in the placement of extreme and long-lasting stress upon municipal infrastructures throughout the State as well as upon the taxpayers of the State of New Jersey, the County of Monmouth, and the Township of Marlboro;

WHEREAS, Mayor Hornik and the Council similarly find that the foregoing conditions, if left to continue and if left unabated, will advance unsound and poor planning and development thus leading to greater stress and strain to an already existing and inferior infrastructure which will fail as a result;

WHEREAS, in light of the foregoing conditions Mayor Hornik and the Council see fit to request of the New Jersey Legislature and the Governor of the State of New Jersey the issuance of immediate relief

which Mayor Hornik and the Council deem as just and necessary in order to avoid catastrophic consequences;

WHEREAS, Mayor Hornik and the Council find that at the heart of the economic and development crisis is the issue of affordable housing which Mayor Hornik and the Council acknowledge that every municipality in the State of New Jersey has a constitutional obligation to provide a realistic opportunity for the facilitation and fostering of same;

WHEREAS, Mayor Hornik and the Council find that beginning with the Mount Laurel I decision which was rendered by the New Jersey Supreme Court in 1975 that the Mount Laurel doctrine has been evolving and has been in flux ever since its creation;

WHEREAS, Mayor Hornik and the Council find that the history of the Mount Laurel doctrine shows that following the 1975 New Jersey Supreme Court decision, in 1983 a second Supreme Court decision was handed down which was then followed by the creation of the New Jersey Fair Housing Act (hereinafter "the Act") in 1985 and as part of the Act, the Council on Affordable Housing (hereinafter "COAH") was created;

WHEREAS, Mayor Hornik and the Council find that COAH has continually promulgated and enacted procedural and substantive rules (hereinafter "the Rules") since its inception which have attempted to implement, define, clarify, and guide municipalities in reaching the fulfillment of their Mount Laurel obligations;

WHEREAS, Mayor Hornik and the Council find that the creation of affordable housing is an important governmental objective however, the fostering of same must take into account existing economic conditions and more importantly, orderly and sound planning, as well as the ability of a municipality to absorb and service said housing through a viable and efficient infrastructure which is capable of supporting such development;

WHEREAS, Mayor Hornik and the Council find that the Rules have not accomplished this goal and instead of defining and clarifying a municipality's means and methods of satisfying its Mount Laurel obligation and instead of allowing for orderly and reasoned planning and development, the Rules have brought about greater confusion, left the rights of all participants unsettled and indeterminate, the Rules have been applied and interpreted in an arbitrary and inconsistent manner, and the Rules have forced municipalities to plan for development in a desultory manner which will lead to irreparable harm to state, county and local infrastructure;

WHEREAS, Mayor Hornik and the Council similarly find that the Rules will not result in the effective production of affordable housing in accordance with their mandate;

WHEREAS, Mayor Hornik and the Council find that the New Jersey Appellate Division had recently voided a portion of COAH's rules since they went afoul of the Mount Laurel doctrine and this decision represents a judicial recognition as to the continued instability of the Rules;

WHEREAS, Mayor Hornik and the Council find that COAH, in reaction to the foregoing Appellate decision, rewrote the Rules (in part) and required all municipalities wishing to remain under its jurisdiction to petition by no later than December 31, 2008, despite the fact that the rewritten Rules were under intense legal challenge at the time (and they remain so today) and without taking into account the spiraling economic exigency facing the Nation and New Jersey;

WHEREAS, Mayor Hornik and the Council find that the foregoing actions of COAH were arbitrary, capricious and unreasonable and showed an utter disregard for the economic ability of municipalities to effectively plan and fund affordable housing efforts in time of economic crisis thus unjustifiably shifting the burden of subsidizing affordable housing to the taxpayers;

WHEREAS, Mayor Hornik and the Council similarly find that the foregoing actions of COAH showed an utter disregard for sound and reasoned planning thus distorting the Mount Laurel doctrine and its underpinnings;

WHEREAS, Mayor Hornik and the Council similarly find that a recent amendment to the Act, commonly known as A500, unjustifiably and unreasonably altered, modified, and eradicated the orderly and reasoned methods of creating and fostering affordable housing;

WHEREAS, Mayor Hornik and the Council find that the Act is similarly in dire need of amendment and rewrite in light of the confusing state of the law as well as the arrival of the sudden and present economic peril facing the Nation and the State of New Jersey as well as the abounding overuse and detrimental impact which has been visited upon municipal infrastructures throughout the State;

WHEREAS, Mayor Hornik and the Council find that the actions of COAH, as well as the enforcement of the Rules—in their present form— if left unchecked, will not alleviate, but rather exacerbate and

accelerate, the economic and planning crisis facing virtually every municipality in New Jersey;

WHEREAS, Mayor Hornik and the Council similarly find that the actions of COAH, if left unchecked, will similarly result in unsound and poor planning which will irreparably harm the economic, environmental, and developmental infrastructure in many communities including the Township of Marlboro;

WHEREAS, Mayor Hornik and the Council find that an immediate suspension of the Rules, the Act, and COAH's ability to administer, adjudicate, and process any and all petitions for substantive certification and/or Fair Share Plans is warranted;

WHEREAS, Mayor Hornik and the Council find that without such relief immediately issuing that a perfect storm has formed between unreasonable, overreaching, unduly burdensome, archaic, and draconian regulations stemming from the Rules and the Act such that severe and permanent harm will be inflicted upon municipalities and taxpayers alike if remedial action is not taken right away;

WHEREAS, Mayor Hornik and the Council similarly find that the introduction of S-2485, which purports to impose a moratorium upon the collection of non-residential development fees, is further evidence of the Legislature's recognition that the Act and the Rules are in need of immediate and drastic remedial action and that they are unworkable vis-à-vis the current economic climate;

WHEREAS, Mayor Hornik and the Council find that in addition to the foregoing an immediate stay on any further enforcement or implementation of the Act is necessary in order to enable and assist municipalities in weathering the present economic crisis particularly where tax revenues have substantially declined as has State financial assistance to municipalities;

WHEREAS, Mayor Hornik and the Council find that in addition to the foregoing that COAH should be abolished and that a new entity responsible for the administration of affordable housing obligations be created;

NOW, THEREFORE, BE IT RESOLVED, by the unanimous support of the Honorable Mayor Jonathan L. Hornik and the Council that the following actions be taken:

1. The Legislature and Governor are hereby requested to issue and order an immediate stay as the enforcement and/or creation of any obligations deriving or arising under the Act.

2. The Legislature and Governor are hereby requested to issue and order an immediate stay as the enforcement, interpretation and/or implementation of any of the Rules promulgated by COAH.
3. The Legislature and Governor are hereby requested to issue and order an immediate stay as the adjudication, determination, or analysis of any pending petition for substantive certification, Fair Share Plan, or other application pending before COAH.
4. That the Legislature and Governor are hereby requested to immediately create a task force which shall study and recommend the manner in which COAH can be abolished and the responsibility and oversight of affordable housing obligations be assigned to a new governing entity.
5. That immediate efforts be made to interface with delegates from each and every municipality in order to begin the process of rewriting the Act.

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

- a. Hon. Mayor Jonathan L. Hornik
- b. Heyer & Gruel
- c. Kenneth W. Biedzynski, COAH Special Counsel
- d. DeCotiis, Fitzpatrick, Cole & Wisler, LLP
- e. Hon. Jon S. Corzine, Governor

The following Res. # 2009-70/Ord. # 2009-6 (Amend Chapter 84 - Zone Change B. 119, L. 4 - AH-TR Affordable Housing - Ticetown Road District) was introduced by reference, offered by Council Vice President LaRocca and seconded by Councilman Cantor. Discussion followed, after which the resolution /ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-70

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

ORDINANCE # 2009-6

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84, "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY BY ADDING A NEW SUB-SECTION 84-48.7 "AH-TR AFFORDABLE HOUSING -

TICETOWN ROAD DISTRICT", TO RE-ZONE CERTAIN LOTS TO PERMIT THE
DEVELOPMENT OF AFFORDABLE HOUSING

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 5, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-6

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84, "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY BY ADDING A NEW SUB-SECTION 84-48.7 "AH-TR AFFORDABLE HOUSING - TICETOWN ROAD DISTRICT", TO RE-ZONE CERTAIN LOTS TO PERMIT THE DEVELOPMENT OF AFFORDABLE HOUSING

WHEREAS, the Township of Marlboro Planning Board adopted a Housing Element/Fair Share Plan (hereinafter "the Plan") on December 17, 2008; and

WHEREAS, the Township Council endorsed the Plan by Resolution adopted on December 18, 2008; and

WHEREAS the Township thereafter submitted the Plan to Council on Affordable Housing (hereinafter "COAH") as part of its application for substantive certification in accordance with the Third Round Rules; and

WHEREAS, property identified as Block 119, Lot 4 on the Tax Maps of the Township of Marlboro (hereinafter "the Site") and located on Ticetown Road is a component of the Township's Plan; and

WHEREAS, the Plan proposes the development of a 100% affordable family rental project consisting of 176 units at the Site; and

WHEREAS, in order to implement the Plan, the Site needs to be re-zoned to permit the development on 176 affordable family rental units consistent with the Plan.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 84, Land Use Development and Regulations, Article III, Zoning: Standards and Regulations, of the Code of the

Township of Marlboro be and is hereby amended and supplemented by adding a new Sub-Section 84-48.7, AH-TR Affordable Housing Ticetown Road District, to re-zone certain zone lots to permit the development of Affordable Housing as follows:

§ 84-48.7 AH-TR Affordable Housing - Ticetown Road District

- A. Applicability. The following regulations shall apply in the AH-TR Affordable Housing - Ticetown Road District provided that the Fair Share Housing Plan (the "Plan") submitted to the Council on Affordable Housing ("COAH") in December 2008, which includes the provision of an affordable housing project in this District, is approved by either COAH, a court of competent jurisdiction or other government entity of competent jurisdiction.
- B. Purpose. The purpose of the AH-TR District is to permit the development of a 100% affordable family rental project containing 176 units,
- C. The Principal Permitted Uses are:
- (1) Multi-family buildings
 - (2) Existing single family homes
- D. The Permitted Accessory Uses are:
- Uses which are customary and incidental to the principal uses such as parking, recreation facilities, meeting and gathering places serving the affordable family rental project.
- E. Minimum tract size: 17 acres
- F. Maximum density: 10 units per acre
- G. Maximum height: 3 stories and 45 feet. No basement units are permitted
- H. Minimum perimeter setback: 40 feet
- I. Buffering. All areas of the development not used for the construction of buildings, roads, accessways, parking areas or sidewalks shall be fully landscaped. A minimum perimeter buffer of thirty feet (30') is required. If the Planning Board determines that there is not adequate screening in its natural state, the Planning Board may require supplemental screening

within the buffer area. Driveways and utilities necessary to accommodate the development shall be permitted to traverse the buffer.

J. Maximum lot coverage: 40%

K. Minimum open space: 40% shall be devoted to open space. Care shall be given to protect natural features such as treed areas, wetlands and associated wetland transition areas.

L. Parking. A minimum of 1.5 spaces per unit shall be required.

M. No principal building shall:

(1) Be designated for or occupied by more than 18 units.

(2) Exceed 200 feet in length in its longest dimension.

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 the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

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

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

Discussion followed, during which Council President Rosenthal announced that the following items be moved up on the agenda: Item #26 (Res. # 2009-47 (Tabled 1/22 - Bond Release Conover Hills Section 1) and Item #27 (Res. # 2009-48 (Tabled 1/22 - Bond Release Conover Hills Section 2)

The following Res. # 2009-47 (Tabled 1/22 - Bond Release Conover Hills Section 1) was introduced by reference, offered by Councilman Cantor and seconded by Council Vice President LaRocca. Discussion followed, after which the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-47

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE
GUARANTEES FOR CONOVER HILLS - SECTION I,
BLOCK 160, LOTS 5, 6, & 10, 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 Conover Hills - Section I, Block 160, Lots 5, 6 and 10, Marlboro, New Jersey posted by Atlantic Realty, Marvin Schmelzer (collectively, the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated January 12, 2009 regarding Conover Hills - Section I, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends that the current Performance Guarantees, bond and cash, being held by the Township may be released in their entirety; and

WHEREAS, the release of the Performance Guarantees shall be conditioned upon: (1) payment of all outstanding inspection fee charges to the time of bond release; (2) the posting of a two (2) year fifteen percent (15%) maintenance bond in the amount of \$219,299.69; and (3) payment into the Marlboro Township Tree Escrow Fund in the amount of \$16,350.00 for trees not installed; 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, bond and cash, posted by Developer for the site improvements at the development known as Conover Hills - Section I, Block 160, Lots 5, 6 and 10, Marlboro, New Jersey, shall be released in their entirety; and

BE IT FURTHER RESOLVED, that the release of the Performance Guarantees is conditioned upon: (1) payment of all outstanding inspection fee charges to the time of bond

release; (2) the posting of a two (2) year fifteen percent (15%) maintenance bond in the amount of \$219,299.69; and (3) payment into the Marlboro Township Tree Escrow Fund in the amount of \$16,350.00 for trees not installed; and

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

- a. Atlantic Realty - Marvin Schmelzer
- b. First Indemnity of America
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Engineer
- f. Chief Financial Officer
- g. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-48 (Tabled 1/22 - Bond Release Conover Hills Section 2) was introduced by reference, offered by Councilman Cantor and seconded by Council Vice President LaRocca. Discussion followed, after which the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-48

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEES FOR CONOVER HILLS - SECTION II, BLOCK 160, LOTS 5, 6, & 10, 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 Conover Hills - Section II, Block 160, Lots 5, 6 and 10, Marlboro, New Jersey posted by Atlantic Realty, Marvin Schmelzer (collectively, the "Developer"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated January 8, 2009 regarding Conover Hills - Section II, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends that the current Performance Guarantees, bond and cash, being held by the Township may be released in their entirety; and

WHEREAS, the release of the Performance Guarantees shall be conditioned upon: (1) payment of all outstanding inspection fee charges to the time of bond release; (2) the posting of a two (2)

year fifteen percent (15%) maintenance bond in the amount of \$282,202.58; and (3) payment into the Marlboro Township Tree Escrow Fund in the amount of \$19,950.00 for trees not installed; 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, bond and cash, posted by Developer for the site improvements at the development known as Conover Hills - Section II, Block 160, Lots 5, 6 and 10, Marlboro, New Jersey, shall be released in their entirety; and

BE IT FURTHER RESOLVED, that the release of the Performance Guarantees is conditioned upon: (1) payment of all outstanding inspection fee charges to the time of bond release; (2) the posting of a two (2) year fifteen percent (15%) maintenance bond in the amount of \$282,202.58; and (3) payment into the Marlboro Township Tree Escrow Fund in the amount of \$19,950.00 for trees not installed; and

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

- a. Atlantic Realty - Marvin Schmelzer
- b. First Indemnity of America
- c. Mayor Jonathan L. Hornik
- d. Township Business Administrator
- e. Township Engineer
- f. Chief Financial Officer
- g. DeCotiis, FitzPatrick, Cole & Wisler, LLP

Councilwoman Tragni moved that the minutes of January 1 and 22, 2009 be approved. This motion was seconded by Councilwoman Marder and the minutes were passed on a roll call vote of 5 - 0 in favor.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-1 (No Parking - Willow Lane). After the public hearing was held and closed, the following Resolution # 2009-65/Ord. # 2009-1 (No Parking - Willow Lane) was introduced by reference, offered by Councilwoman

Marder, seconded by Council President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-65

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

ORDINANCE # 2009-1

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

which was introduced on January 22, 2009, public hearing held February 12, 2009, be adopted on second and final reading this 12th day of February, 2009.

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

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-3 (Amend Chapter 84 - Rezoning MFD-IV to Implement Consent Order - Ohad - B. 143, Lots 1.02 & 12). After the public hearing was held and closed, discussion followed after which the following Resolution # 2009-66/Ord. # 2009-3 (Amend Chapter 84 - Rezoning MFD-IV to Implement Consent Order - Ohad - B. 143, Lots 1.02 & 12) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President LaRocca and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-66

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

ORDINANCE # 2009-3

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

which was introduced on January 22, 2009, public hearing held February 12, 2009, be adopted on second and final reading this 12th day of February, 2009.

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

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-4 (Amend Chapter 103 - Commuter Parking Fees). As there was no one who wished to speak, the Public Hearing was closed. Discussion followed, after which the following Resolution # 2009-67/Ord. # 2009-4 (Amend Chapter 103 - Commuter Parking Fees) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-67

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

ORDINANCE # 2009-4

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

which was introduced on January 22, 2009, public hearing held February 12, 2009, be adopted on second and final reading this 12th day of February, 2009.

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

Res. # 2009-68/Ord. # 2009-2 (Amended Chapter 84 - Rezoning LC to R-80 to Implement Consent Order - B. 132, Lots 38-41, 45-56, B. 153, Lots 57-84, 86-137, B. 153.01, Lots 1-5; B. 153.02, Lots 1-9) was postponed and will be addressed at a future meeting.

The following Res. # 2009-69/Ord. # 2009-5 (Authorizing Easement Sidewalk B. 225, L. 195) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-69

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

ORDINANCE # 2009-5

AN ORDINANCE AUTHORIZING THE ACQUISITION OF A PERMANENT EASEMENT FOR A PUBLIC SIDEWALK FROM 107 ROUTE 179 ASSOCIATES OVER A PORTION OF THE PROPERTY KNOWN AS BLOCK 225, LOT 195, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY AS PART OF A CONDITION OF SITE PLAN APPROVAL FROM THE TOWNSHIP OF MARLBORO PLANNING BOARD

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 5, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-5

AN ORDINANCE AUTHORIZING THE ACQUISITION OF A PERMANENT EASEMENT FOR A PUBLIC SIDEWALK FROM 107 ROUTE 179 ASSOCIATES OVER A PORTION OF THE PROPERTY KNOWN AS BLOCK 225, LOT 195, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY AS PART OF A CONDITION OF SITE PLAN APPROVAL FROM THE TOWNSHIP OF MARLBORO PLANNING BOARD

WHEREAS, pursuant to The Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq., a municipality has the power to acquire and/or sell any real property or interests therein for a public purpose; and

WHEREAS, 107 Route 179 Associates, LLC is the owner and Developer ("Developer") of property known as Block 225, Lot 195 on the official tax map of the Township of Marlboro, Monmouth County, State of New Jersey (the "Property"), which is under development pursuant to Final Site Plan Approval granted by the Planning Board of the Township of Marlboro by Resolution

adopted May 16, 2007 (the "Resolution") and for which a Developer Agreement was entered into between the Township of Marlboro and Developer dated March 6, 2008 ("Developer Agreement"); and

WHEREAS, it is a condition of the Resolution of Site Plan Approval and the Developer Agreement that the Developer shall convey a permanent easement for a public sidewalk to allow a portion of the sidewalk to be constructed outside of the right-of-way and within the Property (the "Public Sidewalk Easement"); and

WHEREAS, the Township has determined that it is in the public interest to accept the conveyance of the Public Sidewalk Easement.

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

1. The acceptance of the Public Sidewalk Easement over a portion of the Property known as Block 225, Lot 195, Township of Marlboro, Monmouth County, New Jersey, (as more fully described on the legal description attached hereto and made a part hereof as Exhibit "A"), to allow a portion of the sidewalk to be constructed outside of the right-of-way and within the Property as a condition of Site Plan Approval pursuant to the Resolution of Site Plan Approval and the Developer Agreement (as defined hereinabove), be and hereby is authorized for nominal compensation; and

2. The Mayor and Township Clerk are hereby authorized and directed execute and witness, respectively, a Deed of Easement in substantially the same form as that attached hereto and made a part hereof as Exhibit "B" and any other documents which may be required to effectuate the conveyance of the Public Sidewalk Easement; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; 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 Res. # 2009-71/Ord. # 2009-7 (Replacing Chapter 91 - Mobile Homes Rent Control) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilman Cantor. Discussion followed, after which the resolution /ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-71

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

ORDINANCE #2009-7

AN ORDINANCE DELETING CHAPTER 91 "MOBILE HOME COMMUNITIES RENT CONTROL", OF THE CODE OF THE TOWNSHIP OF MARLBORO IN ITS ENTIRETY AND REPLACING SAME WITH A NEW CHAPTER 91, "MOBILE HOME COMMUNITIES RENT CONTROL" THEREBY IMPLEMENTING THE RECOMMENDATIONS OF THE MARLBORO TOWNSHIP AFFORDABLE HOUSING AND RENT CONTROL BOARD

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 5, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-7

AN ORDINANCE DELETING CHAPTER 91 "MOBILE HOME COMMUNITIES RENT CONTROL", OF THE CODE OF THE TOWNSHIP OF MARLBORO IN ITS ENTIRETY AND REPLACING SAME WITH A NEW CHAPTER 91, "MOBILE HOME COMMUNITIES RENT CONTROL" THEREBY IMPLEMENTING THE RECOMMENDATIONS OF THE MARLBORO TOWNSHIP AFFORDABLE HOUSING AND RENT CONTROL BOARD

BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey,

that Chapter 91, Mobile Home Communities Rent Control, of the Code of the Township of Marlboro be and is hereby deleted in its entirety and is hereby replaced with a new Chapter 91, Mobile Home Communities Rent Control, to implement the recommendations of the Marlboro Township Affordable Housing and Rent Control Board as follows:

MOBILE HOME RENT CONTROL LAW - CHAPTER 91

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§ 91-1. Declarations.

The following matters and things are hereby determined, declared and recited:

A. A compelling situation exists within the Township of Marlboro with respect to the rental of mobile home spaces and mobile homes in mobile home communities by reason of the demands for increases in rent in that such increases are causing severe hardships upon tenants in such mobile home communities and are adversely affecting the health, safety and general welfare of the citizens of the Township of Marlboro warranting legislative action by the Township Council.

B. The number of mobile home communities and spaces permitted within the Township has been limited by the Township Council so as to achieve a balance in the types of housing permitted in the Township, and it is desirable to maintain such balance, and the present situation cannot be corrected by increasing the number of mobile home communities alone.

C. By reason of the necessity of licensing mobile home communities, mobile home community operators enjoy an unintended monopoly which may be abused by the charging of unregulated excessive rents.

D, Regulations of rent in mobile home communities will serve to prevent abuses and at the same time ensure the benefits of balanced housing and regulation achieved by licensing of mobile home communities and limitation of their number.

E. The Township has the power to so regulate rents in mobile home communities pursuant to the provisions of N.J.S.A. 40:52-1 et seq. bestowing general power to regulate mobile home communities and the provisions of N.J.S.A. 40:48-2 bestowing power to enact ordinances for the preservation of the public health, safety and welfare of the Township and its inhabitants, pursuant to which grant of powers this Chapter is enacted.

F. A policy of resolution of fair-rental-charge disputes by open communication, discussion and negotiation between mobile home community operators and their tenants is to be encouraged, in that it will serve to minimize the governmental regulation and intrusion into the citizens' private business and domestic affairs.

G. In a democratic society, it is a fundamental premise that the will and wishes of the majority shall serve to bind all members of a group with a community interest, be that group large or small.

§ 91-1.5 Application of Chapter 91.

From and after the effective date of this Chapter, or as it is amended from time to time, it shall be unlawful for any landlord to demand or receive any rent for any mobile home space in excess of the base rent in effect for such mobile home space, except in conformity with the provisions of this Chapter.

§ 91-2. Definitions

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

BASE RENT -- The gross rent for the mobile home pad or lot in effect on the effective date of this Chapter. Thereafter "base rent" shall equal this charge as is lawfully increased in conformance with the provisions of § 91-5 of this Chapter. "Base rent" shall not include tax and cost pass-throughs pursuant to § 91-6, hardship rental increase applications pursuant to § 91-8 and capital improvements pursuant to § 91-7.

CONSUMER PRICE INDEX - The consumer price index (all items) for the region of the United States of which the Township of Marlboro, Monmouth County, New Jersey, is a part, published periodically by the Bureau of Labor Statistics, United States Department of Labor.

INCREASE -- Not only an increase in rent but any increase in or addition to the rent or any other charges made by the landlord to the tenant and shall include any diminution of services rendered as an incident to the letting or occupancy from the effective date of this Chapter.

INVESTMENT -- Includes the amount of the original cash or equivalent consideration paid upon acquisition, together with such other additional capital contributed after the date of acquisition. "Investment" shall not include the principal amount of any mortgage or mortgages.

LANDLORD -- The mobile home community operator, owner, lessor, sub-lessor, receiver, trustee, executor, assignee or other person owner or other person leasing a mobile home space to a tenant.

LEASE -- Includes written or verbal leases, licenses or other arrangements, agreement or understanding pursuant to which any person or persons is permitted to occupy a mobile home space.

MOBILE HOME SPACE -- Includes that portion of a trailer or mobile home park or community with incidental services, or a mobile home situate in a portion of a trailer or mobile home park or community, rented or offered for rent, for the purpose of parking a trailer or mobile home thereon or occupying a mobile home for living or dwelling purposes, to one (1) or more individuals or family units, together with all privileges, services, equipment, facilities and improvements connected with the use or occupancy of such space or mobile home.

REASONABLE AND NECESSARY OPERATING EXPENSES -- Those expenses reasonably incurred by a landlord in the day-to-day operation of a

mobile home park or community. It shall not include capital improvements, mortgage amortization or depreciation.

RENT -- Includes any charge or charges made, fixed, demanded or charged for the use or occupancy of a mobile home space, whether or not commonly known as "rent."

§ 91-3. Rent Increase Applications.

A. Rent increases may be allowed by the Rent Control Board upon written application thereto by the landlord in the manner and for the reasons set forth in this Chapter. All applications for rent increases brought under this Chapter shall be filed on written forms which may be obtained from the Rent Control Board Secretary.

B. The provisions of this Chapter shall allow for the following forms of rent increase:

- (1) Consumer Price Index (CPI) (§ 91-5);
- (2) Tax pass-through (§ 91-6);
- (3) Capital Improvement (§ 91-7); and
- (4) Hardship (§ 91-8).

C. A landlord filing a rent increase application under any Section of this Chapter shall file an original and seven (7) copies of said application with the Secretary to the Rent Control Board along with payment of the appropriate fee pursuant to § 9-19.

D. The Rent Control Board Secretary, upon receipt of any application for a rent increase brought under any Section of this Chapter, shall review said application for completeness and determine whether the following, if applicable, has either been filed or paid:

- (1) Written application for rent increase (original and seven (7) copies);
- (2) Payment of the filing fee established in § 91-19;
- (3) Certifications of compliance and taxes pursuant to § 91-4;

- (4) Appropriate notice and disclosure of information to all affected tenants for increases sought pursuant to §§ 91-5, 6, 7 or 8;
- (5) Notice of hearing to tenants pursuant to § 91-10;
- (6) Proof of service upon affected tenants as required by § 91-10; and
- (7) Any other required documents, fees, or proofs required by this Chapter.

E. Should the Secretary of the Rent Control Board deem that the application is incomplete for the failure of the landlord to pay any required filing fee(s) or provide any documentation or proofs required under this Chapter for the filing of an application, the Rent Control Board, in that event, reserves the right to adjourn the listing of said application until such time as the fee, documentation or proof is provided. A determination that an application is complete shall in no way be construed to mean that the application shall be granted by the Rent Control Board.

§ 91-4 Certification of Compliance And Taxes.

A. No rent increase of any kind may be awarded by the Rent Control Board under this Chapter unless such application includes a certification from the landlord that the mobile home park substantially complies with the Municipal Ordinances of the Township of Marlboro pertaining to mobile home parks as well as any other applicable Marlboro Township ordinances.

B. No rent increase of any kind may be awarded by the Rent Control Board until such time as the Board is in receipt of a certification from the municipal tax collector that all real property taxes and assessments have been paid pertaining to the property on which the mobile home park or community is located. It is the responsibility of the landlord to obtain and provide this certification with his application when it is filed with the Rent Control Board.

C. No rent increase of any kind may be awarded by the Rent Control Board until such time as the Board is in receipt of certification from the Marlboro Township Municipal Clerk that the applicant has complied with the licensing provisions of Chapter 92 of the Marlboro Township Ordinances. It is the responsibility of the landlord to obtain and provide this certification with his application when it is filed with the Rent Control Board.

§ 91-5. Consumer Price Index Increase.

A. Calculation of increase. A landlord may receive on an annual basis a percentage increase of the Consumer Price Index based on the percentage increase in the Consumer Price Index over the twelve (12) month period ending 120 days prior to the date of the effective date of the increase. In no event shall such annual percentage increase exceed a maximum of five percent (5%). The percentage of allowable increase calculated hereunder shall be applied to the tenant's existing base rent.

B. Limitation on frequency of increase. No landlord shall be given more than one (1) increase in rent under this Section (§ 91-5) in any twelve (12) month period. This limitation shall not in any way affect other permitted rent increases pursuant to the terms of this Chapter.

C. Notice to tenants of increase. Any landlord seeking an increase in rent under this Section shall make application to the Rent Control Board, and serve the affected tenants with a notification, which shall clearly set forth the following information:

- (1) A calculation of the allowable percentage increase in rent pursuant to this Section.
- (2) A calculation of the amount of the allowable rental increases rounded to nearest dollar.
- (3) A calculation of the tenant's rent for the new leasing term.
- (4) The date of the anticipated implementation of the increase.
- (5) The landlord certification that he or she is in full compliance with all applicable building, maintenance and housing codes.

§ 91-6 Tax pass-through increase.

- (A) A landlord shall be entitled to collect from each tenant the proportionate share per pad or space of any increase in real estate taxes, state licenses, municipal licenses, municipal pad fees and utilities, if the utilities are provided or paid for by the landlord. The proportionate share shall be equal

to the increase divided by the total number of occupied pads or spaces in the mobile home park or community.

- (B) Any landlord seeking an increase under the provisions of this Section shall provide all affected tenants with notice of said application which shall include a statement identifying the date that the increase will take effect, the method of calculating the increase, a statement of the tax, fee, license or utility paid by the landlord for the previous year, and a statement as to the increase in the taxes, fees, licenses, or utilities as applicable to each affected tenant.

§ 91-7. Capital Improvement Increase.

A. A landlord may apply to the Rent Control Board for additional rental charges for the payment of the reasonable cost of major capital improvements which are necessary for the proper operation of the mobile home park or community upon completion of said capital improvement(s). However, no landlord shall be entitled to a rent increase for any capital improvement(s) which were completed two (2) years prior to the application for the rent increase under this Section.

B. For the purpose of this Section, "capital improvements" shall be any item considered as such under the United States Internal Revenue Service enactments and regulations. The replacement of an existing item or facility with an item or facility which has a more serviceable and useful life shall be considered a capital improvement unless the Board, in its discretion, determines that such replacement consists of normal and necessary maintenance and repairs.

C. An owner seeking a rent increase for a capital improvement shall apply in conformance with the application and notification provisions of this Chapter. The Rent Control Board shall determine if said improvement is a necessary major capital improvement and, if so, the amount of the increase granted for such major improvement, and shall establish the term and conditions of such increase. In determining the term and conditions of the increase, the Rent Control Board shall consider the total cost of the improvement, including interest expense, the useful life of the improvement and the reasonable time necessary for the landlord to recover his costs.

D. The cost of expanding or enlarging the mobile home community or a Section thereof shall not be borne by the tenants or utilized in computing additional rental charges under this Section.

E. Any landlord seeking an increase under this Section shall provide to each affected tenant the total cost of the completed capital improvement, the number of years of useful life of the improvement as claimed by the landlord for purposes of depreciation for income tax purposes, the average cost, including debt service, of the improvement, and, the amount of the capital improvement surcharge that the landlord is seeking from each affected tenant.

F. In no event shall any increase under the provisions of this Section exceed fifteen percent (15%) of the annual rent paid by the affected tenant unless the capital improvement is mandated by law.

§ 91-8 Hardship increase.

A. When an efficient landlord finds that the gross maximized income from his property is insufficient to cover the cost of interest payments on a first mortgage or purchase money mortgage, and on any subsequent mortgages the proceeds of which have been used to improve and upgrade the rental property; for reasonable and necessary operating expenses incurred in connection with the rental property or mobile home park; or, for unusual or unexpected increases in the cost of providing heat or utilities or in the making of capital expenditures or improvements which may require a substantial investment or expenditure by the landlord to offset such expenses, such landlord may seek a hardship rental increase. The Rent Control Board may grant a hardship rent increase to meet these payments.

B. The Rent Control Board shall consider all relevant evidence, including conditions of the premises, the degree of hardship to the landlord and financial records explaining the mortgage, tax or maintenance expense. Any landlord seeking a hardship increase shall petition the Rent Control Board after serving notice upon the tenants of his intent to seek a hardship increase and after full disclosure of all relevant financial information to the tenants and Board. The Rent Control Board shall give reasonable opportunity to be heard to both the landlord and the tenant(s) before making a determination.

C. Any application based upon unusual or unexpected increases shall be allowed only for good cause shown. Clear proof of the cost must be furnished. If the increase sought concerns a capital expenditure, capital improvement or major repair requiring a substantial investment, the landlord shall prove the normal economic life expectancy of the expenditure, improvement or repair and shall determine the average cost per year of economic life. In no event

shall the cost of expanding or enlarging the rental property or a portion thereof be borne by the tenants. If the increase sought is the result of an increase in the cost of providing a utility service regulated by the Board of Public Utilities of the State of New Jersey, the landlord shall prove that the cost of providing such utility service has increased by more than 6.5% per annum. Upon such proof, the landlord may be entitled to a rental increase equal to the amount by which the cost of providing such utility service exceeds 6.5% more than the prior years cost. The landlord shall also present evidence in seeking an increase pursuant to this Section concerning the actual rent being charged for each unit, a profit-and-loss statement for the premises for the past two fiscal years, the condition of the premises, the rate of return on the landlord's investment and the steps taken to provide safe, healthful and adequate housing, in addition to any other evidence that will assist the Board in making a fair decision. The Rent Control Board shall utilize all of the above information in determining whether or not to permit the additional rent increase sought.

D. Any increase permitted by the Rent Control Board pursuant to this Section shall be effective retroactive to the first rental period at the expiration of thirty (30) days from the date that the landlord's application for an increase was filed with the Rent Control Board. Should the landlord revise his application for an increase based upon submission of expenses not related, in whole or in part, to the premises in question; or because the original application is substantially incorrect or incomplete or deviates from accepted accounting norms; or resulting in an increase in the amount of relief sought, then and in that event the increase permitted by the Rent Control Board shall be retroactive to the first rental period subsequent to thirty (30) days from the date the revised application is submitted to the Rent Control Board.

E. No landlord shall be permitted to receive an increase under this Section until such time as the landlord has owned and operated the rental property or mobile home park for a period of at least twelve (12) months or until the close of the first complete fiscal year of ownership by the landlord, whichever occurs first.

F. For purposes of this Section, the term "gross maximized annual income" shall mean the gross maximum potential rent roll, less a maximum deduction of 3.5% for vacancies and uncollectibles, or the annual sum of rents collected, whichever amount is larger, and includes all income resulting, directly or indirectly, from the operation of the mobile home park or community.

§ 91-9. Rent reduction.

A. A tenant whose rent has been increased may make written application to the Rent Control Board for a decrease of his rent to the base rental by filing an application with the Rent Control Board setting forth his name and address, the name and address of the landlord, the location and description of the leased premises, the rent paid from the effective date of this Chapter and the amount and date of each increase thereafter, the term of the lease and the reason why the tenant feels that the increase in rent was unjustified. In determining whether or not the increase was justified, the Rent Control Board shall apply the same criteria as this Chapter requires them to apply to a request for an increase.

B. In the event that the taxes or costs referred to in § 91-6 are reduced, fifty percent (50%) of the savings shall be passed on to the tenants. Should a reduction in real estate taxes be obtained by the landlord, through the tax appeal process, the fifty-percent (50%) savings shall be passed on to the tenants after the landlord deducts his reasonable and necessary documented attorney's or other professional fees and costs incident thereto incurred in obtaining said reduction.

C. Any tenant seeking relief under this Section shall file said application with the Board at least twenty-one (21) days before the date set for the hearing and shall serve a copy thereof upon their landlord in the manner provided for the service by a landlord of an application for a rent increase.

§ 91-10. Notice of Hearing.

A. Prior to any landlord being entitled to any relief under this Chapter, the landlord shall, not less than twenty-one (21) days in advance of the hearing date, be required to serve tenants with a notice of the time and place at which the Rent Control Board will hear the matter and shall make due proof of the service thereof by providing an affidavit of mailing.

B. Before the Rent Control Board may grant any relief pursuant to the terms of this Chapter, it shall first hold a hearing upon the notice as prescribed herein and afford all parties a full opportunity to be heard and present any testimony relevant to the matter of the application before the Board.

C. All notices required to be provided under this Chapter to any tenant shall be effectuated by way of regular and certified mail, or, by way of personal service, with the landlord providing

proof of service prior to the first hearing on any application. The proof of service must identify the method of service upon each and every affected tenant.

D. In addition to the notice required under paragraph C of this Section, any landlord seeking relief under this Chapter, with the exception of an increase based on vacancy decontrol, must provide proof of posting of a notice as to the time and date of hearing to all tenants within the mobile home park or community. Notice must be posted in a conspicuous place which is visible to all tenants.

§ 91-11. Vacancy decontrol.

A. Where there is a sale of a mobile home or where a lot or space becomes vacant as a result of the vacating of the mobile home rental space by a tenant, or where a tenant has vacated as a result of a lawful eviction proceeding, the landlord may increase the base rent by fifteen percent (15%), provided that the landlord shall not be entitled to more than one (1) such increase within any five (5) year period. When the landlord exercises its right to increase the base rent pursuant to this Section, the landlord shall waive its right during that year to an increase pursuant to § 91-5 of this Chapter and shall also waive its right during that year to the tax and cost pass-throughs pursuant to § 91-6 of this Chapter, with the following exception: if the increase under § 91-5 plus the tax and cost pass-throughs for the subject lot are greater than the fifteen-percent (15%) vacancy decontrol increase, then the landlord shall be entitled to the higher percentage of either the vacancy decontrol increase or the total of the increase and the tax and cost pass-throughs.

B. When the landlord raises rent pursuant to this Section, the landlord shall file a certified statement with the Rent Control Board confirming this increase. The statement shall include the amount of the base rent prior and subsequent to the increase. The Rent Control Board shall review said certification at its next regular meeting and, if it is satisfactory, shall approve the same. Unless the increase violates this Section, it shall be effective when the new tenant moves in.

C. Prior to any landlord being entitled to any increase under this Section, the landlord shall submit an affidavit stating that he or she has not in any way harassed or coerced the prior tenant from vacating the mobile home space and that the vacation of the mobile home space was a voluntary act of the tenant. For purposes of this Section, the removal of a tenant by way of eviction pursuant to the

laws of the State of New Jersey shall constitute a "voluntary act." However, for purposes of this Section, a vacation caused or necessitated by substandard, unsafe, or unsanitary conditions within the mobile home community shall not be deemed a "voluntary act."

§ 91-12. Rent Control Board.

The Affordable Housing Agency created by § 5-3 of the Code of the Township of Marlboro shall serve as the Rent Control Board.

§ 91-13. Rent Control Board powers.

A. In addition to the powers enumerated in Chapter 5 of the Code of the Township of Marlboro, the Affordable Housing Agency is hereby granted and shall have and exercise all the powers necessary and appropriate to carry out and execute the purpose of this Chapter of the Code of the Township of Marlboro, including but not limited to the following:

- (1) (1) To issue and promulgate such rules and regulations as it deems necessary to implement the purposes of this Chapter. Provided that the Rent Control Board shall bring said rule or regulation to the attention of the Township Clerk who shall bring the proposed rule or regulation to the attention of the Township Council at its next regularly scheduled Council meeting. Should the Township Council object to any rule or regulation, the Council shall give notice to the Rent Control Board no later than ten (10) days after consideration of said rule or regulation at its Council Meeting. If a rule or regulation is objected to in a timely manner, the rule or regulation shall not be effective or enforceable. If the Township Council shall take no action concerning said rule or regulation, it shall become effective and enforceable on the tenth (10th) day after the Council meeting. All effective and enforceable rules and regulations shall thereafter be deemed to be part of this Chapter as fully as if set forth herein and any violation thereof shall be a violation of this Chapter.
- (2) To supply information and assistance to landlords and tenants to help them comply with the provisions of this Chapter.

(3) To hold hearings and adjudicate applications from landlords or tenants for adjustments of rental as herein provided.

B. A quorum for a hearing shall consist of three (3) voting members, and a vote of a majority of those present shall be necessary to take any action.

C. At all public hearings, the Rent Control Board shall give both landlord and tenant reasonable opportunity to be heard and to present witnesses before making any determination. The parties may be represented by counsel.

D. Action by the Rent Control Board shall be in writing and in the form of a resolution which shall contain findings of fact and conclusions of law as well as any conditions of approval. Violation of the term of any resolution adopted by the Board shall be a violation of this Chapter.

E. The Rent Control Board shall meet once a month. If there is no business pending the Board Chairman may cancel the meeting and shall provide public notice of same.

§ 91-14. Nonapplicability.

A. This Chapter shall not be applicable to any mobile home park or community that is operated on real property owned by the Township of Marlboro.

B. Mobile home spaces that are newly constructed are exempted from the provisions of this Chapter. In that case, the landlord may determine the initial rent thereof. Any future increases after the initial rental amount, however, are subject to the provisions of this Chapter.

C. Any mobile home space which is occupied by an employee of a landlord and the rental of which is customarily restricted to employees of the landlord is exempted from the provisions of this Chapter.

D. Where a mobile home space has been vacant for a period of twelve (12) or more months, the rent applicable to a new tenant taking possession following the (12) or more months is exempt from the provisions of this Chapter. However, any subsequent increases following the initial rental referenced herein shall be subject to the provisions of this Chapter.

§ 91-15. Nonprofit corporations

This Chapter shall not be binding on mobile home communities owned and operated as nonprofit corporations exempt from the Corporation Business Tax Act where the mobile home community is owner-occupied.

§ 91-16. Construal of provisions.

This Chapter being necessary for the welfare of the Township of Marlboro and its inhabitants, shall be liberally construed to effectuate the purposes thereof.

§ 91-16.5. Waiver.

A. Any person or entity may request a waiver from a specific requirement of this Chapter at any time. Such a waiver may be requested as part of a rent increase application or by application in such other form as the Rent Control Board may determine, consistent with this Chapter.

B. The Rent Control Board may grant a waiver from a specific provision of this Chapter if the applicant demonstrates that the strict application of this Chapter would create an unnecessary financial or administrative hardship or there is otherwise good cause for the Rent Control Board to grant a waiver from the provision(s) from which relief is sought. No waiver shall be granted under this Chapter if in so doing such relief does not foster the intent of this Chapter.

§ 91-17. Severability.

that if any section, paragraph, subsection, clause or provision of this Chapter 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 Chapter shall be deemed valid and effective.

§ 91-18. Violations and penalties.

Any person found guilty of violating any provision of this Chapter or of willfully filing with the Rent Control Board any material misstatement of fact shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding ninety (90) days, or both, in the discretion of the court. A violation affecting two (2) or more

mobile home spaces shall be considered a separate violation as to each mobile home space.

§ 91-19 Filing Fees.

The Rent Control Board shall charge the following filing fees for rent increase applications:

§ 91-5 CPI Rent Increase	\$250.00
§ 91-6 Tax Pass-Through Increase	\$250.00
§ 91-7 Capital Improvement Increase	\$250.00
§ 91-8 Hardship Rent Increase	\$250.00
§ 91-11 Vacancy Decontrol Increase	\$50.00

§ 91-20. When effective.

This Chapter shall become effective immediately upon passage and publication as required by law.

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 Res. # 2009-72/Ord. # 2009-8 (Amend Chapter 92 - Mobile Homes - Licensing & Maintenance) was introduced by reference, offered by Councilman Cantor and seconded by Councilwoman Marder. Discussion followed, after which the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-72

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

ORDINANCE # 2009-8

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 92
"MOBILE HOME COMMUNITIES: LICENSING AND MAINTENANCE",
SECTION 92-3 "APPLICABILITY OF BUILDING, PLUMBING
AND OTHER REGULATIONS", OF THE CODE OF THE TOWNSHIP OF
MARLBORO TO DESIGNATE THE APPROPRIATE TOWNSHIP
OFFICIAL FOR CODE INSPECTION PURPOSES

be introduced and passed on first reading and that the same be
advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for
final passage on March 5, 2009 at 8:00 p.m. at the
Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New
Jersey, at which time all persons interested will be
given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-8

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 92
"MOBILE HOME COMMUNITIES: LICENSING AND MAINTENANCE",
SECTION 92-3 "APPLICABILITY OF BUILDING, PLUMBING
AND OTHER REGULATIONS", OF THE CODE OF THE TOWNSHIP OF
MARLBORO TO DESIGNATE THE APPROPRIATE TOWNSHIP
OFFICIAL FOR CODE INSPECTION PURPOSES

BE AND IT IS HEREBY ORDAINED, by the Township Council of the
Township of Marlboro, County of Monmouth and State of New Jersey,
that Chapter 92, Mobile Home Communities: Licensing and Maintenance,
Section 92-3, Applicability of Building, Plumbing and Other
Regulations, of the Code of the Township of Marlboro be and is
hereby amended and supplemented to designate the appropriate
Township Official for code inspection purposes as follows:

§ 92-3. Applicability of building, plumbing and other regulations.

All building, plumbing, electrical and other work on or at any
mobile home park licensed hereunder shall be in accordance with this
Code and Township ordinances regulating such work, unless they are
specifically made inapplicable under the terms of the Chapter, and
shall be approved by the appropriate Township official with
jurisdiction over the work.

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 Res. # 2009-73/Ord. # 2009-9 (Amend Chapter 84 - MHD-II - Mobile Home Park District) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilman Cantor. Discussion followed, after which the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-73

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

ORDINANCE # 2009-9

AN ORDINANCE DELETING SECTION 84-47.1, "MHD-II MOBILE HOME PARK DISTRICT" OF CHAPTER 84, "LAND USE DEVELOPMENT AND REGULATIONS", IN ITS ENTIRETY AND REPLACING SAME WITH A NEW SECTION 84-47.1, "MHD-II MOBILE HOME PARK DISTRICT"

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on March 5, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-9

AN ORDINANCE DELETING SECTION 84-47.1, "MHD-II MOBILE HOME PARK DISTRICT" OF CHAPTER 84, "LAND USE DEVELOPMENT AND

REGULATIONS", IN ITS ENTIRETY AND REPLACING SAME WITH A NEW SECTION 84-47.1, "MHD-II MOBILE HOME PARK DISTRICT"

WHEREAS, the Township of Marlboro has made substantial revisions to the Township Code at Chapter 91, Mobile Home Rent Control, to clarify procedural issues and to add new sections establishing hardship rent increases and enabling the Township rent control board to relax and/or waive certain provisions within Chapter 91; and

WHEREAS, such revisions require that Section 84-47.1, MHD-II, Mobile Home Park District, be modified to more accurately reflect the application of the revised Chapter 91.

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 Section 84-47.1, MHD-II, Mobile Home Park District", of Chapter 84, Land Use Development and Regulations, is hereby deleted in its entirety and replaced with a new Section MHD-II, Mobile Home Park District, to conform to the revisions contained in Chapter 91, Mobile Home Rent Control, as follows:

§ 84-47.1. MHD-II Mobile Home Park District.

A. There shall be included by reference in this section all language set forth in § 84-47(A) - (S), inclusive, except that §§84-47(C) shall be changed to no less than ten (10) contiguous acres. In addition, §§84-47(D) shall be changed to a minimum lot area of 3,500 square feet. Further, §§84-47(E) shall be changed to a maximum density of ten (10) mobile home units per acre.

B. Affirmative devices required shall be as set forth in § 84-48(A)-(C), except that §§84-47(A)(1) shall provide that a minimum of seventy-five percent (75%) of all units shall be affordable to moderate- and low-income households, as defined under New Jersey's Fair Housing Act, codified at N.J.S.A. 52:27D-301 et seq., and the substantive (N.J.A.C. 5:97-1.1 et seq.) and procedural rules (N.J.A.C. 5:96-1.1 et seq.) as promulgated by the New Jersey Council on Affordable Housing from time to time.

C. Each affordable mobile home park unit shall comply with the rules set forth by the Council on Affordable Housing (COAH) at N.J.A.C. 5:96, (Procedural Rules) and N.J.A.C. 5:97. (Substantive Rules) including:

(1) Each affordable unit shall be marketed via an affirmative marketing program.

(2) Each mobile home park shall maintain designated pads for affordable units.

(3) Each mobile home park shall comply with Chapter 91 of the Marlboro Township Code, known as Mobile Home Communities Rent Control.

D. Approval of the New Jersey Department of Environmental Protection and/or the Monmouth County Department of Health shall be obtained, where required, prior to Planning Board approval of any application in the MHD-II District.

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 Res. # 2009-74/Ord. # 2009-10 (Amend Chapter 12 - Environmental Commission Members - Adding Two Alternate Positions) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-74

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

ORDINANCE # 2009-10

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 12, "ENVORONMENTAL COMMISSION", SECTION 12-1 "CREATION" TO REVISE

THE AUTHORIZING STATUTE AND SECTION 12-2 "COMPOSITION; TERMS;
REMOVAL", BY ADDING TWO ALTERNATE MEMBERS

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 5, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-10

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 12, "ENVIRONMENTAL COMMISSION", SECTION 12-1 "CREATION" TO REVISE THE AUTHORIZING STATUTE AND SECTION 12-2 "COMPOSITION; TERMS; REMOVAL", BY ADDING TWO ALTERNATE MEMBERS

WHEREAS, N.J.S.A. 40:56A-1 empowers a municipality to establish, by ordinance, an Environmental Commission for the protection, development or use of natural resources, including water resources located within its territorial limits; and

WHEREAS, pursuant to N.J.S.A. 40:56A-1, a governing body of a municipality may, by ordinance, provide for the appointment of not more than two (2) alternate members, to be designated as "Alternate No. 1" and "Alternate No. 2", each for a term of two years, except that the terms of the alternate members first appointed shall be two (2) years for Alternate No. 2 and one year for Alternate No. 1 so that the term of not more than one alternate member shall expire in any one year; and any vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

NOW, THEREFORE, BE IT ORDAINED, by the Municipal Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Chapter 12, Environmental Commission, Section 12-1 Creation, be and is amended and supplemented by revising the authorizing New Jersey Statute as follows:

§ 12-1. Creation.

The Township of Marlboro Environmental Commission is hereby established pursuant to N.J.S.A. 40:56A-1 et seq.

BE IT FURTHER ORDAINED, by the Municipal Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Chapter 12, Environmental Commission, Section 12-2, Composition; Terms; Removal, be and is amended and supplemented by adding a provision for the appointment of two (2) alternate members, as follows:

§ 12-2. Composition; terms; removal.

A. The Commission shall consist of seven (7) members and two (2) alternate members, appointed by the Mayor, one (1) of whom shall also be a member of the Planning Board, and all of whom shall be residents of the Township of Marlboro. The members shall serve without compensation, except as hereinafter provided. Alternate members shall be designated at the time of appointment as "Alternate No. 1" and "Alternate No. 2"

B. The Mayor shall designate one (1) of the members to serve as Chairman and presiding officer of the Commission.

C. The terms of office of the first commissioners shall be for one (1), two (2) or three (3) years, to be designated by the Mayor in making his appointments, and their successors shall be appointed for terms of three (3) years and until the appointment and qualification of their successors. The first members of the Commission shall be appointed for the following terms:

(1) Three (3) members for the term expiring December 31, 1979.

(2) Two (2) members for the term expiring December 31, 1980.

(3) Two (2) members for the term expiring December 31, 1981.

(4) The Alternate Commissioners first appointed shall be appointed as follows: Alternate No. 1 for a term of two (2) years, and Alternate No. 2 for a term of one (1) year. Thereafter, all appointments for alternate members shall be made for a term of two (2) years, so that the term of not more than one alternate member shall expire in any one year.

D. The Mayor or Township Council may remove any member of the Commission for cause, on written charges served upon the member and after a hearing thereon at which the member shall be entitled to be heard in person or by counsel. A vacancy on the Commission occurring

otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

E. No member or alternate member shall be permitted to act on any manner in which he or she has either directly or indirectly any personal financial interest.

F. An alternate member may participate in discussions of the proceedings of the Commission, but may not vote, except in the absence, recusal or disqualification of a regular member. In the event that a choice must be made as to which alternate member is allowed to vote, Alternate #1 shall vote first. No vote shall be delayed in order that a regular member may vote instead of an alternate member.

The remainder of this Chapter shall remain unchanged and in full force and effect.

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

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

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

The following Res. # 2009-75/Ord. # 2009-11 (Amend Chapter 103 - Daily Parking Fee - Increase to \$2) was introduced by reference, offered by Councilman Cantor and seconded by Council Vice President LaRocca. Discussion followed, after which the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-75

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

ORDINANCE # 2009-11

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 103,
"PARKING: MUNICIPAL FACILITIES", ARTICLE IA, "DAILY
PARKING SECTION OF UNION HILL LOT", SECTION 103-9.3,
"MANNER OF PARKING; REGULATIONS; FEE", SUB-SECTION (A) OF
THE CODE OF THE TOWNSHIP OF MARLBORO TO INCREASE THE FEE
FROM ONE DOLLAR TO TWO DOLLARS

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 5, 2009 at 8:00 p.m. at the
Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New
Jersey, at which time all persons interested will be
given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-11

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 103,
"PARKING: MUNICIPAL FACILITIES", ARTICLE IA, "DAILY
PARKING SECTION OF UNION HILL LOT", SECTION 103-9.3,
"MANNER OF PARKING; REGULATIONS; FEE", SUB-SECTION (A) OF
THE CODE OF THE TOWNSHIP OF MARLBORO TO INCREASE THE FEE
FROM ONE DOLLAR TO TWO DOLLARS

WHEREAS, daily parking is currently permitted within the daily
parking section of the Park and Ride Facility for a fee of \$1.00 per
day; and

WHEREAS, the Mayor and the Township Council now desire to
increase the fee for parking in such parking section from \$1.00 per
day to \$2.00 per day.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township
Council of the Township of Marlboro, County of Monmouth and State of
New Jersey that Chapter 103, "Parking: Municipal Facilities",
Article IA, "Daily Parking Section of Union Hill Lot", Section 103-
9.3, "Manner of Parking; Regulations; Fee", Sub-Section (A) of the
Code of the Township Of Marlboro be and is hereby amended and
supplemented to provide for an increase in the daily parking fee as
follows:

§ 103-9.3. Manner of parking; regulations; fee.

A. Parking in the daily parking section of the Park and Ride Facility shall be permitted on a first-come, first-served basis and no decal or permit shall be required to park in the aforesaid facility. The daily parking fee shall be \$2.00, which must be deposited in bill or coin in the appropriately marked drop box at the upper level near the bus shelters. The fee must be inserted immediately after the vehicle was parked and it must be inserted in the slot bearing the same number as the parking stall.

The remainder of this Section shall remain unchanged and in full force and effect.

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

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

The following Res. # 2009-76/Ord. # 2009-12 (Amend Chapter 108 - Peace and Good Order - Clarify Prohibited Activities) was introduced by reference, offered by Council Vice President LaRocca and seconded by Council President Rosenthal. Discussion followed, after which the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-76

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

ORDINANCE # 2009-12

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 108, "PEACE AND GOOD ORDER", ARTICLE I, "DISORDERLY CONDUCT", SECTIONS 108-1 THROUGH 108-3, OF THE CODE OF THE TOWNSHIP OF MARLBORO, TO CLARIFY PROHIBITED ACTIVITIES AND THE VIOLATION AND PENALTIES APPLICABLE THERETO 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 5, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-12

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 108, "PEACE AND GOOD ORDER", ARTICLE I, "DISORDERLY CONDUCT", SECTIONS 108-1 THROUGH 108-3, OF THE CODE OF THE TOWNSHIP OF MARLBORO, TO CLARIFY PROHIBITED ACTIVITIES AND THE VIOLATION AND PENALTIES APPLICABLE THERETO

BE IT ORDAINED, by the Municipal Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Chapter 108 Peace and Good Order, Article I, Disorderly Conduct, Sections 108-1 through 108-3, be and are hereby amended and supplemented to clarify prohibited activities and the violation of penalties applicable thereto as follows:

CHAPTER 108
PEACE AND GOOD ORDER

ARTICLE I. Disorderly Conduct

§ 108-1. Prohibited activities.

No person shall, within the limits of the Township of Marlboro, New Jersey, engage in any of the following activities:

- A. Engage in any practice, sport or exercise having a tendency to annoy or interfere with persons passing on the streets or sidewalks of the Township of Marlboro.
- B. Loiter, lounge, sleep or create a disturbance on any street, sidewalk or other public place or in or about any park, public building, school, store or other business establishment, or utter any loud and offensive or indecent language or make offensive remarks to any person or persons passing along, in or upon any such sidewalk, street, park, school, store or other public place or business establishment.
- C. Congregate with others on a sidewalk, street, park, school, store or other public place or business establishment and refuse to move when ordered by the police.

D. Obstruct, molest, hinder, annoy, frighten, threaten, insult or interfere with any other person lawfully upon the streets, parks, public places or in any automobile, bus or other public or private conveyance lawfully upon any street.

E. Be disorderly in any public omnibus, street, highway, thoroughfare or on any sidewalk or in any boardinghouse, store, restaurant or other place of commerce or public or quasi-public place.

F. Permit any house, shop, store or other building or structure owned or occupied by him or her to be used, frequented or resorted to by noisy, riotous or disorderly persons or by prostitutes, gamblers, vagrants or common mendicants.

G. Throw or discard any tin cans, paper posters, glass, metal or any hard or dangerous substance, garbage or refuse whatsoever upon any public street, sidewalk, highway or public place.

H. Commit or attempt to commit an assault or an assault and battery either in a public or private place, or aid or assist or abet any person about to commit or attempt to commit an assault or an assault and battery.

I. Make or assist in making any riot, noise or disturbance at any house, shop, theater or other place of amusement.

J. Appear on any street or in any park or other public place or in public view in a state of nudity, or make any indecent exposure of his or her person or commit or do any lewd or indecent act or behave in a lewd or indecent manner.

K. Maliciously destroy, damage or injure any property, public or private.

L. Cause or permit to be emitted any vile, offensive, obnoxious or nauseating smoke or odor, or any smoke or odor that may be vile, offensive, obnoxious or nauseating to any of the residents of the Township of Marlboro.

M. Station himself on the streets or follow pedestrians for the purpose of soliciting alms, or solicit alms on the streets without lawful authority.

N. Enter any building or trespass upon lands belonging to the Board of Education of the Township of Marlboro, or break or injure or deface such building or any part thereof or the fences or

outbuildings belonging to or connected with such building or lands, or disturb the exercises of such school or molest or annoy the children attending such school or any teachers thereof.

O. Hinder or obstruct any officer in the performance of his duties, or willfully refuse or neglect to assist any officer when lawfully called upon by him so to do in the execution of any process or in the suppression of any breach of the peace or disorderly conduct or in case of any escape or when such officer is resisted in the discharge of his duty, or knowingly resist or oppose any officer or person authorized by law in serving or attempting to serve any writ, bill, order or process or when making any arrest, either with or without a warrant.

P. Intentionally enter upon or trespass upon the land or property of any person without permission so to do.

Q. Invade the privacy of any person by going upon the private property of others in stealth and at night for the purpose of "peeping" through windows, doors or other openings, thereby engaging in conduct associated with what is commonly known as a "Peeping Tom."

R. Upon apprehension, be unable to give a good account of himself or be engaged in an illegal occupation and be in the Township of Marlboro for an unlawful purpose. In any prosecution under this section, the fact that the person apprehended cannot give a good account of himself or is engaged in an illegal occupation shall be prima facie evidence that he is present in this Township for an unlawful purpose.

S. Accost or approach any person of the opposite sex unknown to such person any by word, sign or gesture attempt to speak or to become acquainted with such person against his or her will, upon a public street or other public place in this Township, except in the transaction of legitimate business.

T. Attempt to entice or procure a person of the opposite sex to commit an unlawful act, or accost or approach any person and by word, sign or gesture suggest or invite the doing of any indecent or unnatural act.

U. Any person, while operating a motor vehicle on any street or highway in the Township of Marlboro, who knowingly flees or attempts to elude any police or law enforcement officer after having received any signal from such officer to bring the vehicle to a full stop is a disorderly person.

V. Possession, giving of, bartering, selling or otherwise disposing of any ticket, tickets, slip, paper, chit or other memoranda or any share or interest in any ticket, tickets, slip or memoranda in any number game or the holding, conducting or having of any interest in any number game or receipt of any monies in connection with any number game.

W. Possess or consume any open container of alcoholic beverage on any public street, sidewalk or public place, unless otherwise permitted by the Code.

§ 108-2. Enumeration not exhaustive; definition.

A. All other riotous, indecent or disorderly conduct, breach of the peace and vagrancy not hereinabove specifically mentioned are hereby prohibited.

B. The term "person," as used in this Article, shall, wherever appropriate in connection with the context, include "individual," "firm," "corporation," "partnership," "association," "company" or "organization" of any kind and shall include the plural. The masculine pronoun shall include the feminine.

§ 108-3. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than Two Thousand Dollars (\$2,000.00) or by imprisonment for a term not to exceed ninety (90) days, or by both such fine and imprisonment, in the discretion of the Judge. The continuation of such violation on each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

The remainder of this Chapter shall remain unchanged and in full force and effect.

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

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

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

The following Res. # 2009-77/Ord. # 2009-13 (Amend Chapter 132 - Swimming Pool Facility - Rules and Regulation Pertaining to Township Events) was introduced by reference, offered by Councilman Cantor, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-77

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

ORDINANCE # 2009-13

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 132, "SWIMMING POOL FACILITY, MUNICIPAL", SECTION 132-8, "RULES AND REGULATIONS ENFORCEMENT", OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ADD A NEW SUB-SECTION 132-8(I) TO ALLOW THE SWIM CLUB DIVISION TO ADOPT RULES AND REGULATIONS PERTAINING TO ALCOHOL CONSUMPTION AT CERTAIN EVENTS

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 5, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE 2009-13

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 132, "SWIMMING POOL FACILITY, MUNICIPAL", SECTION 132-8, "RULES AND REGULATIONS ENFORCEMENT", OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ADD A NEW SUB-SECTION 132-8(I) TO ALLOW THE SWIM CLUB DIVISION TO ADOPT RULES AND REGULATIONS PERTAINING TO ALCOHOL CONSUMPTION AT CERTAIN EVENTS

BE IT ORDAINED, by the Municipal Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Chapter 132, Swimming Pool Facility, Municipal, of the Code of the Township of Marlboro be and is hereby amended and supplemented by the establishment of a new Sub-Section 132-8(I), to allow the Swim Club Division to adopt certain rules and regulations pertaining to alcohol consumption at certain events as follows:

§ 132-8(I) As part of its rule making authority pursuant to this Section 132-8, the Swim Club Division may adopt rules and regulations following the procedures set forth in Sub-Section 132-8(B) above that permits events at the Marlboro Swim Club to occur wherein the consumption of alcoholic beverages are permitted, hereinafter known as the "BYOB Events". BYOB Events may only be held at the Marlboro Swim Club provided that:

1. No person under twenty-one (21) years of age shall be permitted to attend such BYOB Events;
2. BYOB Events shall only be held on evenings when the Marlboro Swim Club is closed to the general membership;
3. Admissions policies and fees shall be established by the Marlboro Swim Club Division in the Rules and Regulations;
4. The Rules and Regulations shall establish any limitations on the type and quantity of alcoholic beverages brought to the BYOB Event by each attendee; and
5. All persons attending BYOB Events shall abide by all of the Rules and Regulations of the Swim Club Division as set forth in Sections 132-8 and 132-9 herein and the ordinances of the Township of Marlboro.

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

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

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

The following Res. # 2009-78/Ord. # 2009-14 (Amend Chapter 105 - Parks and Playgrounds - Public Events) was introduced by reference, offered by Councilman Cantor, seconded by Council President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-78

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

ORDINANCE # 2009-14

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 105 "PARKS AND PLAYGROUNDS", SECTIONS 105-2, "USE AND POSSESSION OF INTOXICATING BEVERAGES" AND 105-3 "PERSONS UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ALLOW POSSESSION OF ALCOHOLIC BEVERAGES AT AUTHORIZED PUBLIC EVENTS WHICH HAVE BEEN ISSUED A VALID LICENSE TO SELL ALCOHOLIC BEVERAGES

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 5, 2009 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2009-14

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 105 "PARKS AND PLAYGROUNDS", SECTIONS 105-2, "USE AND POSSESSION OF INTOXICATING BEVERAGES" AND 105-3 "PERSONS UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ALLOW POSSESSION OF ALCOHOLIC BEVERAGES AT AUTHORIZED PUBLIC EVENTS WHICH HAVE BEEN ISSUED A VALID LICENSE TO SELL ALCOHOLIC BEVERAGES

BE IT ORDAINED, by the Municipal Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Chapter 105 Parks and Playgrounds, Section 105-2, Use and Possession of Intoxicating Beverages, and Section 105-3, Persons Under the Influence of Alcoholic Beverages, of the Code of the Township of Marlboro be and are hereby amended and supplemented to allow possession of alcoholic beverages at authorized public events which have been duly issued a valid license to sell alcoholic beverages as follows:

§105-2. Use and possession of intoxicating beverages.

No person shall consume any alcoholic beverage or have in his possession any intoxicating beverage while in a municipal park or playground as set forth in this Chapter, except if such person is attending an authorized public event which has been issued a valid liquor license authorizing the sale of alcoholic beverages in a municipal park or playground.

§105-3. Unruly Behavior.

No person shall exhibit or engage in unruly behavior while in a municipal park or playground.

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

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

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

The following Res. # 2009-79 (Authorizing "Resolution of Need" - Block 119, Lot 4) was introduced by reference, offered by Councilwoman Tragni and seconded by Council Vice President LaRocca. Discussion followed, after which the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-79

RESOLUTION AUTHORIZING A "RESOLUTION OF NEED" FOR A HOUSING PROJECT LOCATED AT LOT 4, BLOCK 119, COMMONLY KNOWN AS TICETOWN ROAD IN THE TOWNSHIP OF MARLBORO, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

WHEREAS, MBI Development Company, Inc. (hereinafter referred to as the "Sponsor") proposes to construct a 176 affordable family rental unit housing project (hereinafter referred to as the "Project") pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1.1 et seq., and all applicable guidelines promulgated thereunder (the foregoing hereinafter collectively referred to as the "HMFA Requirements") within the Township of Marlboro of Monmouth County on a site described as Lot 4, Block 119 as shown on the Official Assessment Map of the Township of Marlboro, Monmouth County and commonly known as Ticetown Road; and

WHEREAS, the Project will be subject to requirements of the New Jersey Department of Community Affairs (hereinafter referred to as the "Department of Community Affairs"), Neighborhood Preservation Balanced Housing Program in accordance with N.J.S.A. 52:27D-320 and applicable rules promulgated thereunder at N.J.A.C. 5:43-1.1 et seq., and the mortgage and other loan documents executed between the Sponsor and the Commissioner of the Department of Community Affairs; and

WHEREAS, pursuant to the HMFA Requirements, the Township Council of Marlboro Township hereby determines that there is a need for this housing project (the "Project") in the Township of Marlboro, provided that the Fair Share Housing Plan (the "Plan") submitted by the Township to the Council on Affordable Housing ("COAH") in December 2008, which includes the provision of an affordable housing project in this District, is approved by either COAH, a court of competent jurisdiction or other government entity of competent jurisdiction.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of Marlboro Township (the "Council") that:

1. The Council hereby finds and determines that the above noted housing project, which will yield 176 affordable family rental units, as proposed by the Sponsor, meets or will meet an existing housing need, provided that the Fair Share Housing Plan (the "Plan") submitted by the Township to the Council on Affordable Housing ("COAH") in December 2008, which includes the provision of an

affordable housing project in this District, is approved by either COAH, a court of competent jurisdiction or other government entity of competent jurisdiction.

2. The Council hereby adopts this Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in conformity with the provisions of the HMFA Law to enable the Agency to process the Sponsor's application for Agency funding to finance the Project.

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

- a. Mayor Jonathan L. Hornik
- b. Township Administrator
- c. MBI Development Company, Inc.
- d. Kenneth W. Biedzynski, COAH Special Counsel
- e. Heyer & Gruel, COAH Planners
- f. DeCotiis, Fitzpatrick, Cole & Wisler, LLP

The following Res. # 2009-81 (Designating Records Custodian Police Dept.) was introduced by reference, offered by Councilman Cantor, seconded by Council President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-81

A RESOLUTION DESIGNATING A CUSTODIAN FOR THE
MARLBORO TOWNSHIP POLICE DEPARTMENT RECORDS

WHEREAS, to ensure public access to government records in accordance with the provisions of N.J.S.A. 47:1A-1, et seq., the Township of Marlboro Police Department desires to designate Captain Douglas Van Note of the Township Police Department's Administration, Police Records Section, as the custodian of the Marlboro Township Police Department records; and

WHEREAS, Township Council of the Township of Marlboro concurs with the designation of Captain Douglas Van Note as custodian of the Township Police Department's records.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that Captain Douglas Van Note of the Township of Marlboro Police Department's Administration, Police Records Section, be and is hereby designated as custodian of the Marlboro Township Police Department records; and

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

- a. Mayor Jonathan L. Hornik
- b. Chief of the Marlboro Township Police Department
- c. Township Business Administrator
- d. DeCotiis, Fitzpatrick, Cole & Wisler, LLP

The following Res. # 2009-82 (Purchase of Deicing Agents through Mon. County Cooperative Purchasing) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-82

RESOLUTION AUTHORIZING A CONTRACT FOR THE PROVISION OF
DE-ICING AGENTS THROUGH BIDS OBTAINED BY THE
MONMOUTH COUNTY COOPERATIVE PURCHASING PROGRAM

WHEREAS, the Marlboro Township Public Works Department has recommended that the Township purchase de-icing agents for use by the Township through the use of bids obtained by the Monmouth County Cooperative Purchasing Program; and

WHEREAS, the Township is authorized to purchase de-icing agents from bids obtained from a cooperative pricing system such as the Monmouth County Cooperative Purchasing Program pursuant to the authority provided by N.J.S.A. 40A:11-11(6); and

WHEREAS, the Monmouth County Cooperative Purchasing Program conducted a public bidding process and awarded a contract to International Salt Company of Clarks Summit, PA, for the provision of sodium chloride at a price of \$66.43 per ton; and

WHEREAS, the Public Works Department has indicated that International Salt Company has agreed to extend the pricing provided to Monmouth County to Marlboro Township through the Monmouth County Cooperative Purchasing Program; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to purchase de-icing agents; and

WHEREAS, funds are available in Account Number 9-01- -119-275 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Marlboro Township Council, having considered the same, desires to authorize the purchase of sodium chloride at a price of \$66.43 per ton from the International Salt Company, pursuant to the bid obtained by the Monmouth County Cooperative Purchasing Program.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase sodium chloride at a price of \$66.43 per ton from the International Salt Company for an amount not to exceed \$66,430.00; and

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

- a. International Salt Company, Clarks Summit, PA
- b. Township Administrator
- c. Township Public Works Department
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-83 (Transfers) was introduced by reference, offered by Councilman Cantor, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-83

RESOLUTION AUTHORIZING TRANSFER OF APPROPRIATION RESERVES
DURING FIRST THREE MONTHS OF THE FISCAL YEAR

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriation reserve transfers during the first three (3) months of the following fiscal year, when it has been determined that additional funds may be necessary to pay for services or goods that had been received in the operations of the preceding year.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Appropriation Reserves (Calendar Year 2008 Municipal Budget) as follow:

From:		
Police S&W	7,500.00	
Gasoline	7,500.00	
To:		
Administration OE		5,000.00
Buildings & Grounds OE		5,000.00
Sewer OE		5,000.00
Total	15,000.00	15,000.00

The following Res. # 2009-84 (Emergency Temporary Appropriation) was introduced by reference, offered by Councilman Cantor, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-84

EMERGENCY TEMPORARY APPROPRIATION
PRIOR TO ADOPTION OF THE BUDGET

WHEREAS, N.J.S.A. 40A:4-20 provides authorization for an emergency temporary appropriation after the first thirty days of the fiscal year and before the adoption of the 2009 Municipal budget; and

WHEREAS, this resolution authorizes appropriations representing 50% of the full 2008 appropriations with the exception of debt service and obligations associated with seasonal considerations; and

WHEREAS, the total emergency temporary resolutions adopted in the year CY 2008 pursuant to the provisions of N.J.C.A. 40A 4-20 (Chapter 96, P.L.1951 as amended) including this resolution total: \$16,456,022.60 for the municipal budget and \$593,615.00 for the operations of the swim utility;

NOW THEREFORE, BE IT RESOLVED, that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made for each of the accounts listed on the attached.

2. That each said emergency temporary appropriation will be provided for in the CY 2009 budget under the same title as appropriated above.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

<u>Appropriations</u>	2008 Municipal Budget	2009 Temporary Emergency
Administration (30)		
Salary & Wages	160,000.00	80,000.00
Other Expenses	176,660.00	88,330.00
Office of the Mayor (10)		
Salary & Wages	65,000.00	32,500.00
Other Expenses	5,000.00	2,500.00
Ethics Commission		
Salary & Wages		
Other Expenses	2,500.00	1,250.00
Township Council (21)		
Salary & Wages	18,000.00	9,000.00
Other Expenses	3,500.00	1,750.00
Municipal Clerk (20)		
Salary & Wages	197,000.00	98,500.00
Other Expenses	67,200.00	33,600.00
Finance		
Salary & Wages	236,500.00	118,250.00
Other Expenses	26,500.00	13,250.00
Annual Audit	35,000.00	0.00
Central Computer Services		
Salary & Wages	32,500.00	16,250.00
Other Expenses	24,800.00	12,400.00
Tax Collector		
Salary & Wages	235,000.00	117,500.00
Other Expenses	29,250.00	14,625.00

Tax Assessor		
Salary & Wages	227,500.00	113,750.00
Other Expenses	87,100.00	43,550.00
Legal Services		
Other Expenses	400,000.00	200,000.00
Engineering Services		
Salary & Wages	305,000.00	152,500.00
Other Expenses	130,750.00	65,375.00
Economic Development		
Salary & Wages	2,000.00	1,000.00
Other Expenses	10,000.00	5,000.00
Grant Administration		
Salary & Wages		
Other Expenses	12,000.00	6,000.00
Cable Studio		
Salary & Wages		
Other Expenses	50,000.00	25,000.00
Inter- Governmental Relations		
Other Expenses	1,000.00	500.00
Homeland Security		
Salary & Wages	30,000.00	15,000.00
Other Expenses	54,500.00	27,250.00
Historic Sites Commission		
Other Expenses	3,000.00	1,500.00
Planning Board		
Salary & Wages	68,850.00	34,425.00
Other Expenses	40,500.00	20,250.00
Planning Board Contractual		
Other Expenses	31,400.00	15,700.00
Zoning Board		
Salary & Wages	174,000.00	87,000.00
Other Expenses	47,650.00	23,825.00
Liability Insurance	397,675.00	250,000.00

Workers Comp	525,000.00	300,000.00
Group Insurance	2,304,500.00	1,152,250.00
Unemployment Insurance		
Police		
Salary & Wages	8,440,000.00	4,220,000.00
Other Expenses	385,250.00	192,625.00
Crime Prevention		
Other Expenses	37,130.00	18,565.00
School Educational Programs		
Other Expenses	16,900.00	8,450.00
Highway Safety		
Other Expenses	33,000.00	16,500.00
Emergency Management		
Salary & Wages	23,000.00	11,500.00
Other Expenses	16,850.00	8,425.00
Aid to Volunteer Ambulance Companies		
Other Expenses	60,000.00	0.00
Uniform Fire Safety Act		
Salary & Wages	141,500.00	70,750.00
Other Expenses	15,050.00	7,525.00
Municipal Prosecutors Office		
Salary & Wages	34,000.00	17,000.00
Streets and Road Maint		
Salary & Wages	1,700,000.00	850,000.00
Other Expenses	45,790.00	22,895.00
Snow Removal		
Salary & Wages	50,000.00	25,000.00
Other Expenses	365,790.00	182,895.00
Public Works – Other		
Salary & Wages	377,000.00	188,500.00
Other Expenses	66,020.00	33,010.00

Shade Tree Commission		
Salary & Wages		
Other Expenses	2,000.00	1,000.00
Solid Waste Collection		
Salary & Wages	23,000.00	11,500.00
Other Expenses	700,528.00	350,264.00
Buildings & Grounds		
Salary & Wages	454,500.00	227,250.00
Other Expenses	212,140.00	106,070.00
Vehicle Maintenance		
Salary & Wages	440,000.00	220,000.00
Other Expenses	129,800.00	64,900.00
Community Services Act		
Other Expenses	94,700.00	47,350.00
Open space Committee		
Other Expenses	2,500.00	1,250.00
Public Health Services - Registrar		
Salary & Wages	6,500.00	3,250.00
Other Expenses	1,890.00	945.00
Drug Abuse Control		
Salary & Wages	4,000.00	2,000.00
Other Expenses	7,550.00	3,775.00
Environmental Health Services		
Salary & Wages	2,000.00	1,000.00
Other Expenses	8,000.00	4,000.00
Animal Control Services		
Other Expenses	52,000.00	26,000.00
Recreation		
Salary & Wages	487,500.00	243,750.00
Other Expenses	138,822.00	69,411.00
Teen Program		
Salary & Wages		
Other Expenses	20,000.00	10,000.00

Park Maintenance		
Salary & Wages	570,000.00	285,000.00
Other Expenses	44,680.00	22,340.00
Municipal Library		
Other Expenses	16,200.00	8,100.00
Prior Year Bills	15,500.00	0.00
Accumulated Leave Compensation	1,000.00	0.00
Deficit in Animal control	5,138.89	0.00
Postage		
Other Expenses	60,000.00	30,000.00
Electricity	394,000.00	197,000.00
Street Lighting	634,000.00	317,000.00
Telephone	150,000.00	75,000.00
Water	20,000.00	10,000.00
Natural Gas	95,000.00	47,500.00
Sewer	10,000.00	5,000.00
Gasoline	465,000.00	232,500.00
Landfill Disposal Costs	201,300.00	100,650.00
PERS	452,500.00	620,000.00
FICA	1,050,000.00	525,000.00
Contingent	10,000.00	0.00
Municipal Court		
Salary & Wages	350,000.00	175,000.00
Other Expenses	129,600.00	64,800.00
Public Defender		
Salary & Wages	17,000.00	8,500.00
Other Expenses		

Affordable Housing		
Salary & Wages	4,000.00	2,000.00
Other Expenses	4,300.00	2,150.00
Police Dispatch 911		
Salary & Wages	660,000.00	330,000.00
Other Expenses	248,000.00	124,000.00
LOSAP		
Other Expenses	85,000.00	0.00
PFRS		
Other Expenses	1,710,000.00	1,762,510.00
SFSP Fire District Payments		
Other Expenses	14,229.00	7,114.50
Clean Communities Act	45,545.33	0.00
Monmouth Drug & Alcohol		
Grant Share	32,008.00	0.00
Local Share	8,002.00	0.00
Recycling tonnage Grant	25,100.67	40,370.49
NJDOT Union Hill Road	160,000.00	0.00
Child Passenger Safety		
Body Armor Grant	8,007.68	6,970.90
StormWater Grant	20,619.00	0.00
Pedestrian Safety Grant	12,496.00	0.00
Highway Safety Grant	47,000.00	0.00
Matching Funds for Grants		
Smart Growth Grant		
Grant Share	50,000.00	0.00
Local Match	50,000.00	0.00
Alcohol Rehab Grant	2,086.08	1,124.46
Handicapped Rec Opportunities		

Grant		
Grant Share		2,100.00
Local Share		
Capital Improvement Fund		
Other Expenses	150,000.00	0.00
Acquisition of Rights of Way		
Bond Principal	1,798,000.00	391,000.00
Bond Anticipation Notes	41,175.00	41,175.00
Bond Interest	650,000.00	290,000.00
Note Interest	182,000.00	248,750.00
Green Acres Trust - P & I	28,865.00	14,432.25
Capital Lease program		
Principal	462,100.00	0.00
Interest	63,050.00	22,000.00
Emergency Authorizations	105,000.00	0.00
Deferred Charges		
Reserve for Uncollected Taxes	1,825,000.00	0.00
Totals	33,994,047.65	16,456,022.60
Appropriations		
Salary & Wages	421,500.00	210,750.00
Other Expenses	645,255.00	322,627.50
Capital Outlay	100,000.00	50,000.00
Payment of Bond Principal	10,000.00	10,000.00
Payment of Bond Anticipation Notes	0.00	
Payment of Bond Interest	1,300.00	237.50
Payment of Note Principal		
Public Employees Retirement System		

FICA

Fund Totals

1,178,055.00

593,615.00

The following Res. # 2009-85 (Authorizing Reimbursement for sinkhole - 309 Wembley Place) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-85

RESOLUTION AUTHORIZING THE REIMBURSEMENT OF EXPENSES
FOR THE REMEDIATION OF SINK HOLE HAZARDS FOR 309 WEMBLEY PLACE,
MARLBORO, NEW JERSEY FROM FUNDS APPROPRIATED FOR SUCH
PURPOSES BY ORDINANCE #2004-23

WHEREAS, the Township of Marlboro, by Ordinance #2004-23, adopted on October 28, 2004, appropriated funds in the amount of \$83,877.53 for the purpose of providing funds (the "Appropriated Funds") to be used for the investigation and remediation of sink holes on properties located in the Bolling Brook/Country Hills Subdivision (the "Subdivision"); and

WHEREAS, Ordinance #2004-23 specifies that the remediation amount for any one applicant shall be equal to the lesser of all remediation costs, or, \$7,500.00, and that under no circumstances shall an amount more than \$7,500.00 be paid out in respect of any subdivision lot; and

WHEREAS, Ordinance #2004-23 conditions the reimbursement of such funds upon the Township Chief Financial Officer's review and approval of such application for reimbursement; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated January 29, 2009 and revised February 2, 2009, a copy of which is attached hereto and made a part hereof; and

WHEREAS, CME has reviewed the application for reimbursement of funds for the amount of \$4,200.00 from the owner of 309 Wembley Place, Block 142.01, Lot 10, Marlboro, New Jersey, for sink hole remediation, and, upon confirmation of the remediation and monies expended by the resident for same, recommends that such request for reimbursement be approved; and

WHEREAS, the Township Council now wishes to take the following action regarding the reimbursement of monies for remediation of sink hole hazards at the property known as Block 309 Wembley Place, Block 142.01, Lot 10, Marlboro, New Jersey, .

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 amount of \$4,200.00 from the Appropriated Funds (as defined hereinabove), be paid to the owner of 309 Wembley Place, Block 142.01, Lot 10, Marlboro, New Jersey, for the remediation of sink hole hazards at the subject property in accordance with the provisions of Ordinance #2004-23; and

BE IT FURTHER RESOLVED, that the reimbursement of such funds is conditioned upon the review and approval of the Chief Financial Officer of the Township of Marlboro; and

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

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

The following Res. # 2009-54 (Tabled 1/22 - Award of Bid - Farming Former DiMeo Property) was introduced by reference, offered by Council Vice President LaRocca and seconded by Council President Rosenthal. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-54

A RESOLUTION AWARDING A CONTRACT TO MATT ZELEZNIK FOR THE LEASE OF FARMING RIGHTS ON THE PARCEL OF LAND OWNED BY THE TOWNSHIP OF MARLBORO KNOWN AS THE "DIMEO PROPERTY", LOCATED ON CONOVER ROAD AND DESIGNATED AS BLOCK 159, LOT 1 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the lease of farming rights for a one (1) year period on a parcel of land owned by the Township known as the "DiMeo Property", which is located

on Conover Road and designated as Block 159, Lot 1 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey (the "Property") and on December 16, 2008, received one (1) bid therefor; and

WHEREAS, the one (1) bid received were as follows:

Contractor	Bid Amount (Lease Payment to Township)
Matt Zeleznik	\$1,000.00

WHEREAS, the Township Administration and the Director of Public Works have reviewed the said bid received and found that the bid contained certain technical deficiencies which are not mandatory items for bid specifications required by N.J.S.A. 40A:11-23.2 and which may therefore be waived by the Township in its discretion; and

WHEREAS, the Township Administration and the Director of Public Works desire that the Property should be farmed and recommend that this bid be awarded to Matt Zeleznik as the lowest responsible bidder conditioned upon the bidder executing all documents provided in the bid specifications and providing the Township with evidence of insurance acceptable to the Township; and

WHEREAS, the Mayor and Township Council have indicated their desire to award a lease for farming rights on the Property to Matt Zeleznik for a period of one (1) year for a lease payment to the Township of \$1,000.00, conditioned upon the bidder executing all documents provided in the bid specifications and providing the Township with evidence of insurance acceptable to the Township.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that farming rights on the property known as the "DiMeo Property" located on Conover Road and designated as Block 159, Lot 1 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, be awarded to Matt Zeleznik for a period of one (1) year, for a lease payment to the Township of \$1,000.00, conditioned upon the bidder's execution all documents provided in the bid specifications and provision of evidence of insurance acceptable to the Township; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute and the Township Clerk to witness a

Contract with Matt Zeleznik for farming rights on the property known as the "DiMeo Property" (as more specifically described hereinabove) for a period of one (1) year, for a lease payment to the Township of \$1,000.00; and

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

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

The following Res. # 2009-55 (Tabled 1/22 - Award of Bid - Farming Former Mc Carron Property) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-55

A RESOLUTION AWARDING A CONTRACT TO MATT ZELEZNIK FOR THE LEASE OF FARMING RIGHTS ON THE PARCEL OF LAND OWNED BY THE TOWNSHIP OF MARLBORO KNOWN AS THE "MCCARRON PROPERTY", LOCATED ON PLEASANT VALLEY ROAD AND DESIGNATED AS BLOCK 155, LOT 13.03 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the lease of farming rights for a one (1) year period on a parcel of land owned by the Township known as the "McCarron Property", which is located on Pleasant Valley Road and designated as Block 155, Lot 13.03 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey (the "Property") and on December 16, 2008, received one (1) bid therefor; and

WHEREAS, the one (1) bid received were as follows:

Contractor	Bid Amount (Lease Payment to Township)
Matt Zeleznik	\$500.00

WHEREAS, the Township Administration and the Director of Public Works have reviewed the said bid received and found that the bid contained certain technical deficiencies which are not mandatory items for bid specifications required by N.J.S.A. 40A:11-23.2 and which may therefore be waived by the Township in its discretion; and

WHEREAS, the Township Administration and the Director of Public Works desire that the Property should be farmed and recommend that this bid be awarded to Matt Zeleznik as the lowest responsible bidder conditioned upon the bidder executing all documents provided in the bid specifications and providing the Township with evidence of insurance acceptable to the Township; and

WHEREAS, the Mayor and Township Council have indicated their desire to award a lease for farming rights on the Property to Matt Zeleznik for a period of one (1) year for a lease payment to the Township of \$500.00, conditioned upon the bidder executing all documents provided in the bid specifications and providing the Township with evidence of insurance acceptable to the Township.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that farming rights on the property known as the "McCarron Property" located on Pleasant Valley Road and designated as Block 155, Lot 13.03 on the Official Tax Map of the Township of Marlboro, Monmouth County, New Jersey, be awarded to Matt Zeleznik for a period of one (1) year, for a lease payment to the Township of \$500.00, conditioned upon the bidder's execution all documents provided in the bid specifications and provision of evidence of insurance acceptable to the Township; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute and the Township Clerk to witness a Contract with Matt Zeleznik for farming rights on the property known as the "McCarron Property" (as more specifically described hereinabove) for a period of one (1) year, for a lease payment to the Township of \$500.00; and

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

- a. Matt Zeleznik
- b. Mayor Jonathan Hornik
- c. Township Business Administrator

- d. Township Chief Financial Officer
- e. Township Director of Public Works
- g. DeCotiis, FitzPatrick, Cole & Wisler, LLP

As the consent agenda, the following Resolution was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Cantor and passed on a roll call vote of 5 - 0 in favor: Res. #2009-86 - Raffle License - Collier Services - Off-premise 50/50).

RESOLUTION # 2009-86

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 1-09 (Off Premise 50/50) be and it is hereby granted to Collier Services, 160 Conover Road, Wickatunk, NJ 07765.

BE IT FURTHER RESOLVED that said Raffle will be held on June 3, 2009 at 7 PM at Collier Services, 160 Conover Road, Wickatunk, NJ 07765.

The following items were carried to the February 19th agenda: Item #37 (Tax Collector Resolutions).

At 11:30PM, Councilman Cantor moved that the meeting be adjourned. This was seconded by Council Vice President LaRocca, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: March 19, 2009

OFFERED BY: La Rocca AYES: 5

SECONDED BY: Marder NAYS: 0

ALIDA MANCO,
MUNICIPAL CLERK

STEVE ROSENTHAL,
COUNCIL PRESIDENT