

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

October 15, 2009

The Marlboro Township Council held its regularly scheduled meeting on October 15, 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 (via skype), Council Vice President LaRocca, Councilwoman Marder, Councilwoman Tragni and Council President Rosenthal were present.

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

Councilwoman Tragni moved that the minutes of September 10, 2009 be approved. This motion was seconded by Council Vice President LaRocca and the minutes were passed on a roll call vote of 4 - 0 in favor with Councilman Cantor abstaining.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-29 (Revised Flood Hazard Mitigation). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-373/Ord. # 2009-29 (Revised Flood Hazard Mitigation) was introduced by reference, offered

by Council Vice President LaRocca, seconded by Councilwoman Tragni and was passed on a roll call vote of 4 - 0 in favor with Councilman Cantor abstaining.

RESOLUTION # 2009-373

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

ORDINANCE # 2009-29

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84, "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE III, "ZONING STANDARDS AND REGULATIONS", SECTION 84-37, "FLOOD DAMAGE PREVENTION", SUB-SECTION 84-37(D) "ADMINISTRATION" AND SUB-SECTION 84-37(F) FLOODPLAIN MANAGEMENT REGULATIONS" PURSUANT TO THE REQUEST OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

which was introduced on September 10, 2009, public hearing held October 15, 2009, be adopted on second and final reading this 15th day of October, 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 # 2009-32 (Amend Chapter 84 - Rezoning Land Conservation to R-80 - Residential District). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-374/Ord. # 2009-32 (Amend Chapter 84 - Rezoning Land Conservation to R-80 - Residential District) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Tragni and was passed on a roll call vote of 4 - 0 in favor with Councilman Cantor abstaining.

RESOLUTION # 2009-374

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

ORDINANCE # 2009-32

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 84-29B ENTITLED "ZONING MAP", OF CHAPTER 84, ENTITLED "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO RE-ZONE CERTAIN LANDS ON

BEACON HILL ROAD AND OLD FARM ROAD FROM THE LAND
CONSERVATION DISTRICT TO THE R-80 RESIDENTIAL DISTRICT

which was introduced on September 10, 2009, public hearing held October 15, 2009, be adopted on second and final reading this 15th day of October, 2009.

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

The following Res. # 2009-375 (Refund of Development Fees - JP Morgan Chase) was introduced by reference, offered by Councilwoman Marder and seconded by Council President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-375

A RESOLUTION AUTHORIZING THE REFUND OF NON-RESIDENTIAL
DEVELOPMENT FEES TO JP MORGAN CHASE BANK, N.A.
PURSUANT TO THE PROVISIONS OF N.J.S.A. 40:55D-8.6

WHEREAS, N.J.S.A. 40:55D-8.6 provides for the refund of non-residential development fees collected by municipalities for non-residential development prior to July 1, 2010, provided that such non-residential developments have received either preliminary approval pursuant to N.J.S.A. 40:55D-46, or final approval, pursuant to N.J.S.A. 40:55D-50, prior to July 1, 2010 and provided that a permit for the construction of such project has been issued by the local enforcing agency in accordance with N.J.S.A. 52:27D-131 prior to January, 2013; and

WHEREAS, JP Morgan Chase Bank, N.A. (the "Developer"), has applied for a refund of non-residential development fees in the amount of Twenty-Three Thousand Seven Hundred Three Dollars and 33/100 (\$23,703.34) (the "Non-Residential Development Fees") collected by the Township of Marlboro, for the non-residential development known as "Chase Bank", (the "Non-Residential Development") located on the property known as Block 268, Lots 55-57, 59-62, 65 & 80, on the official tax map of the Township of Marlboro (the "Property"); and

WHEREAS, the Township Administration has reviewed the Developer's application for such refund and has determined that the Developer has received either preliminary approval pursuant to N.J.S.A. 40:55D-46, or final approval, pursuant to N.J.S.A. 40:55D-50, prior to July 1, 2010 and that a permit for the construction of such project has been issued by the local enforcing agency in

accordance with N.J.S.A. 52:27D-131 prior to January, 2013 and that the Developer is eligible for a refund of the Non-Residential Development Fees collected by the Township of Marlboro for the Non-Residential Development; and

WHEREAS, the Township Council of the Township of Marlboro is desirous of authorizing the refund of the aforescribed Non-Residential Development Fees to the Developer pursuant to the provisions of N.J.S.A. 40:55D-8.6.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the refund of Non-Residential Development Fees in the amount of Twenty-Three Thousand Seven Hundred Three Dollars and 33/100 (\$23,703.34) to the Developer known as JP Morgan Chase Bank, N.A., for the Non-Residential Development known as "Chase Bank" on the Property known as Block 268, Lots 55-57, 59-62, 65 & 80, on the official tax map of the Township of Marlboro be and is hereby authorized pursuant to the provisions of N.J.S.A. 40:55D-8.6.

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

- a. JP Morgan Chase Bank, N.A. c/o Gibbons, P.C. One Gateway Center, Newark, NJ 07102-5310, Attn: Nancy A. Lottinville, Esq.
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-376 (Advising and Consenting to the Appointment of Rabbi Weber to Ethics Board - 5 year term) was introduced by reference, offered by Councilwoman Marder and seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor. Council members thanked Rabbi Weber for serving the community. Mayor Hornik swore in Rabbi Weber.

RESOLUTION # 2009-376

A RESOLUTION CONSENTING TO THE MAYOR'S RE-APPOINTMENT OF
RABBI DONALD WEBER TO THE MARLBORO TOWNSHIP
ETHICAL STANDARDS BOARD FOR A TERM OF FIVE (5) YEARS

WHEREAS, Section 14-7 of the Code of the Township of Marlboro establishes the Marlboro Township Ethical Standards Board; and

WHEREAS, said Board shall consist of six (6) members who shall be appointed by the Mayor with the advice and consent of the Township Council; and

WHEREAS, the members of the Marlboro Township Ethical Standards Board shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs; and

WHEREAS, by Resolution #2005-173, Rabbi Donald Weber was appointed to the Marlboro Township Ethical Standards Board for a term of four (4) years; and

WHEREAS, Rabbi Weber's term expired March 31, 2009; and

WHEREAS, the Mayor desires to re-appoint Rabbi Donald Weber to the Marlboro Township Ethical Standards Board for a five (5) year term; and

WHEREAS, the Township Council desires to consent to the Mayor's re-appointment of Rabbi Donald Weber to the Marlboro Township Ethical Standards Board for a five (5) year term.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that the Township Council of the Township of Marlboro consents to the re-appointment of Rabbi Donald Weber to the Marlboro Township Ethical Standards Board for a five (5) year term; and

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

- a. Rabbi Donald Weber
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-377 (Authorizing Use of Funds from Affordable Housing Trust Fund for Repairs of Retaining Wall - Glenbrook) was introduced by reference, offered by Councilwoman Tragni and seconded by Council President Rosenthal. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-377

A RESOLUTION AUTHORIZING THE TRANSFER FROM AND THE USE OF FUNDS FROM THE TOWNSHIP OF MARLBORO'S AFFORDABLE HOUSING TRUST FUND FOR REPAIRS TO THE RETAINING WALLS AT GLENBROOK CONDOMINIUM ASSOCIATION, INC. FOR THE ADMINISTRATION OF FUNDS AND PROJECT REVIEW FOR THE REPAIRS TO GLENBROOK ESTATES - SECTION 2 RETAINING WALLS

WHEREAS, the Township of Marlboro is under the jurisdiction of the New Jersey Council on Affordable Housing ("COAH") and has established an Affordable Housing Trust Fund ("Trust Fund") for the collection, maintenance and expenditure of development fees pursuant to N.J.S.A. 40:55D-8.1 et seq., and COAH's Rules; and

WHEREAS, the condominium complex known as Glenbrook Estates located in Marlboro, New Jersey ("Glenbrook") is comprised of two (2) sections: Section 1 is a large market rate development; and Section 2 contains eighty (80) age-restricted units that are income restricted to low and moderate income households, such income-restricted units serving as COAH credits under the Township of Marlboro's ("Township") Fair Share Plan; and

WHEREAS, the retaining walls in Section 2 COAH, the Qualified Affordable Housing section of the Development require extensive repair and/or replacement; and

WHEREAS, Glenbrook received \$150,000.00 as the net amount of a settlement payment for the repair of the retaining walls in Section 2 from a litigation action entered in the Superior Court of New Jersey, Monmouth County, entitled, Glenbrook Condominium Association, Inc. v. R. Curley Backhoe Services, et als, Docket No. MON-L-1924-05 (the "Litigation"); and

WHEREAS, Glenbrook requested that the Township provide additional funds in the amount of \$50,000.00, solely for the repair of the Section 2 retaining walls from the Township's Affordable Housing Trust Fund and further requested that the Township administer all repair funds, including the \$150,000.00 received by Glenbrook from the Litigation, by the establishment of a special trust account ("Special Account") for all funds totaling \$200,000.00; and

WHEREAS, Glenbrook additionally requested that the Township oversee the construction process for the repair of the Section 2 retainer walls, including the review of the bid specifications, bid

process, construction plans, construction, billing, payment and inspection and approval processes; and

WHEREAS, the repair of the Glenbrook Section 2 retainer walls to be funded from the Special Account shall consist of: an evaluation of information relative to the existing retaining walls located within the affordable housing portion of the Glenbrook development and said evaluation will include the review and approval of design calculations to facilitate the repair, remediation, and/or replacement of existing retaining walls (the "Project"); and

WHEREAS, all fees for the repair of the Glenbrook Section 2 retaining walls, i.e, the Project, which shall include professional fees incurred by Glenbrook and the Township, construction fees and materials, shall be funded from the Special Account to the extend of the available funds within the Special Account; and

WHEREAS, COAH has agreed that the Township may provide additional funds in the amount of \$50,000.00 from the Township's Affordable Housing Trust Fund to Glenbrook for the Project to repair the retaining walls at Glenbrook Section 2 because such funds would be a valid expense in furtherance of affordable housing goals; and

WHEREAS, COAH has further ruled that engineering and legal fees incurred by the Township from its engineering and legal professionals for the administration of the Special Account and the review of the engineering, bidding and construction processes, including inspection fees, may be reimbursed to the Township or paid directly from the Township's Affordable Housing Trust Fund; and

WHEREAS, Glenbrook has hired Maser Consulting, P.A., ("Maser") qualified professional engineers, to prepare plans and undertake construction administration pursuant to its proposal dated August 31, 2009 for the Project; and

WHEREAS, CME Associates, the Township's engineers, shall review and approve Maser's product and services in connection with the Project; and

WHEREAS, the Township Council desires to provide additional funds from the Township's Affordable Housing Trust Fund in the amount of \$50,000.00, to assist Glenbrook in undertaking and completing the Project, in furtherance of the goals of Affordable Housing and the Township's Fair Share Plan; and

WHEREAS, the Township Council desires to have the Township establish a Special Account for the Project and to administer such account; and

WHEREAS, the Township Council desires that the Township shall, by way of its Township Engineers, CME Associates, review and approve Maser's product and services in connection with the Project and shall observe, review, inspect and approve the various phases of the Project; and

WHEREAS, the Township Council desires to enter into an agreement with Glenbrook's condominium association setting forth the terms for the establishment and administration of the Special Account and for the management of the Project.

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

1. the Township's establishment and administration of a Special Trust Account ("Special Account") from which the repair of Glenbrook Estate's Section 2 Retaining Walls (the "Project") shall be funded; and

2. that the Township shall deposit the amount of \$150,000.00 it receives from Glenbrook into the Special Account to fund the Project; and

3. that the Township shall provide additional funds from the Township's Affordable Housing Trust Fund in the amount of \$50,000.00, as approved by the Council on Affordable Housing, towards the Project, which shall be deposited into the Special Account, for a total amount of \$200,000.00 to be deposited into the Special Account; and

4. that the Township shall, by way of its Township Engineers, CME Associates, oversee, review and approve Maser's plans and services in connection with the repairs and shall observe, review, inspect and approve the construction of such repairs, fees for same to be reimbursed to the Township or paid directly from the Township's Affordable Housing Trust Fund; and

5. that all funds for the construction of the Project, and for any professional services incurred by Glenbrook in connection with the Project, shall be paid solely from the Special Account, to the extent of the available funds; and

6. the Mayor and Town Clerk may execute, seal and deliver a contract between the Township and Glenbrook Condominium Association, Inc. setting forth the terms for the establishment and administration of the Special Trust Account and for the management of the Project; and

7. that a certified copy of this Resolution shall be provided to each of the following:

- a. Glenbrook Condominium Associates, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Stephen Sukel, Esq.
- f. Ken Biedzynski, Esq.
- g. Maser Consulting, P.A
- h. CME Associates
- i. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-378 (Authorizing Reimbursement from Affordable Housing Trust Fund for Replacement of Sprinkler System - Glenbrook) was introduced by reference, offered by Councilwoman Marder and seconded by Council Vice President LaRocca. After discussion, the Resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-378

A RESOLUTION AUTHORIZING THE REIMBURSEMENT OF MONIES USED FOR THE REPLACEMENT OF THE SPRINKLER SYSTEM TO GLENBROOK CONDOMINIUM ASSOCIATION, INC. FROM THE TOWNSHIP OF MARLBORO'S AFFORDABLE HOUSING TRUST FUND AS AUTHORIZED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

WHEREAS, the Township of Marlboro is under the jurisdiction of the New Jersey Council on Affordable Housing ("COAH") and has established an Affordable Housing Trust Fund ("Trust Fund") for the collection, maintenance and expenditure of development fees pursuant to N.J.S.A. 40:55D-8.1 et seq., and COAH's Rules; and

WHEREAS, the condominium complex known as Glenbrook Estates located in Marlboro, New Jersey ("Glenbrook") is comprised of two (2) sections: Section 1 is a large market rate development; and Section 2 contains eighty (80) age-restricted units that are income restricted to low and moderate income households, such income-

restricted units serving as COAH credits under the Township of Marlboro's ("Township") Fair Share Plan; and

WHEREAS, the sprinkler system in Section 2 COAH, the Qualified Affordable Housing section of the Development required replacement (the "Sprinkler Project"); and

WHEREAS, Glenbrook paid \$7,021.50 for such Sprinkler Replacement; and

WHEREAS, Glenbrook has requested that the Township reimburse the funds expended for the Sprinkler Project from the Township's Affordable Housing Trust Fund; and

WHEREAS, COAH has agreed that the Township may reimburse the funds expended by Glenbrook for the Sprinkler Project in the amount of \$7,021.50 as such funds would be a valid expense in furtherance of affordable housing goals; and

WHEREAS, the Township Council desires to reimburse Glenbrook for the monies expended for the Sprinkler Project in the amount of \$7,021.50 from the Township's Affordable Housing Trust Fund in furtherance of the goals of Affordable Housing and the Township's Fair Share Plan and as approved by COAH; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that it hereby authorizes and approves the issuance of a check payable to Glenbrook Condominium Association, Inc. for reimbursement of funds in the amount of \$7,021.50 for the repair of Glenbrook Estates' Section 2 sprinkler system, such funds to be taken from the Township's Affordable Housing Trust Fund, in furtherance of the goals of Affordable Housing and Fair Share Plan pursuant to the approval granted by the New Jersey Council on Affordable Housing; and

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

- a. Glenbrook Condominium Associates, Inc.
- b. Mayor Jonathan L. Hornik
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Stephen Sukel, Esq.
- f. Ken Biedzynski, Esq.
- g. Maser Consulting, P.A
- h. CME Associates

i. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-379 (Authorizing Developer Agreement and Parking Agreement - American Plaza, LLC) was removed from the agenda.

The following Res. # 2009-380 (HDSRF Grant - 88 Conover Road and Marlboro State Psychiatric Hospital Property) was introduced by reference as amended, offered by Council Vice President LaRocca, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-380 (AS AMENDED)

A RESOLUTION AUTHORIZING THE TOWNSHIP TO SUBMIT AN APPLICATION TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR FUNDS FROM THE HAZARDOUS DISCHARGE SITE REMEDIATION FUND TO PERFORM AN ENVIRONMENTAL ASSESSMENT AND INVESTIGATION AT THE STATE CORRECTIONAL FACILITY SITE LOCATED ON BLOCK 157, LOT 34.01, (88 CONOVER ROAD) AND THE STATE PSYCHIATRIC HOSPITAL SITE LOCATED ON BLOCK 159, LOT 11 (ROUTE 520), MARLBORO TOWNSHIP, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, the New Jersey Department of Environmental Protection ("NJDEP") established the Hazardous Discharge Site Remediation Fund ("HDSRF") to provide financial assistance to municipalities, businesses and homeowners for the investigation and/or remediation of suspected or known discharges of a hazardous substance; and

WHEREAS, the Township of Marlboro intends to acquire the sites known as the State Correctional Facility, located on property known as Block 157, Lot 34.01, Marlboro Township, Monmouth County, New Jersey and the State Psychiatric Hospital located on property known as Block 159, Lot 11, Marlboro Township, Monmouth County, New Jersey (the "Site"), by voluntary conveyance with funds acquired from the State of New Jersey Green Acres Open Space Program for open space and recreational purposes; and

WHEREAS, Township Council of the Township of Marlboro has determined that there has been, or it suspects that there has been, a discharge of hazardous substances or hazardous waste at the Site; and

WHEREAS, the Township of Marlboro desires to apply to the NJDEP for funding from the HDSRF for the assessment and investigation of the Site in order to determine the extent or the existence of any hazardous substance or hazardous waste thereupon.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Township of Marlboro is committed to establishing the Site for open space and recreational purposes and finds that a realistic opportunity exists for the establishment of the Site for such purposes within a three (3) year period after the completion of the remediation of the Site; and

BE IT FURTHER RESOLVED, that the Township of Marlboro is hereby authorized to submit an Hazardous Discharge Site Remediation Fund application to the New Jersey Department of Environmental Protection for funds in the amount of \$128,554.00 to conduct environmental assessment and investigations at the Site; and

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

- a. New Jersey Department of Environmental Protection
- b. ICON Engineering, a Division of CME Associates
- c. Mayor Jonathan L. Hornik
- d. Township Administrator
- e. Township Chief Financial Officer
- f. Director of Economic Development
- g. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-334 (Purchase on State Contract - Police scheduling, Time management and payroll software) was introduced by reference, offered by Councilman Cantor and seconded by Council President Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-334

A RESOLUTION AUTHORIZING THE PURCHASE OF COMPUTER SOFTWARE
FOR THE MARLBORO TOWNSHIP POLICE DEPARTMENT PURSUANT
TO STATE CONTRACT # A-72727

WHEREAS, the Township of Marlboro Division of Police has requested that the Township purchase computer software from DELL for police officer scheduling, time management and payroll, under State Contract #A-72727, as more fully specified in DELL'S Quote #SXB09101302, attached hereto and made a part hereof, for a total amount of \$16,998.40 (collectively, the "Computer Software"); and

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

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide new and updated Computer Software to the Division of Police for its scheduling, time management and payroll needs; and

WHEREAS, funds are available from Account Number 9-01-106-209 for the amount of \$16,998.40 and have been certified to by the Chief Financial Officer of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase the Computer Software (as described and defined hereinabove) from DELL under State Contract #A-72727 for the total amount of \$16,998.40, as more fully specified pursuant to DELL'S Quote #SXB09101302, attached hereto and made a part hereof; and

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

- a. DELL
- b. Township Administrator
- c. Township Division of Police
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Res. # 2009-381 (Authorizing Broker of Record Letter - North American Insurance Management Corp.) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilwoman Marder. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-381

RESOLUTION AUTHORIZING EXECUTION OF BROKER OF RECORD
LETTER WITH NORTH AMERICAN INSURANCE MANAGEMENT CORPORATION
FOR BENEFITS CONSULTING AND BROKERAGE SERVICES AS AN EXCEPTION
TO THE COMPETITIVE PUBLIC BIDDING PROCESS UNDER N.J.S.A. 40A:11-5(M)

WHEREAS, the Township of Marlboro requires the services of a consultant to provide insurance benefits consulting and brokerage services pursuant to the provisions of N.J.S.A. 40A:10-36; and

WHEREAS, such services, i.e., insurance, including the benefits consulting and brokerage services are Extraordinary Unspecifiable Services, are exceptions pursuant to N.J.S.A. 40A:11-5(m) and may be awarded without competitive bidding therefor; and

WHEREAS, said services cannot reasonably be described by written specifications; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. as amended requires that the Resolution authorizing the award of contracts which are treated in accordance with the requirements for extraordinary unspecifiable services without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, the Township has entered into a Contract with North American Insurance Management Corporation ("NAIMC") for risk management services and desires to execute and delivery to NAIMC a Broker of Record ("BOR") Letter in a form to be reviewed and approved by the Township Attorney, for insurance benefits consulting and brokerage services, such services to begin October 1, 2009 and terminating on December 31, 2010; and

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

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

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

WHEREAS, the Local Public Contracts Law, N.J.S.A., 40A:11-1, et seq., as amended, requires that this Resolution be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, being the governing body thereof, as follows:

1. The Township Council of the Township of Marlboro, in accordance with the Local Public Contracts Law, hereby authorizes and approves the execution of a Broker of Record Letter with North American Insurance Management Corporation ("NAIMC") regarding the provision of insurance benefits consulting and brokerage services, beginning October 1, 2009 and terminating on December 31, 2010, pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5, such services being an exception under N.J.S.A. 40A:11-5(m) and in accordance with the terms of the Contract; and

2. The contract is awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(a)(i); and

3. The Mayor and Township Clerk are hereby authorized and directed to execute, seal and deliver a Broker of Record Letter for the aforesaid insurance benefits consulting and brokerage services on behalf of and in the name of the Township of Marlboro as well as any amending contract documents that may be necessary; and

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

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

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

- a. North American Insurance Management Corporation
- b. Monmouth County Municipal Joint Insurance Fund
- c. Mayor Jonathan Hornik
- d. Marlboro Township Administrator
- e. Marlboro Township Chief Financial Officer
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

Council Vice President LaRocca recused himself and left the room.

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilwoman Marder, seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 0 in favor (Absent: LaRocca): Res. #2009-382 (Raffle License Marlboro Pop Warner - Armchair Race, Res. #2009-383 (Raffle License Marlboro Pop Warner - On Premise 50/50)

RESOLUTION # 2009-382

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 27-09 (Armchair Race) be and it is hereby granted to Marlboro Township Pop Warner, 242 Route 79 North, Suite 3, Morganville, NJ 07751.

BE IT FURTHER RESOLVED that said Raffle will be held on November 20, 2009 at the Robertsville Fire House, 94 Route 520, Morganville, NJ 07751 from 7 - 11 PM.

RESOLUTION # 2009-383

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 28-09 (On Premise 50/50) be and it is hereby granted to Marlboro Township Pop Warner, 242 Route 79 North, Suite 3, Morganville, NJ 07751.

BE IT FURTHER RESOLVED that said Raffle will be held on November 20, 2009 at the Robertsville Fire House, 94 Route 520, Morganville, NJ 07751 from 7 - 11 PM.

Council Vice President LaRocca returned to the Council meeting Room.

The following Res. # 2009-385/Ord. # 2009-34 (Amend Chapter 4 - Alarm Systems - Changing Penalty Provisions) was introduced by reference, offered by Councilwoman Marder and seconded by Council Vice President LaRocca. After discussion, the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2009-385

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

ORDINANCE # 2009-34

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 40,
"ALARM SYSTEM REGULATIONS

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

ORDINANCE # 2009-34

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 40,
"ALARM SYSTEM REGULATIONS"

WHEREAS, §40-3, Alarm System Permit, of Chapter 40, Alarm System Regulations, establishes the requirements and the administrative processes for the issuance of permits for alarm systems within the Township of Marlboro; and

WHEREAS, such §40-3 should be amended and supplemented to establish the imposition of graduated monetary penalties for violations of the permitting process, before imposing the fines and penalties set forth in § 4-3 of the Code by the issuance of a summons and complaint.

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 Subsection 3(A) of Chapter 40, Alarm Systems, of the Code of the Township of Marlboro be and is hereby amended and supplemented as follows:

A. Every owner of an alarm system located in the Township shall obtain a permit for the alarm system from the Division of Police on an annual basis. An alarm system permit shall be obtained for each alarm system location owned by the applicant. If the owner of an alarm system fails to obtain a permit for an alarm system, the

owner shall be assessed the following administrative penalties in addition to the payment of the alarm system permit:

1. An administrative penalty of Five Dollars (\$5.00) shall be due at the time of payment of the alarm system permit fee for an alarm system permit obtained within thirty (30) days of receipt of a notice from the Police Division that the alarm system is not currently registered with the Police Division. This payment shall be due and payable in addition to the alarm system permit fee.

2. An administrative penalty of Ten Dollars (\$10.00) shall be due at the time of the payment of the alarm system permit fee for an alarm system permit that is obtained within thirty-one (31) to sixty (60) days of receipt of a notice from the Police Division that the alarm system is not currently registered with the Police Division. This payment shall be due and payable in addition to the alarm system permit fee.

3. An administrative penalty of Twenty Dollars (\$20.00) shall be due at the time of the payment of the alarm system permit fee for an alarm system permit that is obtained within sixty-one (61) to ninety (90) days of receipt of a notice from the Police Division that the alarm system is not currently registered with the Police Division. This payment shall be due and payable in addition to the alarm system permit fee.

If an alarm system owner fails to obtain an alarm system permit within ninety (90) days of receipt of a notice from the Police Division that the alarm system is not currently registered with the Police Division, then such owner shall be deemed to be in violation of the Code of the Township of Marlboro and thereby subject to the imposition of the fines and penalties set forth in this § 4-3 of the Code. No municipal court appearance shall be required unless the owner pleads not guilty to the alleged violation.

BE IT FURTHER ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Subsection 3(F) of Chapter 40, Alarm Systems, of the Code of the Township of Marlboro, be and is hereby amended and supplemented as follows:

F. An alarm system permit shall expire twelve (12) months from the date of issue. A registrant shall file an application for renewal of an alarm system permit prior to the expiration date of the permit. Failure to renew an alarm system permit by the expiration date will result in the alarm system being classified as

unregistered, which may result in the imposition of the penalties described in § 40-3(A).

BE IT FURTHER ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Subsection 4 of Chapter 40, Alarm Systems, of the Code of the Township of Marlboro be and is hereby amended and supplemented as follows:

§40-4. Any person that owns an alarm system without having obtained an alarm system permit shall be subject to the penalties described in § 40-3(A). No municipal court appearance shall be required unless the owner pleads not guilty to the alleged violation.

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.

At 10:10PM, Councilwoman Marder moved that the meeting go into executive session for reason of discussing litigation and contract negotiations. This was seconded by Council Vice President LaRocca, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the executive session reconvened at 10:20PM.

RESOLUTION # 2009-384

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 15th day of October, 2009 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, Litigation and contract negotiations.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 15 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 10:40PM, Councilwoman Marder moved that the meeting be opened. This was seconded by Council President Rosenthal, and as there was no objection, the Clerk was asked to cast one ballot.

At 10:41PM, Councilwoman Marder moved that the meeting be adjourned. This was seconded by Council President Rosenthal, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: NOVEMBER 12, 2009

OFFERED BY:	LA ROCCA	AYES:	4
SECONDED BY:	TRAGNI	NAYS:	0
		ABSTAIN:	CANTOR

ALIDA MANCO,
MUNICIPAL CLERK

STEVE ROSENTHAL,
COUNCIL PRESIDENT