

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

DECEMBER 6, 2007

The Marlboro Township Council held its regularly scheduled meeting on December 6, 2007 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Cantor opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the 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 5, 2007; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Council Vice President Rosenthal, Councilman Pernice, Councilwoman Tragni, Council President Cantor. (Absent: Councilwoman Morelli).

Also present were: Deputy Mayor Paul Abelow, Andrew Bayer, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida Manco, and Deputy Clerk Deborah Usalowicz.

Mayor-elect Jonathan Hornik, Councilman-elect Frank La Rocca and Councilwoman-elect Randi Marder were in attendance.

Council President Cantor opened the Public Hearing on Ordinance # 2007-22 (Amend Chapter 84 - Uses in LI Zone). As there was no one who wished to speak, the Public Hearing was closed. Discussion followed, after which the following Resolution #2007-371/Ord. # 2007-22(Amend Chapter 84 - Uses in LI Zone) was introduced by reference, offered by Council Vice President Rosenthal, seconded by Councilman Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-371

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

ORDINANCE # 2007-22

AN ORDINANCE AMENDING SECTION 84-55, "LIGHT INDUSTRIAL ZONE DISTRICT" OF THE CODE OF THE TOWNSHIP OF MARLBORO

which was introduced on October 18, 2007, public hearing held December 6, 2007, be adopted on second and final reading this 6th day of December, 2007.

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

Council President Cantor opened the Public Hearing on Ordinance # 2007-23 (Amend Chapter 84 - Rezoning Implementing Northpointe). The Public Hearing was held and closed. addressed questions. Discussion followed, after which Councilwoman Tragni motioned to table this Ordinance to the December 17th agenda. This was seconded by Council Vice President Rosenthal and motion to table was passed on a roll call vote of 4 - 0 in favor of tabling (Absent: Morelli).

Council President Cantor opened the Public Hearing on Ordinance # 2007-24 (Amending Recreation Fees 2008). After the Public Hearing was held and closed, the following Res. # 2007-373/ Ord. # 2007-24 (Amending Recreation Fees 2008) was introduced by reference, offered by Council Vice President Rosenthal, seconded by Councilwoman Tragni and passed on a roll call vote of 3 - 0 in favor (Absent: Pernice, Morelli).

RESOLUTION # 2007-373

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

ORDINANCE # 2007-24

AN ORDINANCE AUTHORIZING CERTAIN AMENDMENTS AND ADDITIONS TO THE RECREATION COMMISSION 2008 RECREATION FEE SCHEDULE PURSUANT TO CHAPTER 117 "RECREATIONAL FACILITIES" OF THE CODE OF THE TOWNSHIP OF MARLBORO

which was introduced on November 7, 2007, public hearing held December 6, 2007, be adopted on second and final reading this 6th day of December, 2007.

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

The following Res. # 2007-374 (Authorizing Placement of Memorial Plaque on a Bench in Veterans' Memorial Garden in memory of Ronald Osadacz) was introduced by reference, offered by Councilman Pernice, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli). The Osadacz family was acknowledged by Council members.

RESOLUTION # 2007-374

A RESOLUTION AUTHORIZING THE PLACEMENT OF A MEMORIAL PLAQUE ON A BENCH IN THE MARLBORO TOWNSHIP MEMORIAL GARDEN IN HONOR OF RONALD OSADACZ, FORMER ASSISTANT CHIEF OF THE MORGANVILLE VOLUNTEER FIRE COMPANY

WHEREAS, Ronald Osadacz was the Assistant Chief of the Morganville Volunteer Fire Company; and

WHEREAS, On January 11, 2000, Ronald Osadacz died as the result of injuries sustained in the performance of his duties while fighting a fire on Tennent Road in the Township of Marlboro, County of Monmouth, State of New Jersey; and

WHEREAS, the Mayor and Township Council wish to recognize the dedication and service of Ronald Osadacz to the Township of Marlboro by placing his name on a memorial plaque on a bench in the Marlboro Township Memorial Garden; and

WHEREAS, N.J.S.A. 40:67-17 provides that the governing body of any municipality may construct and maintain upon public places statues, monuments, tablets, fountains, and memorials commemorative of any person or public event and may contribute money toward the construction and maintenance thereof; and

WHEREAS, the Township Council has determined that it is in the best interest of the Township to place a memorial

plaque on a bench in the Marlboro Township Memorial Garden in memory of Ronald Osadacz, Assistant Chief,; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Township is authorized to purchase a memorial plaque honoring Ronald Osadacz to be placed on a bench in the Marlboro Township Memorial Garden and to provide for the maintenance of such memorial plaque pursuant to N.J.S.A. 40:67-17; and

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

- a. Kathy Osadacz
- b. Township Engineer
- c. Business Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

The following Res. # 2007-375 (Opposing Legislation Eliminating Regional Contribution Agreements) was introduced by reference, offered by Councilman Pernice, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-375

RESOLUTION OF THE TOWNSHIP OF MARLBORO OPPOSING THE
ELIMINATION OF REGIONAL CONTRIBUTION AGREEMENTS AND
OPPOSING A-3857 AND S-2451 WHICH, IF ENACTED, WOULD
ELIMINATE RCAs AS A TOOL TO FACILITATE MUNICIPAL
COMPLIANCE WITH MOUNT LAUREL

WHEREAS, in the landmark 1975 decision commonly referred to as Mount Laurel I, the Supreme Court not only required developing municipalities to satisfy their fair shares, but also clearly implied that they could do so at least in part if a municipality could enter a "binding agreement" with another municipality; and

WHEREAS, in Mount Laurel II, another landmark decision issued in 1983, the Supreme Court referenced with approval the principle embodied in Mount Laurel I that a municipality could satisfy a portion of its fair

share if it could enter into a binding agreement with another municipality; and

WHEREAS, in 1985, in the light of the landmark decisions referenced above, the Legislature enacted the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., in which it specifically authorized a municipality to enter into a "binding agreement" with another municipality to create or rehabilitate deteriorated housing in the so called "receiving community"; and

WHEREAS, more specifically, N.J.S.A. 52:27D-312 expressly authorizes a "sending municipality" to satisfy up to 50 percent of its fair share by funding an agreement with a "receiving municipality", and

WHEREAS, N.J.S.A. 52:27D-312 includes a series of safeguards to ensure that regional contribution agreements ("RCA"s) create a realistic opportunity for the creation of new or rehabilitated affordable housing within the receiving municipalities; and

WHEREAS, the creation of the right of a municipality to satisfy a portion of its responsibilities via RCAs fueled a firestorm of litigation with developers and nonprofits vigorously attacking RCAs and with sending and receiving municipalities vigorously defending this affordable housing technique; and

WHEREAS, a Mount Laurel trial judge upheld the constitutionality of RCAs in a case entitled Morris County Fair Housing Council v. Boonton Tp. 209 N.J. Super. 393, 431-32 (Law Div, October 1985) and the Supreme Court upheld the constitutionality of RCAs in Mount Laurel III, 103 N.J. 1 at 47 n. 13; and

WHEREAS, RCAs have proven to be an enormously useful and beneficial compliance technique to both sending and receiving municipalities and have also provided an enormous benefit to those in need of affordable housing; and

WHEREAS, sending municipalities have committed to provide \$210,311,820 to fund the creation of 10,256 new or rehabilitated affordable units just in the RCAs that the Council on Affordable Housing ("COAH") has approved to date; and

WHEREAS, in addition, many municipalities have included RCAs as an essential component of the affordable housing plans they have adopted, filed and sought approval of in response to their obligations under COAH's cycle III regulations; and

WHEREAS, receiving municipalities have realized an enormous benefit as a result of the many millions of dollars paid or owed pursuant to RCAs that COAH has already approved and such benefits are likely to increase dramatically as COAH approves the many RCAs "in the pipeline" in the hundreds of Cycle III plans awaiting Court or COAH approval; and

WHEREAS, sending municipalities have also benefited from RCAs in that this technique has facilitated the ability of sending municipalities to meet the enormous burden created by the substantial fair share responsibilities COAH has imposed in each of the three housing cycles; and

WHEREAS, many thousands of low and moderate households have also benefited from RCAs as a result of deteriorated housing being rehabilitated or new affordable housing being created and such benefits will grow dramatically as COAH approves new RCAs in cycle III plans and as monies are transferred pursuant thereto; and

WHEREAS, notwithstanding the benefit of RCAs, A-3857 and S-2451, which were introduced on December 14th, 2006 seek to eliminate RCAs as a technique by which sending municipalities can satisfy their affordable housing responsibilities and by which receiving communities can realize the benefit of the many RCAs that are essential components of many of the hundreds of municipalities that have adopted affordable housing plans and sought approval of same; and

WHEREAS, this bill, if enacted would radically undermine the affordable housing plans of numerous municipalities that have, at great effort and expense, adopted, filed and sought approval of their affordable housing plans from COAH or a court and which include RCAs as an essential component of the municipal strategy for compliance; and

WHEREAS, such an undermining of affordable housing plans would benefit developers who would seek to exploit the shortfalls that would result, but would not benefit municipalities or those in need of affordable housing who stand to benefit from approved plans and these agreements; and

WHEREAS eliminating RCAs would also undermine a policy clearly embodied in COAH's Cycle III regulations, namely, that municipalities often find that it is preferable to create affordable housing by taking existing housing and making it affordable instead of having to zone for the flood of new housing that so typified affordable housing plans in the first and second housing cycles;

WHEREAS, the amount allocated to fund affordable housing under A-3857 and S-2451 is insufficient and would force cities to compete for these funds, in addition, the bill does not provide any new funding, and relies on a yearly appropriation, which is an unreliable source of funding; and

WHEREAS, for the reasons set forth above, it is not in the best interests of the State, the region or our communities that A-3857 and S-2451 be enacted.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Township of Marlboro declares that A-3857 and S-2451 are not in the best interests of our State, our region, our community or lower income persons.
2. The Township of Marlboro vigorously opposes A-3857 and S-2451.
3. The Clerk is hereby directed to submit copies of this Resolution to Senator Karcher, Senator Elect Beck, Assemblyman Panter, Assemblyman Elect O'Scanlon, Jr. and Assemblywoman Elect Casagrande to inform the Senator, Senator Elect, and Assemblypersons of our strong views on this bill and to urge them to support the bill.

The following Res. # 2007-376 (Urging Legislature to Repeal NJ Inheritance Tax) was introduced by reference, offered by Councilwoman Tragni, seconded by Council President Cantor and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-376

RESOLUTION OF THE TOWNSHIP OF MARLBORO SUPPORTING THE
ELIMINATION OF THE NEW JERSEY INHERITANCE TAX AND ASSEMBLY
BILL 2507 WHICH, IF ENACTED, WOULD ELIMINATE THE NEW
JERSEY INHERITANCE TAX AND REPEAL CHAPTERS 33 THROUGH 37
of TITLE 54 OF THE REVISED STATUTES

WHEREAS, pursuant to N.J.S.A. 54:33-1, et seq., New Jersey imposes a transfer Inheritance Tax on all property having a total value of \$500 or more which passes from a decedent to a beneficiary; and

WHEREAS, the New Jersey transfer Inheritance Tax originated in 1892 and has been imposed since 1909, making it one of the State's oldest taxes; and

WHEREAS, the New Jersey transfer Inheritance Tax has been revised to exempt from taxation transfers to spouses, ancestors and descendants of the decedent, however bequests to brothers and sisters of the decedent or their children and to non-relatives continue to be taxed at rates up to sixteen percent (16%); and

WHEREAS, the imposition of the New Jersey transfer Inheritance Tax on non-exempt individuals imposes a financial burden on citizens of the Township of Marlboro; and

WHEREAS, the trend among states over the past 20 years has been to repeal inheritance and other death taxes and currently only ten states continue to impose an inheritance tax; and

WHEREAS, for the reasons set forth above, the Township Council has determined that it is in the best interests of the State, the region and the Township that A-2507 be enacted and that the New Jersey Inheritance Tax be eliminated.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Township of Marlboro declares that A-2507 is in the best interests of our State, our region, the Township.
2. The Township of Marlboro supports the passage of A-2507.
3. The Clerk is hereby directed to submit copies of this Resolution to Senator Karcher, Senator Elect Beck, Assemblyman Panter, Assemblyman Elect O'Scanlon, Jr. and Assemblywoman Elect Casagrande to inform the Senator, Senator Elect, and Assemblypersons of our strong views on this bill and to urge them to support the bill.

The following Res. # 2007-377 (Renewal of Membership in Monmouth Municipal JIF) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-377

RESOLUTION FOR RENEWAL OF MEMBERSHIP
IN THE MONMOUTH MUNICIPAL JOINT INSURANCE FUND

WHEREAS, the Township of Marlboro is a member of the Monmouth Municipal Joint Insurance Fund; and

WHEREAS, said renewed membership terminates as of December 31, 2007 unless earlier renewed by agreement between the Municipality and the Fund; and

WHEREAS, the Municipality desires to renew said membership;

NOW THEREFORE, be it resolved as follows:

1. The Mayor and Township Council of the Township of Marlboro agrees to renew its membership in the Monmouth Municipal Joint Insurance Fund and to be subject to the Bylaws, Rules and Regulations, coverages, and operating procedures thereof as presently existing or as modified from time to time by lawful act of the Fund.

2. The Mayor and Clerk shall be and hereby are authorized to execute the agreement to renew membership annexed hereto and made a part hereof and to deliver same to the Monmouth Municipal Joint Insurance Fund evidencing the Municipality's intention to renew its membership.

The following Res. # 2007-380 (Amend Contract - Birdsall - Environmental Assessment Hospital Property Res. #2004-238) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and passed on a roll call vote of 3 - 0 in favor (Absent: Morelli, Pernice).

RESOLUTION # 2007-380

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE
PROFESSIONAL SERVICES CONTRACT BETWEEN THE TOWNSHIP OF
MARLBORO AND BIRDSALL ENGINEERING, INC. FOR THE
PROVISION OF ENGINEERING SERVICES FOR THE TOWNSHIP OF
MARLBORO

WHEREAS, the Township Council previously adopted Resolution #2004-238, authorizing the Township of Marlboro to enter into a contract with Birdsall Engineering, Inc. in an amount not to exceed \$8,500.00; and

WHEREAS, Birdsall Engineering, Inc. has performed and will continue to perform professional services for the Township of Marlboro including environmental assessment of the Marlboro Psychiatric Hospital Property and it is necessary to amend the original contract between Birdsall Engineering, Inc. and the Township of Marlboro in order to compensate Birdsall Engineering, Inc. for its past and future services; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to amend the contract between Birdsall Engineering, Inc. and the Township of Marlboro to provide compensation for engineering services; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds for the total project are available; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public

Contracts Law, N.J.S.A. 40A:11-1, *et seq.* and the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to sign an amendment to original contract between Birdsall Engineering, Inc. and the Township of Marlboro for the provision of legal services and to provide compensation in an amount not to exceed \$6,500.00, and that such amendment shall be in a form legally acceptable to the Township Attorney; and

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

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

The following Res. # 2007-381 (Amend Contract - Birdsall - Litigation Support Res. #2007-198) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilman Pernice and passed on a roll call vote of 3 - 0 in favor (Absent: Morelli, Rosenthal).

RESOLUTION # 2007-381

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND BIRDSALL ENGINEERING, INC. FOR THE PROVISION OF ENGINEERING SERVICES FOR THE TOWNSHIP OF MARLBORO

WHEREAS, a need existed for the Township Attorney to enter into a contract for the provision of engineering services to the Township of Marlboro with respect to certain projects including inspection and construction for synthetic turf fields and engineering services in connection with litigation and the Township Council requested proposals

through a non-fair and open process pursuant to N.J.S.A. 19:44A-20.4; and

WHEREAS, the Township Council adopted Resolution #2007-198 authorizing the Township of Marlboro to enter into a contract with Birdsall Engineering, Inc. for the provision of engineering services to the Township of Marlboro with respect to certain projects including inspection and construction for synthetic turf fields and engineering services in connection with litigation; and

WHEREAS, Birdsall Engineering, Inc. has performed and will continue to perform professional services for the Township of Marlboro including certain projects including inspection and construction for synthetic turf fields and engineering services in connection with litigation and it is necessary to amend the original contract between Birdsall Engineering, Inc. and the Township of Marlboro in order to compensate Birdsall Engineering, Inc. for its past and future services; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to amend the contract between Birdsall Engineering, Inc. and the Township of Marlboro to provide compensation for engineering services; and

WHEREAS, the 2007 budget has been adopted by the Township and the Chief Financial Officer has certified that sufficient funds are available to compensate Birdsall Engineering, Inc. for its past and future services; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.* and the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to amend the original contract between Birdsall Engineering, Inc. and the Township of Marlboro for the provision of legal services and to provide compensation in an amount not to exceed \$5,000.00, and that such amendment

shall be in a form legally acceptable to the Township Attorney; and

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

- e. Birdsall Engineering, Inc.
- f. Township Business Administrator
- g. Township Chief Financial Officer
- h. Gluck Walrath, LLP

The following Res. # 2007-382 (Amend Contract - Tax Appeal Counsel) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilman Pernice and passed on a roll call vote of 3 - 0 in favor (Absent: Morelli, Rosenthal).

RESOLUTION # 2007-382

A RESOLUTION AUTHORIZING AN AMENDMENT TO
THE PROFESSIONAL SERVICES CONTRACT BETWEEN
THE TOWNSHIP OF MARLBORO AND FRED SEMRAU, ESQ.
OF DORSEY & SEMRAU, LLC FOR THE PROVISION OF
LEGAL SERVICES FOR THE TOWNSHIP OF MARLBORO

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

WHEREAS, the Township Attorney deemed it necessary and in the best interest of the municipality to hire Fred Semrau, Esq. of Dorsey & Semrau, LLC to provide legal services to the Township of Marlboro with respect to real estate tax appeal matters; and

WHEREAS, the Township Council previously adopted Resolution #2007- 15, authorizing the Township of Marlboro to enter into a contract with Fred Semrau, Esq. of Dorsey & Semrau, LLC in an amount not to exceed \$10,000.00; and

WHEREAS, Fred Semrau, Esq. of Dorsey & Semrau, LLC has performed and will continue to perform professional services for the Township of Marlboro including real estate

tax appeal matters and it is necessary to amend the original contract between Fred Semrau, Esq. of Dorsey & Semrau, LLC and the Township of Marlboro in order to compensate Fred Semrau, Esq. of Dorsey & Semrau, LLC for its past and future services; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to amend the contract between Fred Semrau, Esq. of Dorsey & Semrau, LLC and the Township of Marlboro to provide compensation for legal services; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available for compensation of Fred Semrau, Esq. of Dorsey & Semrau, LLC for past and future services; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.* and the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Township Attorney is hereby authorized to sign an amended contract between Fred Semrau, Esq. of Dorsey & Semrau, LLC and the Township of Marlboro for the provision of legal services and to provide compensation in an amount not to exceed \$3,750.00, and that such amendment shall be in a form legally acceptable to the Township Attorney; and

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

- i. Fred Semrau, Esq. of Dorsey & Semrau, LLC
- j. Township Business Administrator
- k. Township Chief Financial Officer
- l. Gluck Walrath, LLP

Township Engineer James Priolo was present for discussion on all bond releases/reductions and answered Council's questions.

The following Res. # 2007-383 (Triangle Business Park - Section 1) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilman Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION #2007-383

A RESOLUTION AUTHORIZING THE REDUCTION
OF THE PERFORMANCE BOND AND CASH BOND FOR TRIANGLE
BUSINESS PARK SECTION ONE NON-RESIDENTIAL
SITE PLAN, BLOCK 178, LOTS 293-294, AMBOY ROAD
IN THE TOWNSHIP OF MARLBORO

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro received a request from Triangle Business Park, LLC/TBP Holdings, LLC for the reduction of the Performance Bond and Cash Bond being held by the Township for the Triangle Business Park Section One Non-Residential Site Plan, Block 178, Lots 293-294, Amboy Road; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated November 7, 2007 (the "Engineer's Report"), a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Engineer's Report recommends a partial reduction in the current Performance Bond and Cash Bond being held by the Township, subject to the payment of all fees required by the Developer's Agreements; and

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Bond and Cash Bond for the Triangle Business Park Section One Non-Residential Site Plan, Block 178, Lots 293-294, Amboy Road shall be reduced as follows:

The Performance Bond in the original amount of \$645,695.71 which was previously reduced to

\$452,531.49 shall be further reduced by \$209,498.94, so that the amount to remain shall be \$243,032.55; and

The Cash Bond in the original amount of \$71,743.97 which was previously reduced to \$50,281.28 shall be further reduced by \$23,277.66, so that the amount to remain shall be \$27,003.62; and

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the payment of all fees required by the Developer's Agreements; and

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

- a. Triangle Business Park LLC/TBP Holdings, LLC
- b. First Indemnity of America Insurance Co.
- c. Township Engineer
- d. Chief Financial Officer
- e. Gluck Walrath LLP

The following Res. # 2007-384 (Triangle Business Park - Section 2) was introduced by reference, offered by Council Vice President Rosenthal, seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-384

A RESOLUTION AUTHORIZING THE REDUCTION OF THE PERFORMANCE BOND AND CASH BOND FOR TRIANGLE BUSINESS PARK SECTION TWO NON-RESIDENTIAL SITE PLAN, BLOCK 178, LOTS 293-294, AMBOY ROAD IN THE TOWNSHIP OF MARLBORO

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro received a request from Triangle Business Park, LLC/TBP Holdings, LLC for the reduction of the Performance Bond and Cash Bond being held by the Township for the Triangle Business Park Section Two Non-Residential Site Plan, Block 178, Lots 293-294, Amboy Road; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated November 7, 2007 (the "Engineer's Report"), a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Engineer's Report recommends a partial reduction in the current Performance Bond and Cash Bond being held by the Township, subject to the payment of all fees required by the Developer's Agreements; and

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Bond and Cash Bond for the Triangle Business Park Section Two Non-Residential Site Plan, Block 178, Lots 293-294, Amboy Road shall be reduced as follows:

The Performance Bond in the original amount of \$351,404.35 which was previously reduced to \$252,473.60 shall be further reduced by \$51,368.69, so that the amount to remain shall be \$201,104.91; and

The Cash Bond in the original amount of \$39,044.93 which was previously reduced to \$28,052.62 shall be further reduced by \$5,707.63, so that the amount to remain shall be \$22,344.99; and

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the payment of all fees required by the Developer's Agreements; and

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

- a. Triangle Business Park LLC/TBP Holdings, LLC
- b. First Indemnity of America Insurance Co.
- c. Township Engineer
- d. Chief Financial Officer
- e. Gluck Walrath LLP

The following Res. # 2007-385 (Triangle Business Park - Section 3) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-385

A RESOLUTION AUTHORIZING THE REDUCTION OF THE PERFORMANCE BOND AND CASH BOND FOR TRIANGLE BUSINESS PARK SECTION THREE NON-RESIDENTIAL SITE PLAN, BLOCK 178, LOTS 293-294, AMBOY ROAD IN THE TOWNSHIP OF MARLBORO

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro received a request from Triangle Business Park, LLC/TBP Holdings, LLC for the reduction of the Performance Bond and Cash Bond being held by the Township for the Triangle Business Park Section Three Non-Residential Site Plan, Block 178, Lots 293-294, Amboy Road; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated November 7, 2007 (the "Engineer's Report"), a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Engineer's Report recommends a partial reduction in the current Performance Bond and Cash Bond being held by the Township, subject to the payment of all fees required by the Developer's Agreements; and

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Bond and Cash Bond for the Triangle Business Park Section Three Non-Residential Site Plan, Block 178, Lots 293-294, Amboy Road shall be reduced as follows:

The Performance Bond in the original amount of \$347,352.41 which was previously reduced to \$245,851.04 shall be further reduced by \$103,108.14, so that the amount to remain shall be \$142,742.90; and

The Cash Bond in the original amount of \$38,594.71 which was previously reduced to \$27,316.78 shall be further reduced by \$11,456.46, so that the amount to remain shall be \$15,860.32; and

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the payment of all fees required by the Developer's Agreements; and

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

- a. Triangle Business Park LLC/TBP Holdings, LLC
- b. First Indemnity of America Insurance Co.
- c. Township Engineer
- d. Chief Financial Officer
- e. Gluck Walrath LLP

The following Res. # 2007-386 (Triangle Business Park - Section 2) was introduced by reference, offered by Councilman Pernice, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-386

A RESOLUTION AUTHORIZING THE REDUCTION OF THE PERFORMANCE BOND AND CASH BOND FOR TRIANGLE BUSINESS PARK SECTION FOUR NON-RESIDENTIAL SITE PLAN, BLOCK 178, LOTS 293-294, AMBOY ROAD IN THE TOWNSHIP OF MARLBORO

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro received a request from Triangle Business Park, LLC/TBP Holdings, LLC for the reduction of the Performance Bond and Cash Bond being held by the Township for the Triangle Business Park Section Four Non-Residential Site Plan, Block 178, Lots 293-294, Amboy Road; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated November 7, 2007 (the "Engineer's Report"), a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Engineer's Report recommends a partial reduction in the current Performance Bond and Cash Bond being held by the Township, subject to the payment of all fees required by the Developer's Agreements; and

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

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Bond and Cash Bond for the Triangle Business Park Section Four Non-Residential Site Plan, Block 178, Lots 293-294, Amboy Road shall be reduced as follows:

The Performance Bond in the original amount of \$274,759.29 which was previously reduced to \$202,613.24 shall be further reduced by \$75,741.27, so that the amount to remain shall be \$126,871.97; and

The Cash Bond in the original amount of \$30,528.81 which was previously reduced to \$22,512.58 shall be further reduced by \$8,415.69, so that the amount to remain shall be \$14,096.89; and

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the payment of all fees required by the Developer's Agreements; and

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

- a. Triangle Business Park LLC/TBP Holdings, LLC
- b. First Indemnity of America Insurance Co.
- c. Township Engineer
- d. Chief Financial Officer
- e. Gluck Walrath LLP

The following Res. # 2007-387 (Supporting "Over the Limit Under Arrest 2007 Year End Crackdown" - Dec. 7 - Jan. 2) was introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-387

WHEREAS, impaired drivers on our nation's roads kill someone every 30 minutes, 50 people per day, and almost 18,000 people each year; and

WHEREAS, 34% of motor vehicle fatalities in New Jersey are alcohol-related; and

WHEREAS, a enforcement crackdown is planned to combat impaired driving; and

WHEREAS, the season at the end of the year is traditionally a time of social gatherings which often include alcohol; and

WHEREAS, the State of New Jersey, Division of Highway Traffic Safety has asked law enforcement agencies throughout several counties to participate in the OVER THE LIMIT UNDER ARREST 2007 YEAR END CRACKDOWN; and

WHEREAS, the project will involve increased impaired driving enforcement from December 7, 2007 through January 2, 2008; and

WHEREAS, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways; and

NOW, THEREFORE, BE IT RESOLVED that Marlboro Township declares its support for the OVER THE LIMIT UNDER ARREST 2007 YEAR END CRACKDOWN from December 7, 2007 through January 2, 2008 and pledges to increase awareness of the dangers of drinking and driving.

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilman Pernice, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli): Res. # 2007-388 (Change Order #1 - Renovations to Woodcliff Park), Res. # 2007-389 (Change Order #1 - International Salt - Rock Salt, Res. # 2007-391 (Award of Bid - Brush Grinding Gong Property), Res. # 2007-392 (Extension of Contract - HVAC Maintenance Service) and Res. # 2007-393 (Bingo License St. Gabriel's Church Rosary/Altar Society).

RESOLUTION # 2007-388

A RESOLUTION AMENDING RESOLUTION #2007-241
AND APPROVING CHANGE ORDER #1 FOR THE

PROVISION OF RENOVATIONS TO WOODCLIFF PARK
IN THE TOWNSHIP OF MARLBORO

WHEREAS, Township of Marlboro Resolution #2007-241 authorized the award of a contract to Whirl Construction for the provision of renovations to Woodcliff Park in the Township of Marlboro; and

WHEREAS, after performing the contract awarded to them, Whirl Construction discovered that the final as-built quantities were less than the amount originally awarded by contract pursuant to Resolution #2007-241; and

WHEREAS, Whirl Construction notified the Township Engineer of the final as-built quantity and provided a description and final price which was accepted by the Township Engineer and which resulted in the need for a reduction in the total contract award by \$1,006.00; and

WHEREAS, in his Memorandum dated November 30, 2007 the Township Engineer found the final as-built quantity and price to be acceptable and requested that a Change Order be approved reducing the contract award by \$1,006.00.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that Resolution #2007-241 which is attached hereto and incorporated herein by reference is amended to include Change Order No. 1 reducing the contract award by \$1,006.00; and

BE IT FURTHER RESOLVED that the contract awarded to Whirl Construction by Resolution #2007-241 should be amended to include Change Order No. 1 reducing the contract by \$1,006.00, for a total contract amount of \$57,238.00, in accordance with the bid proposal submitted by Whirl Construction, which is on file with the Township, and Change Order No. 1 which is attached hereto and incorporated herein by reference; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that said Certification of Funds is sufficient to complete the original contract and Change Order No. 1. Said Certification of Funds set forth that sufficient funds were, and continue to be, available for said contract from Account Number G07-41-302-399; and

BE IT FURTHER RESOLVED, that a certified copy of this

Resolution shall be provided to each of the following:

- a. Whirl Construction
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath LLP.

RESOLUTION # 2007-389

A RESOLUTION AUTHORIZING CHANGE ORDER #1 TO THE
CONTRACT AWARDED TO INTERNATIONAL SALT COMPANY FOR
THE PROVISION OF ROCK SALT DE-ICING TO THE MARLBORO
TOWNSHIP DEPARTMENT OF PUBLIC WORKS (DPW)

WHEREAS, by Resolution #2007-42, the Township of Marlboro awarded a goods and services contract to International Salt Company, 655 Northern Boulevard, Clarks Summit, PA 18411-0352 for the provision of rock salt de-icing agent for the Marlboro Township Department of Public Works for a total contract amount of \$90,420.00 for 2,000 tons (the "Contract"); and

WHEREAS, International Salt Company has agreed to extend their current price of \$45.21/ton through December 31, 2007 and will be required to provide an additional 400 tons of said rock salt de-icing agent for a total cost of \$18,084.00; and

WHEREAS, the Director of Public Works has recommended that the Township Council authorize Change Order #1 to the Contract for \$18,084.00, thereby increasing the total contract amount to \$108,504.00; and

WHEREAS, pursuant to N.J.A.C. 5:30-11.1, *et seq.*, change orders that do not, in the aggregate, exceed 20% of the original contract amount, can be authorized by the governing body without additional public bidding.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that the Mayor is authorized to execute Change Order #1 to the Contract between the Township of Marlboro and International Salt Company, 655 Northern Boulevard, Clarks Summit, PA 18411-0352 increasing the total contract amount to \$108,504.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for Change

Order #1, which is attached hereto, and that sufficient funds are available for said change order from Account Number T-12-56-858-826; 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. Director of Public Works
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP.

RESOLUTION # 2007-391

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR THE RENTAL OF ONE (1) HAMMER MILL GRINDER FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the rental of one (1) hammer mill grinder for the Township of Marlboro Department of Public Works; and

WHEREAS, the Township received three (3) bids from the following vendors:

- 1. Atlantic Tree Experts Co. Inc.
21 Middletown Lincroft Road
Lincroft, NJ 07738
Brush Grinding (No Disposal): \$ 28,000.00
Brush Grinding (With Disposal):\$ 48,000.00
Shredded Material Grinding
(No Disposal): \$ 48,000.00
Shredded Material Grinding
(With Disposal): \$ 48,000.00

- 2. Reliable Wood Products
1 Caven Point Avenue
Jersey City, NJ 07305
Brush Grinding (No Disposal): No Bid
Brush Grinding (With Disposal):\$ 122,995.00
Shredded Material Grinding
(No Disposal): No Bid
Shredded Material Grinding
(With Disposal): \$ 26,980.00

3. Robert H. Hoover and Sons, Inc.
1784 Route 9
Toms River, NJ 08755
Brush Grinding (No Disposal): No Bid
Brush Grinding (With Disposal):\$ 73,800.00
Shredded Material Grinding
(No Disposal): No Bid
Shredded Material Grinding
(With Disposal): No Bid

WHEREAS, the Administration, the Director of Public Works, and the Township Attorney determined that Atlantic Tree Experts Co., Inc. is the lowest responsive bidder submitting a bid for brush grinding (no disposal) which is compliant with the specifications promulgated by the Township; and

WHEREAS, the Administration has determined that sufficient funds are not available to award a contract for the provision of brush grading (with disposal), shredded material grinding (no disposal), or for shredded material grinding (with disposal), therefore these services will not be included in the award of contract; and

WHEREAS, the Administration, the Director of Public Works, and the Township Attorney recommend that the contract for brush grinding (no disposal) be awarded to Atlantic Tree Experts Co., Inc. as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award said contract to the lowest qualified bidder, Atlantic Tree Experts Co., Inc. for the provision of the rental of one (1) hammer mill grinder for the Township of Marlboro Department of Public Works.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract for the rental of one (1) hammer mill grinder for the Township of Marlboro Department of Public Works be and hereby is awarded to Atlantic Tree Experts Co., Inc., and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Atlantic Tree Experts Co., Inc. for the rental of one (1) hammer mill grinder for the Township of Marlboro Department of Public Works in an amount not to exceed

\$28,00.00, and in accordance with the bid proposal submitted by Atlantic Tree Experts Co., Inc.; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number 07-01-117-288; and

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

- a. Atlantic Tree Experts Co., Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath LLP.

RESOLUTION # 2007-392

A RESOLUTION APPROVING A ONE-YEAR RENEWAL OF THE CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND AIRHANDLERS MECHANICAL SERVICES, INC. FOR THE PROVISION OF HEATING, VENTILATING, AND AIR CONDITIONING (HVAC) MAINTENANCE SERVICE FOR VARIOUS TOWNSHIP BUILDINGS IN THE TOWNSHIP OF MARLBORO

WHEREAS, by Resolution #2006-433, dated December 7, 2006, the Township of Marlboro awarded a one-year contract to Airhandlers Mechanical Services, Inc., P.O. Box 178, Haddon Heights, NJ 08035 to provide heating, ventilating, and air conditioning (HVAC) maintenance service for various township buildings in the Township of Marlboro, as set forth in the bid proposal on file with the Township; and

WHEREAS, pursuant to the authorization provided by Resolution #2006-433, the parties entered into a contract for the provision of HVAC maintenance service dated December 11, 2006 (the "Contract"), which is attached hereto and made a part hereof; and

WHEREAS, in accordance with the bid specifications and the terms and conditions of the Contract, the Township of Marlboro reserved the exclusive option to renew any components of the Contract for an additional one-year period on the same terms and conditions specified in the bid proposal submitted by Airhandlers Mechanical Services, Inc.; and

WHEREAS, Administration and the Township of Marlboro Department of Public Works have recommended that the Township Council approve the renewal of the Contract for a period of one year upon the same terms and conditions specified in the bid proposal submitted by Airhandlers Mechanical Services, Inc.; and

WHEREAS, funds are available in Budget Account Number 8-01- -122-276 for an amount not to exceed \$34,665 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council has determined that it is in the best interest of the residents of the Township of Marlboro to approve said renewal of the Contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to renew the Contract between the Township of Marlboro and Airhandlers Mechanical Services, Inc., P.O. Box 178, Haddon Heights, NJ 08035 for a period of one year upon the same terms and conditions specified in the bid proposal submitted by Airhandlers Mechanical Services, Inc. and authorized by Resolution #2006-433; and

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

- a. Airhandlers Mechanical Services, Inc.
- b. Township Administrator
- c. Department of Public Works
- d. Chief Financial Officer
- e. Gluck Walrath, LLP

RESOLUTION # 2007-393

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Bingo License # BL:01-07/08 be and it is hereby granted to St. Gabriel's Church Rosary-Altar Society, 100 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that games will be played each Monday, beginning January 7, 2008 to December 29, 2008 from 12 Noon to 2:30 PM at St. Gabriel's Church Hall, 100 North Main Street, Marlboro, New Jersey 07746, as follows:

JANUARY 7, 14, 21, 28

FEBRUARY	4, 11, 18, 25
MARCH	3, 10, 31
APRIL	7, 14, 21, 28
MAY	5, 12, 19
JUNE	2, 9, 16, 23, 30
JULY	7, 14, 21, 28
AUGUST	4, 11, 18, 25
SEPTEMBER	8, 15, 22, 29
OCTOBER	6, 13, 20, 27
NOVEMBER	3, 10, 17, 24
DECEMBER	1, 22, 29

The following Resolution Res. # 2007-395/Ord. # 2007-25 (Amending Chapter 113 - Certificates of Occupancy) was introduced by reference, offered by Councilman Pernice, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-395

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

ORDINANCE # 2007-25

AN ORDINANCE AMENDING CHAPTER 113 "PROPERTY MAINTENANCE", § 113-2 "CERTIFICATE OF CONTINUED OCCUPANCY" OF THE CODE OF THE TOWNSHIP OF MARLBORO

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 December 17, 2007 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 # 2007-25

AN ORDINANCE AMENDING CHAPTER 113 "PROPERTY
MAINTENANCE", § 113-2 "CERTIFICATE OF CONTINUED
OCCUPANCY" OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, Chapter 113 "Property Maintenance", §113-2 "Certificates of Continued Occupancy" of the Code of the Township of Marlboro ("Township") sets forth the regulations regarding certificates of continued occupancy in the Township; and

WHEREAS, the Township Council has determined that it is in the best interests of the Township to clarify that a determination from the Zoning Officer is required prior to the issuance of a certificate of continued occupancy in order to ensure that future owners of parcels of property are not required to obtain a permit from the Zoning Office or obtain a variance from the Zoning Board of Adjustment in order to ratify the construction of structure(s) and/or improvement(s) built by prior owners of such property; and

WHEREAS, the Township Council further seeks to grandfather structures and/or improvements which were built prior to 1990 without the requisite permit or approval from the requirement to later secure that permit or other approval from the Zoning Department in order to obtain a certificate of continuing occupancy and/or in order to otherwise bring that structure and/or property into compliance with the Township's ordinances; and

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 §113-2 "Certificates of Continued Occupancy" be and hereby is amended as follows (additions to said subsection are underlined and deletions are crossed-out):

§ 113-2. Certificates of Continued Occupancy.

(1) No person shall sell, transfer, lease or rent any structure located within the Township of Marlboro unless a certificate of continued occupancy certifying that said structure is in compliance with all provisions of the current version of the International Housing Maintenance Code adopted by the State of New Jersey and all other applicable ordinances of the Township of Marlboro is issued.

(2) No certificate of continued occupancy shall be issued by the Township until the Zoning Officer determines that all structures were built in conformance with the applicable ordinances of the Township and the property owner submits to the Zoning and Construction Offices a Home Improvement Form, which form has been approved by the Construction Office, Zoning Office and the Township Administrator.

(3) All non-conforming structures (structures built without the required permit or approval or built in violation of applicable Township ordinances) that existed on a parcel of property prior to 1990 shall be exempt from the requirement to obtain the requisite permit or approval as required by Township ordinance or applicable law for that structure in order to remain in compliance with the Township's ordinances and/or in order to obtain a certificate of continued occupancy, provided that:

a. The structure is not being replaced. If such non-conforming structure is being replaced, the replacement structure must comply with the current version of the International Residential Code adopted by the State of New Jersey and all other applicable zoning standards and ordinances of the Township of Marlboro; and

b. The structure does not present a threat to public health, safety, or welfare. If the structure presents a threat to public health, safety and welfare, as determined by the Building Inspector or Zoning Officer, the structure must be replaced in conformance with the current version of the International Residential Code adopted by the State of New Jersey and all other applicable zoning standards and ordinances of the Township of Marlboro; and

c. The structure is located solely upon the parcel owned by the property owner and does not encroach or trespass onto any parcel owned by a third party; and

d. The property owner submits an affidavit in a form acceptable to the Township attesting that the structure was built prior to 1990 and that the property owner agrees to indemnify and hold the Township of Marlboro, its officer, agents and employees harmless from and on account of any and all incidents and/or damages arising from the structure(s) and/or improvement(s) that were built prior to 1990.

Any exemption granted under this section for a non-conforming structure built prior to 1990 shall not extend to the requirements under N.J.S.A. 52:27D-119, et seq. and/or N.J.A.C. 5:23-1, et seq.

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 on upon passage and publication in accordance with applicable law.

The following item was carried to the December 17, 2007 agenda: Item #24 (Tax Collector Resolutions).

At 10:50PM, Councilman Pernice moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Council Vice President Rosenthal, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the executive session reconvened at 11:25 PM.

RESOLUTION # 2007-394

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 6th day of December, 2007 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned item and that such executive session should take approximately 30 minutes. Those items discussed in executive session shall remain confidential

