

A Regular Meeting of the Township Council of the Township of Toms River was held in the L. Manuel Hirshblond Meeting Room, Municipal Complex, 33 Washington Street, Toms River, New Jersey at 6: 08 PM.

The meeting was called to order by Council President McGuckin and opened with the Salute to the Flag.

Council President McGuckin read the following statement pursuant to the Open Public Meetings Act:

### **OPEN PUBLIC MEETINGS ACT**

This meeting is convened in accordance with the provisions of the Open Public Meetings Act of New Jersey. Let the official Minutes reflect that adequate notice of this meeting has been provided by publishing a notice in the Asbury Park Press on Monday, January 12, 2009 and the Ocean County Gazette on Friday, January 16, 2009 and thereafter posting same on the Town Hall Bulletin Board for such notices and filing same with the Township Clerk, pursuant to a Resolution adopted by the Township Council on January 5, 2009. The Notice was also posted on the Township Web Page.

Roll Call:

Council Member Cassano	- Absent
Council Member Donohue	- Present
Council Member Hill	- Present
Council Member Kubiell	- Present
Council Member Maruca	- Present
Council Member Sevastakis	- Present
Council President McGuckin	- Present

Council President McGuckin advised that Councilman Cassano is absent this evening, due to medical reasons.

A motion was made by Council Kubiell, seconded by Council Member Hill, and carried with Council Members Donohue, Hill, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve an excused absence for Councilman Cassano.

### **APPROVAL OF MINUTES**

A motion was made by Council Member Kubiell, seconded by Council Member Hill, and carried with Council Members Kubiell, Hill, Sevastakis, Donohue, Maruca and McGuckin voting yes, and with Council Member Cassano absent to approve the Minutes of the Regular Meeting of **February 24, 2009**. The reading of these Minutes was dispensed with, as each member of the Township Council has reviewed a certified copy hereof.

### **HONORING RESOLUTIONS AND PRESENTATION**

A motion was made by Council Member Kubiell, seconded by Council Member Sevastakis, and carried with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to make the following Resolutions a part of the Minutes:

Clerk Mutter Administered the Oath of Office to Auxiliary Police.

Adam Silversmith, Manager, Youth Center, was presented the following Resolution for National Brain Injury Awareness.

# **Township of Toms River**

## **Resolution**

**March 5, 2009**

WHEREAS, traumatic brain injury is a leading cause of death and disability among children and young adults in the United States, and at least 1.4 million Americans sustain a traumatic brain injury each year; and

Whereas each year, more than 125,000 of such Americans sustain permanent life-long disabilities from a traumatic brain injury, resulting in a life-altering experience that can include the most serious physical, cognitive, and emotional impairments; and

Whereas every 21 seconds, one person in the United States sustains a traumatic brain injury and at least 3.17 million Americans currently live with permanent disabilities resulting from a traumatic brain injury; and

Whereas traumatic brain injuries may have a life-altering impact on both Americans living with resultant disabilities and their families; and

Whereas the lack of public awareness is so vast that traumatic brain injury is known in the disability community as the Nation's 'silent epidemic'; and

Whereas traumatic brain injury is the signature wound of the global war on terrorism as a result of roadside bombs and blasts and the military personnel who have served in the Armed Forces of the United States in such war and who return to the United States with traumatic brain injuries will require additional Federal, State, and local resources;

Whereas the designation of a National Brain Injury Awareness Month will work toward enhancing public awareness of traumatic brain injury; and

Whereas the Brain Injury Association of America has recognized March as Brain Injury Awareness Month.

*NOW, THEREFORE*, We, Thomas F. Kelaher, Mayor, and Council President, Gregory P. McGuckin, of the Township of Toms River, in the County of Ocean and State of New Jersey, do hereby proclaim March as Brain Injury Awareness Month in Toms River.

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**Mayor Thomas F. Kelaher**

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**Gregory P. McGuckin**

**Council President**

**Peter V. Cassano  
Brian S. Kubiel**

**Melanie S. Donohue  
Maria L. Maruca**

**Maurice B. Hill Jr.  
John C. Sevastakis**

The following Resolution was presented to Rita Sason and Mike Berman, Esquire, of the Ocean County Jewish Federation.

**RESOLUTION DECLARING MARCH, 2009 AS “JEWISH FAMILY AND CHILDREN’S SERVICE MONTH” IN TOMS RIVER**

WHEREAS, the Jewish Federation of Ocean County serves as a central resource for our growing Jewish community; and

WHEREAS, the Jewish Federation has crated numerous opportunities for members of the community to participate in the effort to help Jews around the world; and

WHEREAS, the JFOC welcomes gifts of all sizes, and no gift is too small to help its mission; and

WHEREAS, its budgeting is dedicated to the allocations and programs of: Jewish Education, Fundraising efforts, National Agencies, Social Services, Israel & Overseas, Planning & Leadership, Jewish Community Relations Council, and other programs; and

WHEREAS, in conjunction with the nationwide Centennial Anniversary of the Jewish Family and Children’s Service, the Committee of the Jewish Family and children’s Service of Ocean County has requested that March, 2009 be declared “Jewish Family and Children’s Service Month;” and

WHEREAS, the Township of Toms River and, previously the Township of Dover, has supported the Jewish Community throughout our long history;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County Of Ocean and State of New Jersey, as follows:

1. The Township of Toms River hereby declares that the month of March, 2009 will be known as “Jewish Family and Children’s Services Month” in the Township of Toms River.
2. The Township Clerk shall forward a certified copy of this Resolution to each of the following:

- A. Mayor
- B. Council
- C. Administration
- D. Law Department
- E. Jewish Federation of Ocean County  
301 Madison Avenue  
Lakewood, NJ 08701

**Township of Toms River  
Resolution  
March 17, 2009**

WHEREAS, the month of March is National Colorectal Cancer Awareness Month; and

WHEREAS, Community Medical Center is marking their fifth annual Colorectal Awareness Fair to help citizens overcome their fears and embarrassment associated with being tested; and

WHEREAS, when citizens are properly screened, the statistical data from the American Cancer Society proves that there is a ninety percent survival rate when diagnosed in the early stages; and

WHEREAS, Dr. DeMartino and registered nurses' Roberta Maguire and Susan Campolattaro are key Community Medical Center personnel who have been at the forefront of disseminating crucial information to citizens to increase awareness of the survival rate of colorectal cancer through early testing, detection and treatment.

NOW, THEREFORE, We, Mayor Thomas F. Kelaher and Council President Gregory P. McGuckin of the Township of Toms River in the County of Ocean and State of New Jersey, with the full concurrence of the Township Council, wish to extend our thanks and appreciation to all medical personnel at Community Medical Center for helping to educate citizens within Ocean County about an effective and easy way to save their lives.

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Mayor Thomas F. Kelaher

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Gregory P. McGuckin  
Council President

Peter V. Cassano  
Brian S. Kubiel

Melanie S. Donohue  
Maria L. Maruca

Maurice B. Hill Jr.  
John C. Sevastakis

## **Township of Toms River**

### **Resolution**

**March 5, 2009**

WHEREAS, The NJ Dietetic Association is celebrating National Nutrition Month during March, 2009, to promote the theme "Eat Right"; and

WHEREAS, proper diet and physical activity on a daily basis is essential to good health and intellectual development which impacts health care costs in the state of New Jersey; and

WHEREAS, food is the substance by which life is sustained; and

WHEREAS, the type, quality, and amount of food that individuals consume each day plays a vital role in their overall health and physical fitness; and

WHEREAS, there is a need for continuing nutrition education and wide-scale effort to enhance good eating practices; and

WHEREAS, many New Jersey organizations are endeavoring to inform the general public of the important role of eating a well-balanced, healthy diet including the: New Jersey Dietetic Association; and

WHEREAS, it is altogether fitting and proper for the Mayor of Toms River, New Jersey to pause in it's deliberations and note National Nutrition Month, 2009 and urge the citizens of the Garden State to participate fully in all events centering on improved nutrition and physical fitness for better health.

*NOW, THEREFORE*, We, Thomas F. Kelaher, Mayor, and Council President, Gregory P. McGuckin, of the Township of Toms River, in the County of Ocean and State of New Jersey, do hereby proclaim March as Nutrition Month in Toms River.

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Mayor Thomas F. Kelaher

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Gregory P. McGuckin  
Council President

Peter V. Cassano  
Brian S. Kubiel

Melanie S. Donohue  
Maria L. Maruca

Maurice B. Hill Jr.  
John C. Sevastakis

J. Mark Mutter, Township Clerk read the following Ordinance of which the title only was read in full:

A motion was made by Council Member Kubiel, seconded by Council Member Hill and carried, that an Ordinance entitled:

**ORDINANCE AMENDING AND SUPPLEMENTING SECTION 147-1 OF THE "CODE OF THE TOWNSHIP OF TOMS RIVER, NEW JERSEY" TO ADJUST SUPERVISORS SALARIES FOR THE PERIOD OF MARCH 1, 2009 THROUGH JUNE 30, 2011**

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President McGuckin announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith. There was no response.

On motion by Council Member Kubiel, seconded by Council Member Maruca and carried, the public hearing was closed.

Council Member Kubiel offered the following resolution and moved its adoption, Council Member Hill seconded the motion:

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the foregoing ordinance, the title of which is quoted in the title hereof, be and the same is hereby passed on second and final reading.
2. That the title and purpose of said ordinance, together with the Notice of Final Passage thereof be published.

The foregoing Ordinance was adopted on roll call by the following vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Sevastakis	Yes
Council Member Kubiell	Yes
Council Member Hill	Yes
Council Member Donohue	Yes
Council President McGuckin	Yes

J. Mark Mutter, Township Clerk read the following Ordinance of which the title only was read in full:

A motion was made by Council Member Kubiell, seconded by Council Member Maruca and carried, that an Ordinance entitled:

**ORDINANCE AMENDING AND SUPPLEMENTING SECTION 147 OF THE "CODE OF THE TOWNSHIP OF TOMS RIVER, NEW JERSEY" TO ADJUST SALARIES FOR THE PERIOD OF MARCH 1, 2009 THROUGH JUNE 30, 2011 (BLUE COLLAR EMPLOYEES)**

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President McGuckin announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith.

Carol Benson questioned this Ordinance.

The Council Members thanked the public Works employees for the recent storm plow efforts.

On motion by Council Member Kubiell, seconded by Council Member Hill and carried, the public hearing was closed.

Council Member Kubiell offered the following resolution and moved its adoption, Council Member Hill seconded the motion:

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the foregoing ordinance, the title of which is quoted in the title hereof, be and the same is hereby passed on second and final reading.

2. That the title and purpose of said ordinance, together with the Notice of Final Passage thereof be published.

The foregoing Ordinance was adopted on roll call by the following vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Sevastakis	Yes
Council Member Kubiel	Yes
Council Member Hill	Yes
Council Member Donohue	Yes
Council President McGuckin	Yes

J. Mark Mutter, Township Clerk read the following Ordinance of which the title only was read in full:

A motion was made by Council Member Hill, seconded by Council Member Kubiel and carried, that an Ordinance entitled:

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 348 (LAND USE AND DEVELOPMENT REGULATIONS) OF THE MUNICIPAL CODE ELIMINATING CERTAIN PERMITTED AND CONDITIONAL USES IN THE R-800, R-400, R-400C, R/C-3 AND RURAL ZONING DISTRICTS IN THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY**

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President McGuckin announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith. There was no response.

On motion by Council Member Hill, seconded by Council Member Kubiel and carried, the public hearing was closed.

Council Member Hill offered the following resolution and moved its adoption, Council Member Donohue seconded the motion:

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the foregoing ordinance, the title of which is quoted in the title hereof, be and the same is hereby passed on second and final reading.
2. That the title and purpose of said ordinance, together with the Notice of Final Passage thereof be published.

The foregoing Ordinance was adopted on roll call by the following vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Sevastakis	Yes
Council Member Kubiel	Yes

Council Member Hill	Yes
Council Member Donohue	Yes
Council President McGuckin	Yes

J. Mark Mutter, Township Clerk read the following Ordinance of which the title only was read in full:

A motion was made by Council Member Kubiel, seconded by Council Member Maruca and carried, that an Ordinance entitled:

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 348 (LAND USE AND DEVELOPMENT REGULATIONS) OF THE TOWNSHIP CODE TO PROVIDE FOR AN ADJUSTMENT IN THE PERMISSIBLE DENSITY FOR HOUSING THAT IS NOT AGE RESTRICTED BUT LIES WITHIN THE MF-4, RHB AND R-150 ZONING DISTRICTS OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY**

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President McGuckin announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith. There was no response.

On motion by Council Member Kubiel, seconded by Council Member Maruca and carried, the public hearing was closed.

Council Member Maruca offered the following resolution and moved its adoption, Council Member Kubiel seconded the motion:

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the foregoing ordinance, the title of which is quoted in the title hereof, be and the same is hereby passed on second and final reading.
2. That the title and purpose of said ordinance, together with the Notice of Final Passage thereof be published.

The foregoing Ordinance was adopted on roll call by the following vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Sevastakis	Yes
Council Member Kubiel	Yes
Council Member Hill	Yes
Council Member Donohue	Absent
Council President McGuckin	Yes

J. Mark Mutter, Township Clerk read the following Ordinance of which the title only was read in full:

A motion was made by Council Member Hill, seconded by Council Member Maruca and carried, that an Ordinance entitled:

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 348 (LAND USE AND DEVELOPMENT REGULATIONS) OF THE TOWNSHIP CODE TO READOPT ORDINANCE NO. 4164-08 AND TO FURTHER SUPPLEMENT THE O-15 OFFICE ZONE BY ADDING RESTAURANTS AS A PERMITTED USE IN THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY**

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President McGuckin announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith. There was no response.

On motion by Council Member Hill, seconded by Council Member Maruca and carried, the public hearing was closed.

Council Member Maruca offered the following resolution and moved its adoption, Council Member Hill seconded the motion:

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the foregoing ordinance, the title of which is quoted in the title hereof, be and the same is hereby passed on second and final reading.
2. That the title and purpose of said ordinance, together with the Notice of Final Passage thereof be published.

The foregoing Ordinance was adopted on roll call by the following vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Sevastakis	Yes
Council Member Kubiell	Yes
Council Member Hill	Yes
Council Member Donohue	Absent
Council President McGuckin	Yes

J. Mark Mutter, Township Clerk read the following Ordinance of which the title only was read in full:

Township Planner Jay Lynch recommended that this Ordinance be tabled due to the recent pending legislation pertinent to housing development fees.

A motion was made by Council Member Hill, seconded by Council Member Sevastakis and carried, that an Ordinance entitled:

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 348 (LAND USE AND DEVELOPMENT REGULATIONS) OF THE TOWNSHIP CODE TO IMPLEMENT RESIDENTIAL AND NON-RESIDENTIAL AFFORDABLE HOUSING DEVELOPMENT FEES**

**BE TABLED TO THE COUNCIL MEETING ON APRIL 28, 2009.**

A motion was made by Council Member Kubiell, seconded by Council Member Donohue and carried, that an Ordinance entitled:

**ORDINANCE AMENDING AND SUPPLEMENT SECTION 147 OF THE "CODE OF THE TOWNSHIP OF TOMS RIVER, NEW JERSEY" TO ADJUST SALARIES FOR THE PERIOD OF JULY 1, 2007 TO JUNE 30, 2011 (PBA LOCAL #137)**

be taken up for further consideration, public hearing and final passage. Said ordinance was thereupon read by title only, pursuant to authority of Statutes of New Jersey, copy of said ordinance having been posted as directed by said law, whereupon Council President McGuckin announced that this was the final reading of the ordinance and asked if anyone present had anything to say in connection therewith. There was no response.

On motion by Council Member Kubiell, seconded by Council Member Donohue and carried, the public hearing was closed.

Council Member Kubiell offered the following resolution and moved its adoption, Council Member Hill seconded the motion:

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the foregoing ordinance, the title of which is quoted in the title hereof, be and the same is hereby passed on second and final reading.
2. That the title and purpose of said ordinance, together with the Notice of Final Passage thereof be published.

The foregoing Ordinance was adopted on roll call by the following vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Sevastakis	Yes
Council Member Kubiell	Yes
Council Member Hill	Yes
Council Member Donohue	Yes
Council President McGuckin	Yes

Council Member Donohue introduced the following Ordinance of which the title only was read in full:

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 391 (HAWKING, PEDDLING, VENDING AND CANVASSING) OF THE "CODE OF THE TOWNSHIP OF TOMS RIVER, NEW JERSEY"**

**BE IT ORDAINED** by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. Chapter 391 (Hawking, Peddling, Vending and Canvassing) of the "Code of the Township of Toms River, New Jersey" is hereby amended and supplemented to add, Article IV Clothing Bin Solicitations, to read, as follows:

#### **ARTICLE IV. Clothing Bin Solicitations**

##### **391-44. Definitions**

For the purposes of this Article, "solicitation" or "solicit" means the request, directly or indirectly, for money, credit, property, financial assistance or other thing of any kind or value. Solicitation shall include, but not be limited to, the use or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution.

##### **391-45. Donation, clothing bins; requirements for placement for solicitation purposes**

Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a donation clothing bin, for solicitation purposes, unless all of the following requirements are met:

a. The person has obtained a permit, valid for a specified period of time, from the Township of Toms River Zoning Officer within the territorial boundaries of the Township in which the donation clothing bin will be placed, in accordance with the following:

(1) In applying for such a permit, the person shall include:

(a) the location where the bin would be situated, as precisely as possible;

(b) the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;

(c) the name, and telephone number of the bona fide office required pursuant to subsection b. of this section, of any entity which may share or profit from any clothing or other donations collected via the bin; and

(d) written consent from the property owner to place the bin on his property;

(2) The Township of Toms River Zoning Officer shall not grant an application for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a donation clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases;

(3) The fee for such application shall be \$25, to offset the costs involved in enforcing this Article;

(4) An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of any fee imposed by the Zoning Officer for such renewal, not to exceed \$25 annually, to offset the costs involved in enforcing this Article. Such application shall include:

(a) the location where the bin is situated, as precisely as possible, and, if the person intends to move it, the new location where the bin would be situated after the renewal is granted and written consent from the property owner to place the bin on his property;

(b) the manner in which the person has used, sold, or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal; and

(c) The name, and telephone number of the bona fide office required pursuant to subsection b. of this section, of any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal; and

(5) the permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin, in addition to the information required pursuant to subsection c. of this section;

a. The person, and any other entity which may share or profit from any clothing or other donations collected via the bin, maintains a bona fide office where a representative of the person or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person or other entity. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and

b. The following information is clearly and conspicuously displayed on the exterior of the donation clothing bin:

(1) The name and address of the registered person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;

(2) The telephone number of the person's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin;

(3) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and

(4) A statement, consistent with the information provided to the appropriate municipal agency in the most recent permit or renewal application pursuant to subparagraph (b) of paragraph (1) of subsection a. of this section and subparagraph (b) of paragraph (4) of subsection a. of this section, indicating the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

**391-46. Duty of municipality to investigate complaints relating to clothing donation bins; violations; penalties.**

The Township of Toms River Division of Code Enforcement shall receive and investigate, within 30 days, any complaints from the public about the bin. Whenever it appears to the Division of Code Enforcement that a person has engaged in, or is engaging in any act or practice in violation of section 391-45, the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the Township of Toms River Division of Law is not requested within 45 days, the bin will be seized or removed at the expense of the person who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to any other means used to notify the person who placed the bin, such warning shall be affixed to the exterior of the bin itself.

In the event that the person who placed the bin does not rectify the violation or request a hearing within 45 days of the posting of the warning, the Division of Code Enforcement may seize the bin, remove it, or have it removed, at the expense of the person who placed the bin, and sell at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the chief financial officer of the municipality.

**391-47. Additional penalties for violation; remedies**

In addition to any other penalties or remedies authorized by the laws of this State, any

person who violates any provision of this Article which results in seizure of the donation clothing bin shall be:

a. Subject to a penalty of up to \$20,000 for each violation. The appropriate municipal agency may bring this action in the municipal court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999," [P.L.1999, c. 274 \(C.2A:58-10 et seq.\)](#), and any penalty monies collected shall be paid to the chief financial officer of the municipality; and

b. Deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to section 391-45. A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of this Article may apply to the Division of Code Enforcement to have that person's eligibility restored. The Division of Code Enforcement may restore the eligibility of a person who:

(1) Acts within the public interest; and

(2) Demonstrates that he made a good faith effort to comply with the provisions of this Article and all other applicable laws and regulations, or had no fraudulent intentions.

2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.

4. This ordinance shall take effect following its final passage by the Township Council, approval by the Mayor, and twenty days after publication as required by law.

A motion was made by Council Member Donohue, seconded by Council Member Hill, and carried, with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, that the foregoing Ordinance be adopted on first reading with publication notice as follows:

#### NOTICE

NOTICE IS HEREBY GIVEN that the ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, held on March 10, 2009 at 6:00 p.m. It will be further considered for final passage at a public meeting to be held in the L. Manuel Hirshblond Meeting Room of the Municipal Building in said Township on March 24, 2009 at 6:00 p.m., or as soon thereafter as this matter can be reached, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Prior to the second reading, a copy of this ordinance shall be posted on the bulletin board in the Municipal Building and copies shall be made available at the Township Clerk's office in said Municipal Building to members of the general public who shall request such copies.

J. MARK MUTTER  
TOWNSHIP CLERK

APPROVED AS TO FORM:  
KENNETH B. FITZSIMMONS  
TOWNSHIP ATTORNEY  
MUNICIPAL BUILDING  
33 WASHINGTON STREET  
TOMS RIVER, NJ 08753

This ordinance title and purpose, together with notice, shall be published in the Asbury Park Press in the issue of Friday, March 13, 2009.

Ordinance was adopted on first reading with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent.

Council Member Donohue spoke in favor of the preceding Ordinance.

A motion was made by Council Member Hill, seconded by Council Member Donohue and carried, to adopt the following Resolution.

**RESOLUTION APPROVING APPLICATION FOR  
PARIS GRANT—PHASE V**

**March 10, 2009**

WHEREAS, the Governing Body of the Township of Toms River has agreed to apply for a PARIS Grant in the amount not to exceed \$175,000.00; and

WHEREAS, the Governing Body of the Township of Toms River is acknowledging and accepting the responsibility of acting as applicant for this grant; and

WHEREAS, the State of New Jersey has made PARIS grants available to assist county and municipal governments in their records management, preservation and storage efforts; and

WHEREAS, the purpose of this grant is for Records Management Organization and Disaster Preparedness;

WHEREAS, NOW THEREFORE BE IT RESOLVED by the Governing Body of the Township of Toms River, that the Township of Toms River does hereby apply for a PARIS Grant for the purpose cited above.

I, J. Mark Mutter, Clerk of the Township of Toms River in the County of Ocean, in the State of New Jersey, do hereby Certify that the foregoing Resolution is a true copy of the Original Resolution duly passed and adopted by a majority of the full membership of the Governing Body of the Township of Toms River at its meeting of March 10, 2009.

1. Township Clerk shall send a certified copy of this resolution to each of the following:

- a. Attorney
- b. Mayor
- c. Council

- d. Administrator
- e. Chief Financial Officer
- f. Records Manager
- g. State of New Jersey
  - Division of Archives and
  - Records Management-PARIS Grants
  - Attn: Beth Colosimo
  - PO Box 307
  - Trenton, NJ 08625

The foregoing Resolution was adopted on the following roll call vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Hill	Yes
Council Member Kubiell	Yes
Council Member Sevastakis	Yes
Council Member Donohue	Yes
Council President McGuckin	Yes

A motion was made by Council Member Kubiell, seconded by Council Member Maruca and carried, to adopt the following Resolution.

#### RESOLUTION

#### CORRECTIVE ACTION PLAN FOR FY07 AUDIT

MARCH 10, 2009

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, municipalities are also required to have a Corrective Action Plan prepared and filed with the Township Clerk which addresses the findings and recommendations contained in the audit report; and,

WHEREAS, the Chief Financial Officer submitted a Corrective Action Plan with respect to the audit of the fiscal year which ended on June 30, 2008;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. The Corrective Action Plan as submitted by the Chief financial Officer is hereby approved.
2. The Corrective Action Plan as submitted by the Chief Financial Officer will be filed with the Director of the Division of Local Government Services with a certified copy of this Resolution.
3. The Township Clerk shall send a certified copy hereof to each of the following:
  - a) Chief Financial Officer
  - b) Township Council
  - c) Township Auditor
  - d) Township Attorney

Approved as to Form:

The foregoing Resolution was adopted on the following roll call vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Hill	Yes
Council Member Kubiell	Yes
Council Member Sevastakis	Yes
Council Member Donohue	Yes
Council President McGuckin	Yes

The following Budget Amendment Resolution was read into the record by Township Clerk J. Mark Mutter.

Council President McGuckin announced the public hearing on the Budget Amendment Resolution and asked if any one wished to speak regarding same.

There was no response.

A motion was made by Council Member Kubiell, seconded by Council Member Maruca, and carried with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to **close** the Public Hearing.

A motion was made by Council Member Kubiell, seconded by Council Member Donohue and carried, to approve the following Resolution.

**Resolution of the Township of Toms River,  
County of Ocean, State of New Jersey, to Amend  
Approved Budget in accordance with the Provisions of  
N.J.S.A. 40A:-4-9**

**February 24, 2009**

**WHEREAS**, the local municipal fiscal year budget for FY2009 was approved on the 28th day of October, and;

**WHEREAS**, the public hearing on said budget has been held as advertised on December 9, 2008, and

**WHEREAS**, it is desired to amend said approved budget; and,

**WHEREAS**, the public hearing on the said budget amendment will be advertised on the 28<sup>th</sup> day of February, 2009 and held on the 10<sup>th</sup> day of March, 2009:

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Township of Toms River, County of Ocean, that the following amendments to the approved FY2009 be made:

General Revenues		
	From	To
1. <b>Surplus Anticipated</b>	\$16,405,000.00	\$17,135,797.00
<b>Total Surplus Anticipated with Prior Written Consent of Director of Local Government Services</b>	<b>\$690,000.00</b>	<b>\$19,203.00</b>

<b>Total Surplus Anticipated</b>	\$17,095,000.00	\$17,155,000.00
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**3. Miscellaneous Revenues - Section D: Special Items of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Inter-local Municipal Service Agreements Offset with Appropriations:**

Toms River Business Improvement District	\$0.00	\$25,000.00
Brick Township	\$0.00	\$150,000.00
Toms River Board of Fire Commissioners Dist. 1 and 2	\$0.00	\$7,735.84

<b>Total Section D: Inter-local Municipal Service Agreements Offset with Appropriations</b>	<b>\$0.00</b>	<b>\$182,735.84</b>
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**3. Miscellaneous Revenues - Section E: Special Items of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Additional Revenues Offset with Appropriations (NJSA 40A: 4-45.3h):**

Community Service Officer Program-Ambulance Service Fees	\$1,000,000.00	\$1,144,000.00
Toms River School District	\$650,000.00	\$0.00
Toms River Fire Districts #1 and #2	\$50,000.00	\$0.00
Toms River Business Improvement District	\$25,000.00	\$0.00
Group Health Insurance Premium Contributions	\$450,000.00	\$0.00

<b>Total Section E: Special Item of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Additional Revenues:</b>	<b>\$2,175,000.00</b>	<b>\$1,144,000.00</b>
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**3. Miscellaneous Revenues - Section F: Special Items of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Public and Private Revenues Offset with Appropriations:**

County of Ocean Grant	\$0.00	\$130,000.00
County of Ocean - Senior Center Participant Contribution	\$0.00	\$2,600.00
State of NJ - Division of Criminal Justice - Body Armor	\$0.00	\$15,952.90
Cops In Shops	\$0.00	\$6,400.00
State of New Jersey, Division of Motor Vehicles - DDEF Grant	\$0.00	\$25,901.64
State of New Jersey, Office of Emergency Management	\$0.00	\$10,000.00

	Ocean County 966 Reimbursement Program	\$0.00	\$4,750.00
	<b>Total Section F: Special Items of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Public and Private Revenues:</b>	\$567,107.16	\$762,711.70
<b>3.</b>	<b>Miscellaneous Revenues- Section G: Special of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services-Other Special Items:</b>		
	Group Health Insurance Premium Contributions	\$0.00	\$450,000.00
	<b>Total Section G: Special Item of Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Other Special Items</b>	\$1,352,308.73	\$1,802,308.73
<b>SUMMARY OF REVENUES</b>			
<b>1.</b>	<b>Surplus Anticipated</b>	\$16,405,000.00	\$17,135,797.00
<b>2.</b>	<b>Surplus Anticipated with Prior Written Consent of Director of Local Government Services</b>	\$690,000.00	\$19,203.00
<b>3.</b>	<b>Miscellaneous Revenues:</b>		
	Total Section D: Special Items of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Inter-local Municipal Service Agreements	\$0.00	\$182,735.84
	Total Section E: Special Item of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Additional Revenues:	\$2,175,000.00	\$1,144,000.00
	Total Section F: Special Items of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Public and Private Revenues:	\$567,107.16	\$762,711.70
	Total Section G: Special Item of Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Other Special Items	\$1,352,308.73	\$1,802,308.73
	<b>Total Miscellaneous Revenues</b>	\$22,157,994.96	\$21,955,335.34
<b>5.</b>	<b>Subtotal General Revenues (Items 1,2,3and 4)</b>	\$43,252,994.96	\$43,110,335.34
<b>6.</b>	<b>Amount to be Raised by Taxes for Support of Municipal Budget:</b>		
	a) Local Tax for Municipal Purposes Including Reserve for Uncollected Taxes	\$48,638,226.98	\$47,985,467.82
	<b>Total Amount to be Raised by Taxes for Support of Municipal Budget</b>	\$48,638,226.98	\$47,985,467.82
<b>7.</b>	<b>Total General Revenues</b>	\$91,891,221.94	\$91,095,803.16

8. GENERAL APPROPRIATIONS  
 (A) Operations - within "CAPS"

General Government (Department of Administration)		
Human Resources (Personnel and Safety)		
Other		
Expenses	\$25,250.00	\$45,250.00
Department of Finance		
Financial Administration(Treasury)(Comptroller's Office)		
Salaries and Wages	\$692,000.00	\$667,000.00
Revenue Administration (Collection of Taxes)		
Other Expenses	\$67,750.00	\$97,750.00
Department of Recreation		
Recreation Administration		
Salaries and Wages	\$1,105,000.00	\$1,092,000.00
Other Expenses	\$111,189.00	\$124,189.00
Senior Services		
Salaries and Wages	\$0.00	\$5,000.00
Other Expenses	\$0.00	\$1,000.00
Youth Services		
Salaries and Wages	\$0.00	\$141,000.00
Other Expenses	\$0.00	\$10,895.00
Municipal Alliance Program		
Salaries and Wages	\$0.00	\$9,900.00
Department of Law		
Law Department		
Salaries and Wages	\$444,000.00	\$459,000.00
Other Expenses		
Legal Services and Costs	\$200,000.00	\$220,000.00
Department of Public Works		
Streets and Roads Maintenance (Streets and Roads)		
Salaries and Wages	\$2,254,000.00	\$2,184,000.00
Recycling		
Salaries and Wages	\$2,380,000.00	\$2,259,000.00
Landfill Expenses	\$3,859,000.00	\$3,661,000.00
Municipal Services Act		
Other Expenses	\$950,000.00	\$1,300,000.00
Unemployment Insurance		
Other Expenses	\$100,000.00	\$221,000.00
Workers Compensation	\$2,090,000.00	\$1,808,000.00
Employee Group Health	\$9,402,360.42	\$10,000,000.00
Accumulated Leave Compensation		
Salaries and Wages	\$400,000.00	\$385,000.00
Contribution to:		
Police and Firemen's Retirement System of NJ	\$3,440,000.00	\$0.00

**Uniform Construction Code -  
Appropriations Offset by Dedicated  
Revenues (N.J.A.C. 5:23-4.17)**

Uniform Construction Code Enforcement  
Functions

Salaries and Wages	\$1,143,000.00	\$993,000.00
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<b>Total Operations {Item 8(A)} within "CAPS"</b>	<b>\$66,156,940.43</b>	<b>\$63,177,375.01</b>
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**B. Contingent**

**Total Operations Including Contingent  
within "CAPS"**

	\$66,161,940.43	\$63,182,375.01
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**Detail:**

Salaries and Wages	\$36,706,401.01	\$36,496,301.01
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Other Expenses (Including Contingent)	\$29,455,539.42	\$26,686,074.00
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**8. GENERAL APPROPRIATIONS**

**(E) Deferred Charges and Statutory Expenditures -  
Municipal within "CAPS"**

**(2) STATUTORY EXPENDITURES:**

Police and Firemen's Retirement System of NJ	\$0.00	\$3,440,000.00
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<b>Total Deferred Charges and Statutory Expenditures - Municipal within "CAPS"</b>	<b>\$3,032,081.99</b>	<b>\$6,472,081.99</b>
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<b>(H-1) Total General Appropriations for Municipal Purposes within "CAPS"</b>	<b>\$69,194,022.42</b>	<b>\$69,654,457.00</b>
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**8. GENERAL APPROPRIATIONS**

**(A) Operations - Excluded from "CAPS"**

Use of Surplus with Prior Written Consent of Local  
Finance Board:

Employee Group Health	\$447,639.58	\$0.00
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Mandated Stormwater Management Compliance  
N.J.A.C.: 7-8

Salaries and Wages	\$0.00	\$150,000.00
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Other Expenses		\$20,000.00
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Division of Senior Services

Salaries and Wages	\$101,000.00	\$0.00
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Other Expenses	\$9,165.00	\$0.00
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Division of Youth Services

Salaries and Wages	\$141,000.00	\$0.00
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Other Expenses	\$10,895.00	\$0.00
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Municipal Alliance Program

Other Expenses	\$9,900.00	\$0.00
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Multi-Family Solid Waste Collection

Other Expenses	\$350,000.00	\$0.00
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<b>Total Other Operations - Excluded from "CAPS"</b>	<b>\$2,666,599.58</b>	<b>\$1,767,000.00</b>
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**Inter-local Municipal Service Agreements**

Inter-local Agreement - Toms River Municipal Utilities Authority Computerized Data	\$200,000.00	\$50,000.00
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Processing		
Inter-local Agreement - Toms River Regional Schools - Other Expenses - Gasoline	\$650,000.00	\$0.00
Inter-local Agreement - Toms River Fire Districts #1 and #2 - Other Expenses - Gasoline	\$50,000.00	\$0.00
Shared Services - Brick Township Construction Offices	\$0.00	\$150,000.00
Toms River Board of Fire Commissioners Dist 1 and 2 Other Expenses- Spillman Computer Added-Dispatch System	\$0.00	\$7,735.84
<b>Total Inter-local Municipal Service Agreements</b>	<b>\$925,000.00</b>	<b>\$232,735.84</b>
<b>Additional Appropriations Offset by Revenues (NJS 40A:4-45.3h)</b>		
Group Health Insurance Expense	\$450,000.00	\$0.00
<b>Total Additional Appropriations Offset by Revenues (NJS 40A:4-45.3h)</b>	<b>\$1,594,000.00</b>	<b>\$1,144,000.00</b>
<b>Public and Private Programs Offset by Revenues</b>		
For Future Grants	\$280,000.00	\$148,693.00
State of NJ - Division of Criminal Justice - Body Armor	\$0.00	\$15,952.90
Cops In Shops	\$0.00	\$6,400.00
Ocean County 966 Reimbursement Program	\$0.00	\$4,750.00
State of New Jersey, Division of Motor Vehicles - DDEF Grant	\$0.00	\$25,901.64
State of New Jersey- Office of Emergency Management	\$0.00	\$10,000.00
County of Ocean Grant - Senior Center Grant	\$0.00	\$130,000.00
County of Ocean - Senior Center Grant Participant's Contribution	\$0.00	\$2,600.00
County of Ocean - Senior Center Grant Local Match	\$0.00	\$241,472.00
<b>Total Public and Private Programs Offset by Revenue</b>	<b>\$902,907.16</b>	<b>\$1,208,676.70</b>
<b>Total Operations - Excluded from "CAPS"</b>	<b>\$6,088,506.74</b>	<b>\$4,352,412.54</b>
<b>Detail:</b>		
Salaries and Wages	\$1,363,545.00	\$1,443,846.64
Other Expenses	\$4,724,961.74	\$2,908,565.90
<b>( C ) Capital Improvements - Excluded from "CAPS"</b>		
Capital Improvement Fund	\$200,000.00	\$400,000.00

Capital Projects - Computer Equipment/System	\$0.00	\$150,000.00
Capital Projects - Building Renovations	\$0.00	\$150,000.00
<b>Total Capital Improvements - Excluded from "CAPS"</b>	<b>\$525,000.00</b>	<b>\$1,025,000.00</b>
<b>(D) Municipal Debt Service-Excluded from "CAPS"</b> Interest on Notes	\$540,100.00	\$540,250.00
<b>(D) Total Municipal Debt Service - Excluded from "CAPS"</b>	<b>\$8,841,826.26</b>	<b>\$8,841,976.26</b>
<b>(H-2) Total General Appropriations for Municipal Purposes Excluded from "CAPS"</b>	<b>\$16,107,877.35</b>	<b>\$14,871,933.15</b>
<b>(O) Total General Appropriations - Excluded from "CAPS"</b>	<b>\$16,107,877.35</b>	<b>\$14,871,933.15</b>
<b>(L) Subtotal General Appropriations {Items (H-1) and (O)}</b>	<b>\$85,301,899.77</b>	<b>\$84,526,390.15</b>
<b>(M) Reserve for Uncollected Taxes</b>	<b>\$6,589,322.17</b>	<b>\$6,569,413.01</b>
<b>9. Total General Appropriations</b>	<b>\$91,891,221.94</b>	<b>\$91,095,803.16</b>
<b>8. GENERAL APPROPRIATIONS</b>		
<b>(H-1) Total General Appropriations for Municipal Purposes within "CAPS"</b>	<b>\$69,194,022.42</b>	<b>\$69,654,457.00</b>
<b>(A) Operations - Excluded from "CAPS"</b>		
Other Operations	\$2,666,599.58	\$1,767,000.00
Inter-local Municipal Service Agreements	\$925,000.00	\$232,735.84
Additional Appropriations Offset by Revs.	\$1,594,000.00	\$1,144,000.00
Public & Private Progs. Offset by Revs.	\$902,907.16	\$1,208,676.70
<b>Total Operations - Excluded from "CAPS"</b>	<b>\$6,088,506.74</b>	<b>\$4,352,412.54</b>
<b>(C) Capital Improvements</b>	<b>\$525,000.00</b>	<b>\$1,025,000.00</b>
<b>(D) Municipal Debt Service</b>	<b>\$8,841,826.26</b>	<b>\$8,841,976.26</b>
<b>(M) Reserve for Uncollected Taxes</b>	<b>\$6,589,322.17</b>	<b>\$6,569,413.01</b>
<b>Total General Appropriations</b>	<b>\$91,891,221.94</b>	<b>\$91,095,803.16</b>
<b>DEDICATED ICE RINK UTILITY BUDGET</b>		
<b>10. DEDICATED REVENUES FROM ICE RINK UTILITY</b>		
Operating Surplus Anticipated	\$100,000.00	\$65,000.00
Total Operating Surplus Anticipated	\$100,000.00	\$65,000.00
Ice Rink Fees	\$950,000.00	\$985,000.00

The foregoing Resolution was approved on the following Roll Call vote:

Council Member Cassano	Absent
Council Member Maruca	Yes
Council Member Sevastakis	Yes
Council Member Kubiell	Yes
Council Member Hill	Yes
Council Member Donohue	Yes
Council President McGuckin	Yes

Council President McGuckin noted Municipal Budget resulted in a decrease of over two cents for Municipal purpose.

A motion was made by Council Member Hill, seconded by Council Member Kubiell, and carried with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to **adopt** the following FY2009 Local Municipal Budget as amended.

“SEE THE FOLLOWING ATTACHMENT”

A motion was made by Council Member Donohue, seconded by Council Member Maruca, and carried with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve the following Resolution:

**RESOLUTION DENYING A WAIVER OF PAYMENT TO THE PEDESTRIAN SAFETY FUND BY THE MAGEE FAMILY TRUST, BLOCK 1080.08, LOTS 8 & 9, NEW LOTS 8.01 & 9.01 (527 GEORGE ROAD), IN THE TOWNSHIP OF TOMS RIVER**

**MARCH 10, 2009**

WHEREAS, the attorney for the applicant, Magee Family Trust, appeared before the Toms River Township Planning Board on August 6, 2008, seeking a minor subdivision and the construction of a single family home on the new lot, 8.01; and

WHEREAS, Section 348-8.25 of the Toms River Administrative Code permits a developer to seek a waiver to install curbs and sidewalks at a site and, in the alternative, pay the construction costs into the Pedestrian Safety Fund established by the Township; and

WHEREAS, the applicant, Magee Family Trust, received minor subdivision approval with a variance for premises known as Block 1080.08, Lots 8 & 9, on the Official Tax Map of the Township of Toms River, located in the R-75 Zone, and situated on George Road; and

WHEREAS, the approval was granted subject to terms and conditions contained in the resolution of approval; and

WHEREAS, the applicant, Magee Family Trust, applied to the Township Council for a waiver of payment to the Pedestrian Safety Fund; and

WHEREAS, the Township Council finds no justification in this request to waive both the installation of improvements or payment to the Pedestrian Safety Fund; and

WHEREAS, it is the policy of the Township of Toms River to promote the installation of curbing and sidewalks in all new developments; and

WHEREAS, there is a public need within the Township to install curbing and sidewalks or make payment to the Pedestrian Safety Fund;

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby denies this request to waive both the construction of sidewalks and curbs or make payment to the Pedestrian Safety Fund.

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Attorney
- b) Engineering
- c) Planning Board
- d) E. Allen MacDuffie, Jr., Esq.  
1605 Grand Central Avenue  
P.O. Box 366  
Lavallette, N.J. 08735
- e) Building Department
- f) Chief Financial Officer

Council Member Hill spoke in favor of the following Resolution.

Council President McGuckin spoke in favor of the following Resolution, also.

A motion was made by Council Member Kubiel, seconded by Council Member Hill, and carried with Council Members Hill, Donohue, Kubiel, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve the following Resolution:

**RESOLUTION OF THE TOWNSHIP OF TOMS RIVER COUNCIL DEMANDING THAT THE GOVERNOR IMMEDIATELY DIRECT THE ATTORNEY GENERAL TO STOP PROVIDING A DEFENSE FOR COAH TO THE VARIOUS CHALLENGES TO COAH'S REVISED THIRD ROUND RULES PENDING BEFORE THE APPELLATE COURT AS COAH CONSISTENTLY HAS VIOLATED THE APPELLATE COURT'S ORDERS, THE REQUIREMENTS OF THE FHA AND THE APA AND HAS WITHHELD VITAL INFORMATION THAT PROVES THAT THE DATA THAT COAH RELIED UPON TO DETERMINE THE STATE WIDE NEED FOR AFFORDABLE HOUSING IS FLAWED IN INACCURATE**

**MARCH 10, 2009**

**WHEREAS**, while the Township has always tried to comply with the requirements of the Fair Housing Act ("FHA") and the New Jersey Council of Affordable housing ("COAH") since their inception in 1986, it has determined that the present revised regulations from COAH for the Third Round are completely unworkable, unfair, unconstitutional, and in violation of New Jersey law, as well as COAH's actions likewise being in violation of prevailing legal authority, and as such, Toms River has joined with the Townships of Jackson and Brick to file an appeal of these regulations along with dozens of other entities and other municipalities; and

**WHEREAS**, recently the Townships, through their affordable housing attorney, John F. Russo, Jr. filed the Appellant Brief on behalf of the Townships and has reviewed the thousands of pages of briefs filed by the other Appellants; and

**WHEREAS**, the Township has determined that, not only will the Court overturn COAH's thirds round rules yet again, but as a result of this effort, the Township is now aware that the single greatest impediment to production of affordable housing at this time in New Jersey is COAH, and

**WHEREAS**, in light of this fact the Townships' Appellate Brief focused almost exclusively upon the fact that not only is COAH's methodology invalid, but its is COAH's actions as an administrative agency that are even more problematic and unlawful, that will also serve as the basis for the Appellate Court invalidating COAH's revised third round rules, yet again; and

**WHEREAS**, specifically the Townships' argued that COAH has completely acted in violation of New Jersey law since it was ordered by the Appellate Court to revised its third round rules on January 25, 2007; and

**WHEREAS**, a review of the relevant facts in this regard is startling in that it, not only clearly reveals COAH's failure to comply with its statutory mandate as set forth in the FHA, but it also has acted in violation of the Appellate Court's Orders, in violation of the Administrative Procedures Act ("APA") and the Open Public Records Act ("OPRA") pertaining to how it has conducted itself during the entire third round saga.

- According to the FHA, it was supposed to have third round rules in effect by the end of the second round, 1999. However, it did not adopt the third round rules until December 20, 2004, four years late.
  - These rules permitted municipalities to adopt ordinances that passed the growth share obligation generated by development along to the developers and it encouraged municipalities to adopt Growth Share Ordinances ("GSOs") based upon COAH's model ordinance.
  - While COAH believed that its rules were consistent with the law in New Jersey, they were later found by the Appellate Court not to be, but COAH is the administrative agency that is entrusted with the task of developing a methodology to determined municipal affordable housing obligations and rules for municipalities to follow in satisfying such obligations. It is given great deference to carry out these duties by reviewing Courts.
  - COAH was given six months by the Appellate Court to revise the third round rules and it took COAH almost three times the time period it was given to adopt rules that are now being challenged by seven separate interested parties and dozens municipalities.
  - COAH intentionally did not comply with the Appellate Court's January 8, 2008 Order requiring that the time period for COAH to complete rulemaking be extended until June 2, 2008. No one can reasonably argue that COAH completed its third round rulemaking by June 2, 2008, as it proposed significant amendments to theses very rules that it published on June 2, 2008, in a thinly veiled attempt to comply with the Appellate Court's Order.
  - In 2007, as a result of the Appellate Court's invalidating COAH's rule that permitted municipalities to pass the "Growth Share" obligation being generated by development approvals directly through to the developers, COAH sought and was granted a stay so that municipal GSOs would remain effective and then it completely abandoned the GSOs in its revised third round rules and ignored the Townships' request to provide guidance as to how municipalities are to account for the hundreds of approvals granted pursuant to the GSOs.
  - COAH was also ordered by the amendment to the FHA, P.L 2008, c.46, (the Roberts Bill) to promulgate rules according to the APA to be consistent with and to effectuate and implement the intent and purpose of P.L. 2008, c.46 on July 17, 2008, and seven months later and COAH has not even mentioned when it will propose such rules.
  - As argued by Twenty Towns ( a group of municipalities located in Somerset, Warren and Morris Counties) in its appellate brief, COAH conducted a review of the vacant land report in the summer of 2008 while its amended rules were still pending. The consultants, Rutgers University, issued the "Pilot Report" that show that the vacant land analysis was greatly overstated by 16 percent. Not only did COAH not share this information with the public, interested parties and the Appellate Court, it intentionally withheld this information when the League served COAH with an OPRA request on October 22, 2008. This Report alone will serve as the basis of the Appellate Court overturning the methodology utilized by COAH in it revised third round rules.
- and;

**WHEREAS**, due to the fact that COAH is an administrative agency created by the Legislature in the FHA as part of the Executive branch of the Governor's office, it is being provided a defense by the Attorney General's Office to the various challenges filed by the interested parties at the Appellate Division presently underway; and

**WHEREAS**, the Township has determined that due to COAH's action as stated above and the extreme probability that the Appellate Court will once again overturn COAH's third round rules, that Governor Corzine must immediately direct the Attorney General to cease providing a defense at taxpayers' expense to COAH as a result of COAH's intentional failure to follow New Jersey law in carrying out its duties under the FHA and the Appellate Courts remand as well as other significant areas of law; and

**WHEREAS**, the Governor should also direct the Attorney General to file a motion with the Appellate Court seeking to place a stay on the various challenges to COAH's revised third round rules until all of the parties to the Appellate Court challenges have had the opportunity to meet and discuss meaningful revision to COAH's third round rules that would either be acceptable to all of the parties or at least narrow the disputed issues so that significant time and money are no longer wasted in trying to make COAH's third round rules workable under the present circumstances; and

**WHEREAS**, the Township has determined that if COAH chooses to not respect the legal authority in New Jersey, than it should no longer be provided a defense in Court funded by taxpayer money and the Governor has the authority to direct the Attorney General to take such actions in the interest of all New Jerseyans.

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Township of Toms River, County of Ocean, State of New Jersey that the Council with full concurrence of Mayor Thomas Kelaher does hereby take the following actions:

1. Use the Township's best efforts to compel Governor Corzine to order the Attorney General to stop providing a taxpayer funded defense to COAH regarding the various challenges to COAH's revised third round rules pending before the Appellate Court; and

2. To further compel the Governor to order the Attorney General to immediately file a motion with the Appellate Court seeking a stay of the Appellate Challenges be put in place so that all of the parties to the challenges have to opportunity to meet and discuss meaningful changes to COAH's third round rules and methodology that would better serve the interests of all New Jerseyans in lieu of the present litigations that will result in COAH's rules being invalidated once again by the Appellate Court; and

3. A certified copy of this resolution shall be provided by the Clerk's Office to each of the following:

- a) Jay Lynch, Municipal Liaison/Twp Planner
- b) Robert Chankalian, Township Administrator
- c) John Maczuga, Affordable Housing Planner
- d) John F. Russo Jr., Esq., Affordable Housing Counsel
- e) Kenneth Fitzsimmons, Esq., Asst. Township Attorney
- f) William G. Dressel Jr., Executive Director NJSLOM
- g) Governor Jon S. Corzine
- h) 9<sup>th</sup>, 10<sup>th</sup> & 30<sup>th</sup> District Legislative Delegations
- i) Senator Raymond Lesniak
- j) Senator Joseph Kyrillos
- k) Ocean County Freeholders
- l) All Municipalities in Ocean County
- m) Philip Caton, Court Master

Council President McGuckin spoke in favor of the following Resolution.

A motion was made by Council Member Maruca, seconded by Council Member Kubiell, and carried with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis

and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve the following Resolution:

**RESOLUTION OF THE TOWNSHIP OF TOMS RIVER COUNCIL SUPPORTING S-2485 THAT IS PENDING BEFORE THE NEW JERSEY STATE SENATE AND RECOMMENDING THAT CERTAIN AMENDMENTS BE MADE TO S-2485 THAT WOULD BE IN THE BEST INTERESTS OF TOMS RIVER AND ALL NEW JERSEYANS IN THAT SUCH AMENDMENTS WOULD RESULT IN BOTH ECONOMIC RECOVERY AND THE PRODUCTION OF AFFORDABLE HOUSING THROUGHOUT THE STATE IN THIS TIME OF UNPRECEDENTED ECONOMIC PERIL**

**MARCH 10, 2009**

**WHEREAS**, on January 27, 2009, the Council adopted a resolution supporting S-2485, which is an amendment to the Fair Housing Act (“FHA”) designed to correct the inequities of A-500 adopted as P.L. 2008, c.46 commonly referred to as the Roberts Bill and to specifically suspend the requirement that non-residential developers pay the Statewide 2.5% Non-residential Development Fee also part of P.L. 2008, c.46. The bill was sponsored by Senator Lesniak in response to the fact that the entire Nation and the State of New Jersey are facing historic and unprecedented economic failures on a daily basis, with the most dramatic being those associated with the plummeting real estate values, as well as the collapse of the construction and lending industries; and

**WHEREAS**, on January 26, 2009, as a result of the current economic challenges facing the State of New Jersey, the Senate Economic Development Subcommittee held hearings on S-2485, at which time it proposed an amendment that would also suspend the municipal affordable housing obligations generated by the growth share for non-residential development as determined by COAH if the State cannot provide the funding to replace the funding lost to the municipalities as a result of S-2485; and

**WHEREAS**, at the request of the Mayor and Council, the Township’s affordable housing attorney, John F. Russo, Jr, appeared before the Senate Subcommittee on January 26, 2009, to testify on behalf of Toms River, supporting S-2485, and specifically, seeking that the bill be amended to suspend the Fair Housing Act entirely until either the economic conditions have abated and/or until the Legislature has completed addressed the appropriate reforms to the FHA and made several suggestions that could be considered by the Economic Development Subcommittee as amendments to S-2485, that would have a significant positive impact on the current economic recovery efforts that are being considered by the Senate Economic Development Subcommittee relating to the amendment to the FHA; and

**WHEREAS**, notwithstanding the fact that the Township previously supported S-2484, the Council is now seeking that S-2485 be amended to include the following:

I. S-2485 should be amended to permit RCAs that were in Process Prior to July 17, 2008, to proceed.

P.L.2008, c.46 (“The Roberts Bill”) eliminated Regional Contribution Agreements (“RCAs”) that were not completely through the review and approval process as set forth by the FHA as of July 17, 2008. However, in light of the current efforts to encourage economic development, Mr. Russo testified before the Senate Economic Development subcommittee, recommending that the bill should be amended to permit RCAs that were in process before July 17, 2008, to be permitted to proceed. The reason is simply that such an amendment would put real dollars to work within the near future. This suggestion was offered in support of the Senators’ stated public policy objectives to amend the FHA in such a manner that would encourage economic development that would put people to work building affordable housing and to get capital moving that would help bring about economic recovery as quickly as possible. Such an amendment would provide, conservatively, \$30,000,000.00 to \$40,000,000.00 of non-State money to be invested within the near future that would help, not only the economic recovery, but that would also lend creditability to the Legislature and the Governor in that such an amendment would bring about the production of hundreds of low and moderate-income housing units throughout the State, either as new construction or rehabilitation of existing housing. Such an amendment would also help provide much needed funding for housing, thereby satisfying both the urban municipalities, as well as the suburban municipalities, by permitting them both to complete components of their affordable housing programs.

Most importantly, due to the fact that the Roberts Bill eliminated RCAs, even those in the advanced stages of approval, and created the 2.5 Percent Statewide Non-residential Development Fee in an effort to provide a stable funding source to the urban areas that would replace the funding that the

RCAs historically provided over the years, and as such, it created a special account in the State that would be funding by the 2.5 percent Statewide Non-Residential Development Fee. Now that the Legislature is considering exempting all projects that were approved prior to July 17, 2008, with the State and municipalities being required to refund any payments made thereto, there will be no money available this year. There will also be no money available for the next eighteen months if the amendment to S-2485 that suspends the development fee becomes law. The amendment to S-2485 calls for replacement money to be used for this purpose from a State Capital Reserve Account; however, this alternative funding source would not be necessary if the bill is amended to permit RCAs that were in process to continue.

Toms River does not believe that the State should be using capital reserve funds for this purpose when there are other non-State funding sources available. It would also provide the Legislature and the Governor with creditability with the urban mayors in that, the stable funding source (Non-Residential Development Fee) could be restored in eighteen months and the money that is part of the RCAs that were in process would provide the promised funding for last year and until the eighteen months have elapsed. Therefore, permitting the RCAs that were in process under the present circumstances would help stimulate the economic recovery by getting capital flowing, while at the same time creating hundreds of affordable housing opportunities and providing the urban areas with much needed funding even if the 2.5 percent development fee is either waived or suspended.

For example, Toms River and Lakewood have 72 new construction and 72 rehabilitation RCAs that have been negatively impacted by the Roberts Bill, but in this case Toms River paid the \$3,240,000.00 to Lakewood and these units are up and largely occupied. However, Fair Share Housing Center ("FSHC") has an appeal pending of both COAH's recommendation of approval and Judge Grasso's approval of the RCA that, if successful, would have a significant negative impact on both municipalities' affordable housing programs. FSHC's arguments to the Appellate Court are now mostly based upon the fact that the Roberts Bill eliminated the RCA, so if the Appellate Court were to remand the RCA for any reason, then the Court and or COAH would lack the statutory authority to revisit the RCA, (this actually happened with Galloway Township's RCAs). The 72 rehabilitation RCA were not finally approved by Judge Grasso and as such could be in jeopardy if the Roberts Bill is not amended accordingly.

There are sixty-seven RCAs that were in process as of July 17, 2008, and if the bill is amended to permit them to move forward, then that would help stimulate economic development while at the same time providing the best single method to get affordable housing produced in these uncertain times.

The S-2485 could also be amended to permit new RCAs to be consummated that are to satisfy second round affordable housing obligations only as well.

## II. Municipal Partnerships

This compliance mechanism was created by COAH in its original third round rules in 2004 and was kept in the revised third round rules effective June 2, 2008. However, the amended COAH rules effective October 22, 2008, only permit municipal partnerships for municipalities located in a Regional Planning Area, i.e., Meadowlands, etc. The rule provided that two or more municipalities could partner to combine their efforts to provide for affordable housing. One municipality would have the affordable units and the other would provide funding to develop the units. The credits would be apportioned based upon the agreement between the municipalities. The rule also limited the maximum number of these units to be combined with RCAs, so a municipality is limited as to the total number of units it could satisfy in this manner.

Toms River is suggesting that S-2485 be amended to permit municipal partnerships to be made available for municipalities regardless of whether they are located in a Regional Planning Area. Such a program would be like a shared services agreement between municipalities, but in this case it is to provide affordable housing. One municipality would contribute the land and possibility infrastructure improvements, i.e., sewer, water, roads, etc. and the other would provide money. COAH or the Court would have to approve of the projects plans and any other sources of funding to ensure that the project is viable and would have to approve of the affordable housing crediting for both municipality. The benefit to include such an amendment is similar to what has been stated above in that it would encourage municipalities to join forces to get housing built thereby stimulating the economy, while at the same time providing for actual production of affordable housing.

## III. Exclusive Jurisdiction

Mr. Russo specifically testified before the Economic Development Subcommittee, alerting the Senators to the problem with the Roberts Bill giving COAH exclusive jurisdiction over the

enforcement of spending development fees. Toms River is suggesting that S-2485 be amended to suspend this provision until COAH adopts and promulgates rules according to the Administrative Procedures Act (“APA”) to be consistent with and effectuate the intent and purpose of this provision. This process is expressly required by the Roberts Bill and it also provides due process protections to the municipalities as well.

Mr. Russo on behalf of the Township appeared before the Hon. Vincent J. Grasso, A.J.S.C., on February 11, 2009, seeking that the Court maintain jurisdiction over Toms River, Jackson, Brick and Lakewood’s development fee rights until COAH adopts the rules that are required by the Roberts Bill. Judge Grasso agreed with the Deputy Attorney General appearing for COAH, in that the statute is clear regarding the jurisdiction issue and that his hands are tied. He did caution that he is concerned that COAH may delay the process for towns that are under Court jurisdiction for their plans and specifically reserved the right for my towns to file an application with the Court if this problem occurs.

This is a tremendous problem for towns that are voluntarily under the Court’s jurisdiction in moving through the compliance hearings with the Court and delay is certain. Toms River is one of the most successful producers of affordable housing in the State and giving COAH the exclusive jurisdiction only serves to give COAH more power than it deserves at this time. Furthermore, COAH seems to have an axe to grind with towns that voluntarily have elected the Court’s jurisdiction. Toms River is under Court jurisdiction because it has a large obligation with a complicated plan that has languished before COAH in the past. The Court is a much more efficient place to deal with complicated issues than COAH is in such cases.

Therefore, S-2485 should be amended to either remove or suspend the exclusive jurisdiction with COAH until the Statewide Development Fee is restored and until COAH completes the rule making that it was ordered to do by the Roberts Bill.

#### IV. Foreclosure Prevention Plan

Toms River is suggesting that S-2485 be amended to include a Foreclosure Prevent/Affordable Housing Program. This Program was created by Toms River last September and was favorably reported in the New York Times, the Star Ledger and the Asbury Park Press. Toms River has included this program in its third round affordable housing plan and Brick and Jackson are considering it as well. The benefit to the State by specifically including this program in S-2485 is that it will permit municipalities to utilize money in their Affordable Housing Trust Funds to provide a subsidy to homeowners that are facing foreclosure by utilizing a compliance mechanism in COAH’s rules called “Market to Affordable Program.” However, in order for this to work we need the statute amended or a COAH rule change so that the affirmative marketing requirement under UHAC is removed for this program, as the occupant will already be identified. However, thereafter, UHAC requirements would be satisfied. The Homeowner would place a deed restriction according to COAH rules and UHAC on the property in exchange for a minimum subsidy of \$25,000.00 (this amount is in COAH’s rules). It is important to recognize that this is not a hand out as the homeowners are giving up something of value in exchange for the money, future appreciation of their homes.

Perhaps, this subsidy could be matched by the State if it receives Federal Stimulus funds and/or President Obama’s new Foreclose Rescue Plan, as such a purpose would be consistent with a foreclosure prevent public policy objective. Toms River believes that if S-2485 is amended, it would go a long way to encourage municipalities to help their existing residents by using trust fund money that would help satisfy part of their affordable housing obligations. Therefore, S-2485 would address two important public policy objectives at this time: stemming the tide of foreclosures and providing actual affordable housing now. Such an amendment would be consistent with the stated policy objectives of stimulating the economy and since this amendment is part of the FHA, it will also create affordable housing opportunities with non-taxpayer funds.

Without an amendment to the FHA that will permit this program, it will take municipalities too long to get through the Court and COAH review and approval process, as COAH must approve of the spending of trust fund money and granting a waiver of the affirmative marketing requirement. (This is another problem with the exclusive COAH jurisdiction issue monition above).

and;

**WHEREAS**, notwithstanding the above, the Mayor and Council are also supporting the Senate Republicans proposed legislation (S-2292) designed to overhaul the FHA and COAH’s rules and regulations that will encourage job growth, preserve open space and farmland, end overcrowding in schools and stimulate the construction of more affordable housing on a fair and equitable basis; and

**WHEREAS**, while the Township remains committed to efforts designed to completely reform the FHA and even to possibility eliminate COAH and or a Constitutional amendment eliminating the

Mount Laurel requirement, the Township understands that this process will be a very protracted that may take over a year to accomplish. However, in the interim, the above suggested amendments to S-2485, will provide much needed relief and are completely consistent with the stated public policy objectives of revising the FHA in a manner that would both provide economic recovery, while at the same time providing affordable housing during these very difficult and unprecedented economic times.

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Township of Toms River, County of Ocean, State of New Jersey that the Council with full concurrence of Mayor Thomas Kelaher does hereby take the following actions:

4. Continue to the support of efforts designed to reform the FHA, eliminate COAH, and seek a Constitutional amendment that would remove the Mount Laurel requirements; and
5. Continue to support the pending legislation in the New Jersey Senate, S-2485, that will provide relief for our non-residential developers so that true economic recovery is not impeded by the requirements of P.L. 2008, c.46 and that will also help to alleviate the “Growth Share” obligation to provide affordable housing as determined by COAH that the new non-residential development will generate; and
6. Use it best efforts to seek that the above amendments to S-2485 be incorporated into S-2485 for the reasons set forth above; and
7. Support the pending legislation in the New Jersey Senate, S-2292, that will provide significant reforms to the FHA and COAH’s present regulations;
8. Continue to call on the New Jersey Legislature to immediately suspend the FHA as it relates to the COAH’s Third Round, thereby providing relief to all of New Jersey’s municipalities from the draconian affordable housing requirements that COAH has misguidedly adopted and instead create a period of at least one year for all of the stake holders, especially the Municipalities, to work with the Legislature to find appropriate reforms to the FHA that will result in a process of providing affordable housing that is fair and equitable to all and not at the detriment of municipalities such as Toms River.
9. Continue to seek that a Constitution Amendment be place on the ballot for Next November’s election so that New Jersey voters will have the opportunity to be heard on this issue and to remove the notion that in New Jersey there is a Constitutional right to low and moderate income housing.
10. Toms River still supports the idea that housing should be affordable, but that all that the FHA and COAH have provided is a system that will make Toms River less affordable to those residents that already live here as property taxes will increase to subsidize these failed policies from Trenton.
11. A certified copy of this resolution shall be provided by the Clerk’s Office to each of the following:
  - n) Jay Lynch, Municipal Liaison/Twp Planner
  - o) Robert Chankalian, Township Administrator
  - p) John Maczuga, Affordable Housing Planner
  - q) John F. Russo Jr., Esq., Affordable Housing Counsel
  - r) Kenneth Fitzsimmons, Esq., Asst. Township Attorney
  - s) William G. Dressel Jr., Executive Director NJSLOM
  - t) Governor Jon S. Corzine
  - u) 9<sup>th</sup>, 10<sup>th</sup> & 30<sup>th</sup> District Legislative Delegations
  - v) Senator Raymond Lesniak
  - w) Senator Joseph Kyrillos
  - x) Ocean County Freeholders
  - y) All Municipalities in Ocean County

Council President McGuckin spoke in favor of the following Ordinance.

Council Member Maruca introduced the following Ordinance of which the title only was read in full:

**ORDINANCE VACATING THE PUBLIC RIGHT AND INTEREST IN  
A PORTION OF GARDEN STREET IN THE TOWNSHIP OF TOMS RIVER**

**BE IT ORDAINED** by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. There is hereby vacated all the right and interests of the public for all public use and purposes in a portion of Garden Street, located in the Township of Toms River, more particularly described as follows:

**TRACT I – UTILITY EASEMENT - DESCRIPTION OF A GENERAL UTILITY EASEMENT  
WITHIN THE NORTHERLY PORTION OF GARDEN STREET**

BEGINNING at the point of the intersection of the westerly right-of-way of Garden Street (40 feet wide as depicted on map B-313 filed in the Ocean County Clerks Office on June 2, 1939) with the southerly right-of-way line of Kaufman Street (40 feet wide per tax map) as shown on the Township of Toms River Tax Map sheet #73 last revised October 1, 2007 by Bernard M. Mackle, PLS, PP thence;

1. North 8 degrees 58 minutes East 168.98 feet along the easterly terminus of Kaufman Street and the westerly right-of-way line of Garden Street (40 feet wide) to an angle point on the easterly side line of Block 644.01, Lot 1 thence;
2. North 30 degrees 52 minutes East 124.23 feet along the westerly right-of-way line of Garden Street (33 feet wide) to a point on the southerly right-of-way line of New Jersey State Highway Route 37 East, thence;
3. South 80 degrees 18 minutes East 35.39 feet along the southerly right-of-way line of Route 37 East to a point at the intersection of the southerly right-of-way line of Route 37 East with the easterly right-of-way line of Garden Street (33 feet wide), thence;
4. Along the easterly right-of-way line of Garden Street South 30 degrees 52 minutes West 111.89 feet, thence;
5. Along the easterly right-of-way line of Garden Street South 8 degrees 58 minutes West 179.31 feet to the northwest corner of Lot 21 in Block 644.03, thence;
6. North 81 degrees 59 minutes West 40.00 feet to the point of BEGINNING.

Containing 10,860 square feet or 0.25 acres more or less.

**TRACT II – STREET VACATION - DESCRIPTION OF THE NORTHERLY PORTION OF  
THE GARDEN STREET RIGHT-OF-WAY**

BEGINNING at the point of the intersection of the westerly right-of-way of Garden Street (40 feet wide as depicted on map B-313 filed in the Ocean County Clerks Office on June 2, 1939) with the southerly right-of-way line of Kaufman Street (40 feet wide per tax map) as shown on the Township of Toms River Tax Map sheet #73 last revised October 1, 2007 by Bernard M. Mackle, PLS, PP thence;

1. North 8 degrees 58 minutes East 168.98 feet along the easterly terminus of Kaufman Street and the westerly right-of-way line of Garden Street (40 feet wide) to an angle point on the easterly side line of Block 644.01, Lot 1 thence;
2. North 30 degrees 52 minutes East 124.23 feet along the westerly right-of-way line of Garden Street (33 feet wide) to a point on the southerly right-of-way line of New Jersey State Highway Route 37 East, thence;

3. South 80 degrees 18 minutes East 35.39 feet along the southerly right-of-way line of Route 37 East to a point at the intersection of the southerly right-of-way line of Route 37 East with the easterly right-of-way line of Garden Street (33 feet wide), thence;
4. Along the easterly right-of-way line of Garden Street South 30 degrees 52 minutes West 111.89 feet, thence;
5. Along the easterly right-of-way line of Garden Street South 8 degrees 58 minutes West 179.31 feet to the northwest corner of Lot 21 in Block 644.03, thence;
6. North 81 degrees 59 minutes West 40.00 feet to the point of BEGINNING.

Containing 10,860 square feet or 0.25 acres more or less.

**TRACT III – EASEMENT VACATION - DESCRIPTION OF THE SIX-FOOT WIDE GARDEN STREET RIGHT OF WAY EASEMENT ON BLOCK 644.01, LOT 1**

BEGINNING at the point of the intersection of the southerly right-of-way line of New Jersey State Highway Route 37 East (143 feet) and the westerly right-of-way line of Garden Street (33 feet) as shown on the Township of Toms River Tax Map sheet #73 last revised October 1, 2007 by Bernard M. Mackle, PLS, PP thence;

1. Along the westerly right-of-way line of Garden Street South 30 degrees 52 minutes 00 seconds West 90.75 feet to a point, thence;
2. North 59 degrees 8 minutes 00 seconds West 6.00 feet to a point, thence;
3. North 32 degrees 52 minutes 00 seconds East 88.42 feet to a point in the southerly right-of-way line of New Jersey State Highway Route 37, thence;
4. Along the southerly right-of-way line of New Jersey State Highway Route 37 East South 80 degrees 18 minutes 00 seconds East 6.43 feet to the point of BEGINNING.

Containing 537.19 square feet.

TRACT II describes the 6 foot wide Township right-of-way easement created by the deed of easement recorded in the Ocean County Clerk's Office March 11, 2005 in deed book 12517, page 0193.

2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

3. This ordinance shall take effect following its final passage by the Township Council, approval by the Mayor, and twenty days after publication as required by law.

4. Since this ordinance is not legislative in nature, it need not be codified in the "Code of the Township of Toms River".

A motion was made by Council Member Maruca, seconded by Council Member Kubiak, and carried with Council Members Hill, Donohue, Kubiak, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, that the foregoing Ordinance be adopted on first reading with publication notice as follows:

NOTICE

NOTICE IS HEREBY GIVEN that the ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, held on March 10, 2009 at 6:00 p.m. It will be further considered for final passage at a public meeting to be held in the L. Manuel Hirshblond Meeting Room of the Municipal Building in said Township on March 24, 2009 at 6:00 p.m., or as soon thereafter as this matter can be reached, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Prior to the second reading, a copy of this ordinance shall be posted on the bulletin board in the Municipal Building and copies shall be made available at the Township Clerk's office in said Municipal Building to members of the general public who shall request such copies.

J. MARK MUTTER  
TOWNSHIP CLERK

APPROVED AS TO FORM:  
KENNETH B. FITZSIMMONS  
TOWNSHIP ATTORNEY  
MUNICIPAL BUILDING  
33 WASHINGTON STREET  
TOMS RIVER, NJ 08753

This ordinance title and purpose, together with notice, shall be published in the Asbury Park Press in the issue of Tuesday, March 17, 2009.

Ordinance was adopted on first reading with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent.

Council Member Maruca introduced the following Ordinance of which the title only was read in full:

**ORDINANCE VACATING THE PUBLIC RIGHT AND INTEREST  
IN A PORTION OF HEDGE STREET IN THE TOWNSHIP OF  
TOMS RIVER**

**BE IT ORDAINED** by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. There is hereby vacated all the right and interests of the public for all public use and purposes in a portion of Hedge Street, located in the Township of Toms River, more particularly described as follows:

**DESCRIPTION OF A PORTION OF HEDGE STREET  
TO BE VACATED BY THE TOWNSHIP OF TOMS RIVER**

**TRACT I - UTILITY EASEMENT - DESCRIPTION OF A PROPOSED 40' WIDE GENERAL  
UTILITY EASEMENT WITHIN THE NORTHERLY PORTION OF HEDGE STREET**

BEGINNING at the point of the intersection of the easterly right-of-way line of Hedge Street (40 feet wide as depicted on map B-313 filed in the Ocean County Clerks Office on June 2, 1939) with the southerly right-of-way line of New Jersey State Highway Route 37

East as shown on the Township of Toms River Tax Map sheet #73 last revised October 1, 2007 by Bernard M. Mackle, PLS, PP thence;

1. South 8 degrees 58 minutes West 101.28 feet along the easterly right-of-way line of Hedge Street, thence;
2. North 81 degrees 02 minutes West 40.00 feet to a point on the westerly right-of-way line of Hedge Street, thence;
3. North 8 degrees 58 minutes East 101.79 feet along the westerly right-of-way line of Hedge Street to a point on the southerly right-of-way line of Route 37 East, thence;
4. Along the southerly right-of-way line of Route 37 South 80 degrees 18 minutes East 40.01 feet to the point of BEGINNING.

Containing 4,061.36 square feet or 0.09 acres more or less.

#### **TRACT II - STREET VACATION - DESCRIPTION OF THE NORTHERLY PORTION OF HEDGE STREET**

BEGINNING at the point of the intersection of the easterly right-of-way line of Hedge Street (40 feet wide as depicted on map B-313 filed in the Ocean County Clerks Office on June 2, 1939) with the southerly right-of-way line of New Jersey State Highway Route 37 East as shown on the Township of Toms River Tax Map sheet #73 last revised October 1, 2007 by Bernard M. Mackle, PLS, PP thence;

1. South 8 degrees 58 minutes West 101.28 feet along the easterly right-of-way line of Hedge Street, thence;
2. North 81 degrees 02 minutes West 40.00 feet to a point on the westerly right-of-way line of Hedge Street, thence;
3. North 8 degrees 58 minutes East 101.79 feet along the westerly right-of-way line of Hedge Street to a point on the southerly right-of-way line of Route 37 East, thence;
4. Along the southerly right-of-way line of Route 37 South 80 degrees 18 minutes East 40.01 feet to the point of BEGINNING.

Containing 4,061.36 square feet or 0.09 acres more or less.

#### **TRACT III - ROADWAY EASEMENT - DESCRIPTION OF A PROPOSED ROADWAY EASEMENT ON BLOCK 644.03, LOT 12**

BEGINNING at a point on the westerly right-of-way line of Hedge Street (40 feet wide as depicted on map B-313 filed in the Ocean County Clerks Office on June 2, 1939) said point being located 106.12 feet from the intersection of the westerly right-of-way line of Hedge Street with the southerly right-of-way line New Jersey State Highway Route 37 East (width varies as depicted on the Township of Toms River Tax Map sheet #73 last revised October 1, 2007 by Bernard M. Mackle, PLS, PP) thence;

1. South 08 degrees 58 minutes 00 seconds West along the westerly right-of-way line of Hedge Street 51.66 feet to a point, thence;
2. On a curve to the left having a radius of 9.33 feet, an arc length of 2.45 feet and a chord of North 65 degrees 59 minutes 56 seconds West 2.44 feet to a point, thence;
3. North 81 degrees 02 minutes 00 seconds West 20.67 feet to a point, thence;
4. North 08 degrees 58 minutes 00 seconds East 51.34 feet to a point, thence;

5. South 81 degrees 02 minutes 00 seconds East 23.09 feet to the point of BEGINNING.

Containing 1,185.54 square feet or 0.03 acres more or less

2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

3. This ordinance shall take effect following its passage by the Township Council, approval by the Mayor, and twenty days after publication as required by law.

4. Since this ordinance is not legislative in nature, it need not be codified in the "Code of the Township of Toms River".

A motion was made by Council Member Maruca, seconded by Council Member Kubiell, and carried with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, that the foregoing Ordinance be adopted on first reading with publication notice as follows:

#### NOTICE

NOTICE IS HEREBY GIVEN that the ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, held on March 10, 2009 at 6:00 p.m. It will be further considered for final passage at a public meeting to be held in the L. Manuel Hirshblond Meeting Room of the Municipal Building in said Township on March 24, 2009 at 6:00 p.m., or as soon thereafter as this matter can be reached, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Prior to the second reading, a copy of this ordinance shall be posted on the bulletin board in the Municipal Building and copies shall be made available at the Township Clerk's office in said Municipal Building to members of the general public who shall request such copies.

J. MARK MUTTER  
TOWNSHIP CLERK

APPROVED AS TO FORM:  
KENNETH B. FITZSIMMONS  
TOWNSHIP ATTORNEY  
MUNICIPAL BUILDING  
33 WASHINGTON STREET  
TOMS RIVER, NJ 08753

This ordinance title and purpose, together with notice, shall be published in the Asbury Park Press in the issue of Tuesday, March 17, 2009.

Ordinance was adopted on first reading with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent.

**CONSENT AGENDA**

Council President McGuckin announced the consideration of the Consent Agenda and noted if anyone had a desire to discuss an individual item it would be removed from the Consent Agenda.

A motion was made by Council Member Hill, seconded by Council Member Donohue, and carried with Council Members Kubiak, Hill, Donohue, Maruca, Sevastakis, and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve all the following items listed on the Consent Agenda, except items **A** and **H**, which were done separately.

**RESOLUTION AUTHORIZING RAFFLE EVENT SCHEDULED FOR SUNDAY  
MAY 24, 2009 TO TOMS RIVER ELKS CHARITIES COMMITTEE**

**MARCH 10, 2009**

WHEREAS, the Township of Toms River has adopted an Ordinance Amending and Supplementing Chapter 321 (Games of Chance) of the “Code of the Township of Toms River, New Jersey”; and

WHEREAS, the ordinance provides for permitting the conducting of Games of Chance on Sunday provided that same is authorized by the Governing body, pursuant to N.J.A.C. 13:47-8.8; and

WHEREAS, Toms River Elks Charities Committee, has applied to hold their off premise raffle events for May 24, 2009, (Sunday), and to conducted their off premise raffle event, due to prior scheduling, has been on the calendar of events for the year 2009; and

WHEREAS, the Toms River Elks Charities Committee of Ocean County off premise raffle cannot be rescheduled due to conflicts;

NOW, THEREFORE, BE IT RESOLVED by the Township Council Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby approves of Toms River Elks Charities Committee, of Ocean County off premise raffle event scheduled for May 24, 2009.

2. A Certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Mayor
- b) Attorney
- c) Township Clerk
- d) Business Administrator
- e) Township Council
- f) Michael Mastronardy, Chief of Police  
Toms River Elks Charities Committee  
600 Washington Street  
Toms River, NJ 08753

**RESOLUTION RE-ESTABLISHING APPOINTMENT TERMS FOR MEMBERS OF THE  
BOARD OF HEALTH**

March 10, 2009

Whereas, the Board of Health consists of seven members; and

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. The following Township of Toms River Board of Health appointments are hereby confirmed, re-established and re-appointed, as follows:

KATHRYN WHITE	Appointed to unexpired term of Fred Pennaccio on October 14, 2008 Term expiring December 31, 2009
JANINE JENSON	Appointed to unexpired term of Tammy Freudenberg on October 14, 2008 Term Expiring December 31, 2009
MARIO MORANO	Re-Appointed to a full 3 year term Term Expiring December 31, 2009
CLAIRE WOMBOUGH	Appointed to a full 3 year term Expiring December 31, 2010
MEERA MALIK	Jan. 5, 2009 Re-appointed to a full 3 year term Term expires December 31, 2011
LOUISE MARIE COLE	January 5, 2009 Appointed to a full 3 year term Expiring December 31, 2011 (formerly Dr. Cifelli's term)
KENNETH BECK	Jan. 5, 2009 Appointed to a vacant term Expiring December 31, 2010

2. The appointment of Theresa Kubiel, which was done from the Floor of the Township Council Meeting on January 5, 2009, is hereby rescinded.

3. Those members not previously Sworn shall present themselves before the Township Clerk and take the Oath of Office before the appointment created hereby shall become effective.

4. Township Clerk shall send a certified copy to each of the following:

- a. Board of Health
- b. Township Attorney
- c. Office of the Township Council
- d. Office of the Mayor
- e. Appointees listed above
- f. Brian Rumpf, Esquire

## R E S O L U T I O N

MARCH 10, 2009

WHEREAS, an overpayment of taxes has appeared on the following properties for the year indicated, and in the amount indicated,

WHEREAS, the party or parties have shown proof of payment and/or have executed an affidavit for same, and;

WHEREAS, the party or parties have delivered to the municipality and executed voucher for same.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, AS FOLLOWS:

1. A refund shall be processed to party or parties to wit as follows:

<u>NAME</u>	<u>BLOCK</u>	<u>LOT</u>	<u>QUAL.</u>	<u>YEAR</u>	<u>AMOUNT</u>
HENRY, KEVIN	135.	24		2008/1	822.64
	34			2008/2	961.83
				2009/1	1,038.06
MCCRAY, JOE L.	442.	5		2008/1	1,027.61
	70			2008/2	1,027.61
				2009/1	1,067.84
TAGLIARINO, IGNAZIO	608	27		2009/1	1,406.34
CONNELLY, MARTIN III	694.11	30		2009/1	602.43

2. Township Clerk shall send a copy of this resolution to Township Auditor, Township Comptroller and the Tax Collector.

## **RESOLUTION**

**March 10, 2009**

WHEREAS, George Torrise, Animal Control Officer, Animal Control, Department of Health, pension #0734184, has requested a military leave of absence, pursuant to N.J.S.A. 38A:4-4 (Reserves), with pay, beginning JANUARY 26, 2009 through FEBRUARY 26, 2009, not to exceed 30 days; and

WHEREAS effective thereafter said leave of absence shall continue with differential pay until end of calendar year 2009; and

WHEREAS, said leave of absence has been approved by the department head in charge;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. George Torrise, Animal Control Officer, Animal Control, Department of Health, pension #0734184, is hereby granted a military leave of absence with full pay as well as leave of absence with differential pay, pursuant to N.J.S.A. 38A: 4-4 for the period stated above, with benefits, as provided by New Jersey State Statute and Township Policies.

2. Township Clerk shall send a certified copy of this resolution to each of the following:

- a. Chief Financial Officer
- b. Attorney
- c. Human Resources
- d. Police Department
- e. Public Employees Retirement System  
Attn: Client Services  
CN 05  
Trenton, NJ 08625
- f. George Torrise  
506 Lafayette Avenue  
Toms River, NJ 08753
- g. Department of Health

**RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE  
TOWNSHIP OF TOMS RIVER AND OCEAN BEACH & YACHT CLUB,  
OCEAN BEACH II, FOR PUBLIC WORKS SERVICES, FOR A 30-YARD DUMPSTER TO  
BE DELIVERED ON FRIDAYS AND PICKED UP ON  
SATURDAYS DURING THE BEACH SEASON**

**MARCH 10, 2009**

WHEREAS, Ocean Beach & Yacht Club, Ocean Beach II is a private association which has contracted in previous years to have the Township Public Works provide certain services, including the use of large size dumpsters; and

WHEREAS, Ocean Beach & Yacht Club, Ocean Beach II has requested a "30-yard dumpster" to be delivered on Fridays and picked up on Saturdays during the beach season; and

WHEREAS, Ocean Beach & Yacht Club, Ocean Beach II, has agreed to pay the Township cost for providing this service; and

WHEREAS, the cost of said services is at the applicable driver Union rate at a straight time cost of \$27.70 per hour for 2 to 4 hours (Fridays). Overtime rates will be  $\$27.70 \times 1.5 = \$41.55$  per hour for 2 to 4 hours (Saturdays). The term of this agreement will be June 26, 2009 through September 5, 2009;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes an agreement between the Township of Toms River and the Ocean Beach & Yacht Club, Ocean Beach II, to provide Ocean

Beach II with the use of a 30-yard dumpster to be delivered on Fridays and picked up on Saturdays at the above stated cost.

2. A copy of the aforementioned agreement shall be kept on file in the Office of the Township Clerk upon execution.

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Attorney
- b) Chief Financial Officer
- c) Public Works
- d) Recreation
- e) Ocean Beach & Yacht Club  
P.O. Box 92  
Lavallette, N.J. 08735  
Attn: Pat Daley, Manager

**RESOLUTION AUTHORIZING THE SALE OF ABANDONED AND/OR UNCLAIMED MOTOR  
VEHICLES PURSUANT TO N.J.S.A.  
39:10A-1 ET SEQ.**

**March 10, 2009**

**BE IT RESOLVED** by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby authorizes the sale at public auction of the following abandoned and/or unclaimed motor vehicles pursuant to the provisions of N.J.S.A. 39:10A-1 et seq., on Wednesday, March 25, 2009 at 10:00 A.M. at Accurate Automotive, 1200 Lakewood Road, Toms River, N.J.08753, and 10:30 A.M. at Priced-Rite Towing 1251 Route 37 West, Toms River, N.J. 08755

**Vehicles For Auction with Junk Titles:**

**ACCURATE AUTOMOTIVE**

1200 Lakewood Road,  
Toms River, NJ 08753  
March 25, 2009 at 10:00 A.M.

YEAR	MAKE	VIN #
2002	Saturn	1G8ZY127X2Z152912
1998	Lincoln	5LMPU28L4WLJ10448
1992	Buick	1G4HP53L7NH567375
1998	Ford	2FMDA5140WBB46415
1993	Dodge	1B6GL26X8PS220415

**PRICED-RITE TOWING**

1251 Route 37 West  
Toms River, NJ 08755  
March 25, 2009 at 10:30 A.M.

YEAR	MAKE	VIN #
1991	Honda	JH2MC2405MK003072
1995	Toyota	4TAUN41B4SZ001690
1989	Ford	1FMCU14T6KUB15446

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Attorney
- b) Chief Michael G. Mastronardy
- c) Chief Financial Officer
- d) Accurate Automotive  
1200 Lakewood Road  
Toms River, N.J. 08753
- e) Priced-Rite Towing  
1251 Route 37 West  
Toms River, New Jersey 08755

## LEGAL NOTICE

### TOWNSHIP OF TOMS RIVER

#### PUBLIC SALE

**TAKE NOTICE** that the undersigned shall expose for sale in accordance with R.S. 39:10A-1, at public auction on **WEDNESDAY, MARCH 25, 2009 at 10:00 a.m. at Accurate Automotive, 1200 Lakewood Road, Toms River, New Jersey, and 10:30 a.m. at Priced-Rite Towing, 1251 Route 37 West, Toms River, New Jersey** the below described motor vehicle(s) which came into the possession of the Township of Toms River Police Department through abandonment or failure to claim same within 30 days. The public auction will take place at the above indicated date, time and location(s). The motor vehicle(s) may be examined at the indicated location(s) Monday through Friday, 9:00 a.m. to 5:00 p.m.

All vehicle(s) listed have clear title. Failure to inspect said vehicle(s) will not be considered as cause for any claim for adjustment whatsoever. **ALL SALES WILL BE FINAL.** Cash or check will be required at the time of the sale when the sale is completed. Vehicle(s) must be removed from the premises at the purchaser's expense within 48 hours of sale date.

#### ACCURATE AUTOMOTIVE

1200 Lakewood Road,  
Toms River, NJ 08753  
March 25, 2009 at 10:00 A.M.

YEAR	MAKE	VIN #
2002	Saturn	1G8ZY127X2Z152912
1998	Lincoln	5LMPU28L4WLJ10448
1992	Buick	1G4HP53L7NH567375
1998	Ford	2FMDA5140WBB46415
1993	Dodge	1B6GL26X8PS220415

#### PRICED-RITE TOWING

1251 Route 37 West  
Toms River, NJ 08755  
March 25, 2009 at 10:30 A.M.

YEAR	MAKE	VIN #
------	------	-------

1991	Honda	JH2MC2405MK003072
1995	Toyota	4TAUN41B4SZ001690
1989	Ford	1FMCU14T6KUB15446
2001	Honda	1HGCG16591A029253

**AMENDMENT TO RESOLUTION AUTHORIZING THE AWARD OF  
CONTRACT FOR PROFESSIONAL APPRAISAL SERVICES OF  
INTEGRA REALTY RESOURCES FOR AN ADDITIONAL AMOUNT OF  
\$3,500.00 DUE TO EXPANDED/OUT OF SCOPE OF SERVICES**

**MARCH 10, 2009**

**WHEREAS**, resolution of the Township Council dated March 25, 2008 authorized a professional services contract to the firm of Integra Realty Resources with regard to real estate appraisal services, in the amount of \$10,000.00, for the term commencing March 1, 2008 through June 30, 2008; and

**WHEREAS**, due to the expanded/out of scope of services, i.e., numerous meetings and presentations that were required to meet the deadlines imposed upon the Township, in connection with Ciba Geigy litigation/mediation, it is necessary to amend the contract with Integra Realty Resources, for an additional amount of \$3,500.00, for a total maximum amount not to exceed \$13,500.00; and

**WHEREAS**, the firm of Integra Realty Resources has many years experience in the field of real estate appraisal services; and

**WHEREAS**, the Township has found the real estate appraisal services provided by the firm of Integra Realty Resources to be professional, competent and responsive to the Township of Toms River; and

**WHEREAS**, this amended award is subject to campaign contribution reform laws as set forth in N.J.S.A. 19:44A-20.4 *et seq.* and pursuant to the Township of Toms River Administrative Code, Chapter 84-1 *et seq.*; and

**WHEREAS**, this firm has completed and submitted a Business Entity Disclosure Certification which certifies that this firm has not made any reportable contributions to a political or candidate committee of the Township of Toms River or County of Ocean in contravention of New Jersey's "Pay-to-Play Law" N.J.S.A. 19:44A-20.4, *et seq.*, and pursuant to the Township of Toms River Administrative Code, Chapter 84-1 *et seq.*;

**WHEREAS**, this amended contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law of New Jersey;

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the Township of Toms River approves the proposed amendment to contract and authorizes the Mayor and Clerk to enter into an amended professional services contract with the firm of Integra Realty Resources, for an additional amount of \$3,500.00, for a total maximum amount not to exceed \$13,500.00, at the following rates:

Managing Director MAI, CRE:	\$170.00 per hour
Directors or Principals:	\$170.00 per hour
Senior Analyst (State Cert. General R.E. Appraisers)	\$150.00 per hour
Analyst/Researcher	\$ 70.00 per hour

Additional funds in the amount of \$3,500.00, for a total maximum amount not to exceed \$13,500.00 are available in Account No. 8-01- -L21-553. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk.

**BE IT FURTHER RESOLVED** that the award of this professional service contract is being made in conformance with N.J.S.A. 19:44A-20.4 *et seq.* and pursuant to the Township of Toms River Administrative Code, Chapter 84-1 *et seq.* and is prohibited from making such contributions during the term of the award.

**BE IT FURTHER RESOLVED THAT** a notice of this action shall be advertised once by the Clerk in the newspaper with the lowest advertising rate.

A certified copy of this Resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Township Attorney
- b) Chief Financial Officer
- c) Purchasing
- d) Mayor Kelaher
- e) Business Administrator
- f) Cindy Asay, Township Clerk's Office
- g) Integra Realty Resources  
1415 Hooper Avenue  
Toms River, N.J. 08753

## **CERTIFICATION**

**THIS IS TO CERTIFY** that the additional funds for the professional services contract with Integra Realty Resources in the amount of \$3,500.00, for a total maximum amount not to exceed \$13,500.00, at the following rates, are available in Account No. 8-01- -L21-553:

Managing Director MAI, CRE:	\$170.00 per hour
Directors or Principals:	\$170.00 per hour
Senior Analyst (State Cert. General R.E. Appraisers)	\$150.00 per hour
Analyst/Researcher	\$ 70.00 per hour

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

CHRISTINE MANOLIO  
CHIEF FINANCIAL OFFICER

Dated: March 10, 2009

**RESOLUTION AUTHORIZING THE TOWNSHIP OF TOMS RIVER TO ENTER INTO A RENEWAL AGREEMENT WITH THE OCEAN COUNTY ENERGY COOPERATIVE PRICING SYSTEM FOR THE PURCHASE OF ELECTRIC GENERATION SERVICE**

**MARCH 10, 2009**

WHEREAS, N.J.S.A. 40A:11-11(5) authorizes governmental units to enter into a Cooperative Pricing System for the purchase of electric generation service, gas supply service and other energy related services (hereinafter collectively referred to as "Energy Services"); and

WHEREAS, the Electric Discount and Energy Competition Act (N.J.S.A. 48:3-49 et. seq.) and the Government Energy Aggregation Program Standards adopted by the Board of Public Utilities permit municipalities and other governmental units to join together for the purchase of Energy Services; and

WHEREAS, the County of Ocean (hereinafter referred to as the "Lead Agency") previously offered municipalities and other governmental units an opportunity to participate in the Ocean County Energy Cooperative Pricing System (hereinafter referred to as the "System") for the purchase of Energy Services; and

WHEREAS, Toms River Township, County of Ocean, State of New Jersey, previously agreed to participate in the System and executed a Cooperative Pricing System Agreement with the Lead Agency for the supply of Energy Services; and

WHEREAS, the previous Agreement executed by the parties for certain energy services expired on December 31, 2008; and

WHEREAS, certain Energy Services purchased by the System resulted in substantial savings to its members; and

WHEREAS, Toms River Township, County of Ocean, State of New Jersey, desires to continue to participate in the System;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, that on the 10th day of March, 2009, as follows:

1. This Resolution shall be known and may be cited as the Ocean County Energy Cooperative Pricing System Resolution of the Township of Toms River.

2. Pursuant to the provisions of N.J.S.A. 40A:11-11(5), the Township of Toms River is hereby authorized and directed to enter into and execute a new Cooperative Pricing System Agreement with the Lead Agency for the purchase of Energy Services. Said Cooperative Pricing System Agreement shall take effect upon full execution and shall terminate on December 31, 2011, unless otherwise terminated in accordance with the provisions therein. The Cooperative Pricing System Agreement shall allow the Lead Agency to seek bids and render an award for the supply of Energy Services to the System at any time during the term of the contract. Any award made by the Lead Agency, during the term of the Cooperative Pricing System Agreement, may provide for the supply of Energy Services beyond the expiration of that Agreement.

3. The Lead Agency shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et. seq.) and all other provisions of the revised statutes of the State of New Jersey.

4. This resolution shall take effect immediately upon passage.

5. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing
- b) Chief Financial Officer
- c) Attorney
- d) County of Ocean  
Purchasing Department  
Administration Building  
101 Hooper Avenue  
Toms River, N.J. 08754

e) Attn: R. Patterson, Director  
John C. Sahradnik, Esq.  
County of Ocean  
P.O. Box 757  
212 Hooper Avenue  
Toms River, N.J. 08754

**RESOLUTION AUTHORIZING CONTRACT TO VENDOR WITH STATE CONTRACT - LAWMEN  
SUPPLY COMPANY OF NJ, INC., FOR THE PURCHASE OF NEW BULLET PROOF VESTS FOR  
THE DEPARTMENT OF POLICE, IN THE AMOUNT OF \$30,753.25**

**MARCH 10, 2009**

**BE IT RESOLVED** by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. In accordance with the requirements of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the regulations promulgated thereunder, the following purchases without competitive bids from a vendor with a State contract are hereby approved.

2. Contract for the Purchase of New Bullet Proof Vests for the Department of Police.

**DESCRIPTION OF VESTS TO BE PURCHASED:**

(Price includes 45% State Contract Discount)

Fifty-Three (53) American Body Armor (ABA) Xtreme HP Level IIIA Ballistic Body Armor with Carrier and Soft Trauma Plate included. Carrier color to be determined

List Price: \$1,055.00 each. Less 45% State Contract Discount =  
Final Price: \$580.25 each.

N.J. State Contract Line #00135, Commodity Code: 680-08-042904

Maximum Amount: \$30,753.25

Contract Awarded to: Lawmen Supply Company of NJ, Inc.  
5521 White Horse Pike  
Egg Harbor City, N.J. 08215-9510

State Contract No.: A67872

Maximum Amount: \$30,753.25

Account Nos. X-99- -907-316 - \$ 318.15  
X-99- -907-334 - \$10,455.21  
X-99- -907-352 - \$15,382.51  
X-99- -907-354 - \$ 2,182.95  
X-99- -907-375 - \$ 2,414.43

3. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk.

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing
- b) Chief Financial Officer
- c) Attorney
- d) Police Department
- e) Lawmen Supply Company of NJ, Inc.  
5521 White Horse Pike  
Egg Harbor City, N.J. 08215

### **CERTIFICATION**

**THIS IS TO CERTIFY** that the funds for the contract for vendor with State contract with Lawmen Supply Company of NJ, Inc., in the total maximum amount of \$30,753.25, are available in the following Account Nos.:

X-99- -907-316 - \$	318.15
X-99- -907-334 - \$	10,455.21
X-99- -907-352 - \$	15,382.51
X-99- -907-354 - \$	2,182.95
X-99- -907-375 - \$	2,414.43

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

CHRISTINE MANOLIO  
CHIEF FINANCIAL OFFICER

Dated: March 10, 2009

### **RESOLUTION**

March 10, 2009

WHEREAS, a Major Site Plan entitled Geffner Retail, Block 364, Lots 26, 65, 67 (Lakewood Road) had posted performance guarantees with the Township of Toms River;

A. Previously posted Cash Performance Bond dated August 9, 2005, in the amount of \$17,500.00.

B. Surety Company Bond #B98816019159, dated January 28, 2009 in the amount of \$157,500.00.

WHEREAS, the developer has now posted a Maintenance Guarantee;

A. Maintenance Surety Bond No. B98816019159, dated January 28, 2009, in the amount of \$26,250.00.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. Previously posted Cash Performance Bond dated August 9, 2005, in the amount of \$17,500.00, currently on deposit in account #9-14- -902-101, is hereby released with applicable interest.

2. Maintenance Surety Bond No. B98816019159, dated January 28, 2009, in the amount of \$26,250.00, is hereby accepted.

3. Surety Company Bond #B98816019159, dated January 28, 2009 in the amount of \$157,500.00, is hereby released.

4. Township Clerk shall send a certified copy hereof to each of the following:

- a. Engineer
- b. Chief Financial Officer
- c. Attorney
- d. Permits & Inspections Department
- e. TRMUA
- f. Dr. Rami Geffner  
111 West Water St.  
Toms River, NJ 08753

## **RESOLUTION**

March 10, 2009

WHEREAS, a Major Site Plan entitled Geffner Retail, Block 364, Lots 26, 65, 67 (Lakewood Road) had posted performance guarantees with the Township of Toms River;

A. Previously posted Cash Performance Bond dated August 19, 2005, in the amount of \$29,300.00.

B. Surety Company Bond #B98816019160, dated January 28, 2009 in the amount of \$262,700.00.

WHEREAS, the developer has now posted a Maintenance Guarantee;

A. Maintenance Surety Bond No. B98816019160, dated January 28, 2009, in the amount of \$43,800.00.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. Previously posted Cash Performance Bond dated April 19, 2005, in the amount of \$29,300.00, currently on deposit in account #9-14- -902-101, is hereby released with applicable interest.

2. Maintenance Surety Bond No. B98816019160, dated January 28, 2009, in the amount of \$43,800.00, is hereby accepted.

3. Surety Company Bond #B98816019160, dated January 28, 2009 in the amount of \$262,700.00, is hereby released.

4. Township Clerk shall send a certified copy hereof to each of the following:

- a. Engineer
- b. Chief Financial Officer
- c. Attorney
- d. Permits & Inspections Department
- e. TRMUA
- f. Dr. Rami Geffner  
111 West Water St.  
Toms River, NJ 08753

## **RESOLUTION**

March 10, 2009

WHEREAS, the Township Engineer has reported to the Township Council with respect to a Minor Site Plan, Block 1501.13, Lot 8 (Christian Mannato) hereinafter set forth as follows:

A. That a Minor Site Plan, Block 1501.13, Lot 8 (Christian Mannato), has been granted final approval by the Toms River Township Planning Board on December 17, 2008.

B. That a Cash Performance Bond dated February 20, 2009, in the amount of \$8,000.00 has been deposited with the Township Chief Financial Officer to guarantee performance improvements required by the Township in accordance with the estimate of the Township Engineer. Said Cash Bond has been submitted in the form of a check and represents the entire performance guarantee amount.

C. Check in the amount of \$400.00, which represents the required escrow amount. This check will be forwarded to the Finance Office upon issuance of an account number by this office.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. The bonds and guarantees set forth in the preamble hereto be and the same are hereby approved.

2. Said bond approval is conditioned upon compliance by Christian Mannato, its successors and assignees, with all terms set forth in the preamble hereof and all requirements of the Land Use Ordinance of the Township of Toms River.

3. Township Clerk shall send a certified copy hereof to each of the following:

- a. Engineer
- b. Permits and Inspection  
Dept.
- c. TRMUA
- d. Chief Financial Officer
- e. Planning Board
- f. Attorney

g. Christian A. Mannato  
877 Fischer Blvd.  
Toms River, NJ 08753

## **RESOLUTION**

March 10, 2009

WHEREAS, the Township Engineer has conducted an investigation of the required improvements currently on performance bond of a Minor Subdivision entitled Walnut Street-Bergstrom, and

WHEREAS, the Township Engineer has reported that said improvements have been constructed in conformance with Township standards and recommends release of Performance Guarantees;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. Cash Performance Bond dated July 30, 2002 in the amount of \$6,600.00, currently on deposit in trust account #X-18- -101-390, in the form of a letter of credit (\$5,940.00) and X-19- -601-614 (\$660.00) is hereby released.

2. Township Clerk shall send a certified copy of this resolution to each of the following:

- a. Engineer
- b. Attorney
- c. Chief Financial Officer
- d. TRMUA
- e. Permits & Inspections Dept.
- f. Thomas Bergstrom  
1407 Isabella Ct.  
Toms River, NJ 08753-2795

## **RESOLUTION**

March 10, 2009

**WHEREAS**, the following application has been filed for **TAXI DRIVER / TAXI CAB / TAXI CAB COMPANY** in accordance with Chapter 457.

<u>Taxi Company</u>	<u>License #, Vin, Car Description</u>	<u>Owner</u>
<u>New Company</u> 13. Eveready Transport. 132 Kearney Ave Seaside Hts, NJ 08751	100-09 159907 Ford 2001	Charles Raab

WHEREAS, the Township Clerk has reported to this Council that said applications and requirements are in order;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the Clerk of this Township is hereby authorized and directed to issue the TAXI LICENSE to the applicants listed above, in accordance with Chapter 457 (Taxicab and Taxicab Drivers) the "Code of the Township of Toms River".
2. The applicant is required to conform to all provisions of Chapter 457 (Taxi cabs and Taxi Drivers)
3. The Township Clerk shall send a certified copy of Resolution to the:
  - a. Police Department
  - b. Licensee (s)
  - c. Clerk's File
  - d. Law Dept.

## **RESOLUTION**

### **March 10, 2009**

**WHEREAS**, the following application has been filed for **TAXI DRIVER / TAXI CAB / TAXI CAB COMPANY** in accordance with Chapter 457.

<u>Name</u>	<u>Type of License</u>	<u>Taxi Company</u>
19-09 John Edgar	Taxi Driver (Renewal)	A American Cab
21-09 Sukhbir Manihani	Taxi Driver (Renewal)	All Day Taxi
23-09 Anthony Bagarozzy	Taxi Driver (Renewal)	AA-1 Taxi
25-09 Robert Maurer	Taxi Driver (Renewal)	Walter's Taxi
27-09 Thomas Fry	Taxi Driver (Renewal)	AA-1 Taxi
28-09 Nicole Komenda	Taxi Driver (Renewal)	Walter's Taxi
29-09 Walter Powell	Taxi Driver (Renewal)	Walter's Taxi
34-09 Ronald Dibble	Taxi Driver (Renewal)	Walter's Taxi
37-09 Seth Perkins	Taxi Driver (Renewal)	A American Cab
38-09 Nancie Lee Massio	Taxi Driver (Renewal)	A Ruby's Transport

WHEREAS, the Township Clerk has reported to this Council that said applications and requirements are in order;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:



- d) Public Works
- e) Aforementioned bidder

## **CERTIFICATION**

**THIS IS TO CERTIFY** that the funds for the contract awarded to GranTurk Equipment Company, Inc., in the total maximum amount of \$21,000.00 over the contract term, are contingent upon the availability of funds in the appropriate municipal budget year.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

CHRISTINE J. MANOLIO  
CHIEF FINANCIAL OFFICER

Dated: March 10, 2009

**RESOLUTION AUTHORIZING AWARD OF CONTRACT TO  
DETCON/DETACHABLE CONTAINER & COMPACTOR CORPORATION, AS THE ONLY  
BIDDER, FOR THE SUPPLY OF LOADMASTER REPAIR PARTS FOR THE DEPARTMENT OF  
PUBLIC WORKS IN THE AMOUNT OF \$21,000.00**

**MARCH 10, 2009**

WHEREAS, bids were received on February 11, 2009 for the Supply of Loadmaster Repair Parts for the Department of Public Works; and

WHEREAS, only one bid was received, as follows:

Detcon/Detachable Container & Compactor Corporation.  
5039 Industrial Road  
Farmingdale, N.J. 07727 . . . Discount off current Loadmaster Repair Parts List: . . . 10%  
Percentage discount for payment within 30 days: . . . . . 2%  
Parts Availability: Maximum ten (10) business days:

WHEREAS, said bid has been reviewed by Louis Amoruso, Director, Department of Public Works, and he has recommended that the award of contract be made to Detcon/Detachable Container & Compactor Corporation, as stated above, for a total maximum amount of \$21,000.00 over the contract term;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby awards the contract for the Supply of Loadmaster Repair Parts for the Department of Public Works to Detcon/Detachable Container & Compactor Corporation, as stated above, for a total maximum amount of \$21,000.00 over the contract term. The contract term is for one (1) year, effective from the date of award through twelve (12) consecutive months. This will be an open-ended contract with funds being encumbered each time an order is placed, contingent upon the availability of funds in the appropriate municipal budget year. The certification of funds available statement with respect to this resolution is on file in the Office of the Township Clerk. This contract is subject to all terms and conditions of the bid specifications.

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Purchasing
- b) Chief Financial Officer
- c) Attorney
- d) Public Works
- e) Aforementioned bidder

## CERTIFICATION

**THIS IS TO CERTIFY** that the funds for the contract awarded to Detcon/Detachable Container & Compactor Corporation, in the total maximum amount of \$21,000.00 over the contract term, are contingent upon the availability of funds in the appropriate municipal budget year.

More specifically, the actual encumbrance of the funds will be based upon the approval of fully executed purchase orders by the Chief Financial Officer. Said purchase orders will encumber the funds for the affected account at that time.

CHRISTINE J. MANOLIO  
CHIEF FINANCIAL OFFICER

Dated: March 10, 2009

### RESOLUTION AUTHORIZING THE SALE OF COMPOSTED LEAF MULCH, PURSUANT TO N.J.S.A. 40A:11-36(6), TO LANDEX INDUSTRIES, LLC, NURSERY WHOLESALERS

**MARCH 10, 2009**

**BE IT RESOLVED** by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. Pursuant to N.J.S.A. 40A:11-36(6), it hereby authorizes the sale of Composted Leaf Mulch from the Township's leaf composting facility to Landex Industries, LLC, Nursery Wholesalers, for a maximum amount of \$1,120.00.

2. This sale is for a total of twenty (20) loads, 14 cubic yards, per load, at a price of \$4.00 per cubic yard or \$56.00 per load.

3. All transportation shall be provided by the purchaser, Landex Industries, LLC

4. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Attorney
- b) Chief Financial Officer
- c) Purchasing
- d) Pubic Works Dept.
- e) Landex Industries, LLC, Nursery Wholesalers  
12 Howell Road  
Freehold, N.J. 07728

A motion was made by Council Member Donohue, seconded by Council Member Sevastakis, and carried with Council Members Donohue, and Council Member Sevastakis voting yes, and Council Member Cassano absent, and with Council Members Hill and Kubiak abstaining on Auxiliary Association of Community Medical Center, and Council Member Maruca abstaining on Saint Justin's Rosary Altar Society, and Council Member McGuckin abstaining on Monsignor Donovan High School PTA, to approve the following Resolution:

## **RESOLUTION**

March 10, 2008

WHEREAS, the following organizations have made application to conduct RAFFLES and they have paid the required fee:

<u>ORGANIZATION</u>	<u>TYPE OF RAFFLE</u>	<u>DATE</u>
NEW JERSEY STATE FED. OF WOMEN'S CLUBS RL-5831	ON PREMISE 50/50	3-21-09
ROTARY CLUB TOMS RIVER SUNRISE INC. RL-5832	ON PREMISE CASINO NIGHT	4-4-09
ROTARY CLUB TOMS RIVER SUNRISE INC. RL-5833	ON PREMISE 50/50	4-4-09
TOMS RIVER ELKS CHARITIES COMMITTEE RL- 5834	OFF PREMISE RAFFLE	5-24-09
ST. JUSTIN'S ROSARY ALTAR SOC. RL- 5835	OFF PREMISE RAFFLE	6-6-09
CAREGIVER VOLUNTEERS OF CENTRAL JERSEY RL- 5836	OFF PREMISE RAFFLE	5-20-09
CAREGIVER VOLUNTEERS OF CENTRAL JERSEY RL- 5837	ON PREMISE RAFFLE	5-20-09
OCEAN COUNTY HISTORICAL SOCIETY RL- 5838	OFF PREMISE 50/50	9-5-09
WALNUT STREET ELEM. SCHOOL PTO RL- 5839	ON PREMISE RAFFLE	4-3-09
COMMUNITY MEDICAL CENNTER FOUNDATION RL- 5840	ON PREMISE RAFFLE	6-3-09
AUXILIARY ASSOC. OF COMMUNITY MED. CEN.	ON PREMISE 50/50	4-23-09

RL- 5842

TOMS RIVER SEAPORT SOCIETY RL- 5843	OFF PREMISE 50/50	10-10-09
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MONSIGNOR DONOVAN HIGH SCHOOL PTA RL- 5844	ON PREMISE RAFFLE	3-31-09
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WHEREAS, the Township Clerk has reported to this Council that said applications are in order;  
A9.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. That the Clerk of this Township is hereby authorized and directed to issue the RAFFLE LICENSES to the applicants listed above, in accordance with the rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

2. The Township Clerk shall send a certified copy of this resolution to the Police Department, for their information and records.

Carol Benson questioned the following Resolution.

Township Attorney Ken Fitzsimmons explained the following Resolution.

A motion was made by Council Member Hill, seconded by Council Member Kubiell, and carried with Council Members Hill, Donohue, Kubiell, Maruca, Sevastakis and Council Member McGuckin voting yes, and with Council Member Cassano absent, to approve the following Resolution.

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AND THE TOWNSHIP CLERK TO ATTEST TO AN AMENDMENT TO THE INTERIM SETTLEMENT AGREEMENT BETWEEN UNION CARBIDE CORPORATION AND THE TOWNSHIP OF TOMS RIVER**

MARCH 10, 2009

WHEREAS, the Township Committee and Union Carbide Corporation entered into an Interim Settlement Agreement on June 12, 1997, whereby the parties thereto would cooperate in the investigation and remediation of the closed Dover Township Landfill; and

WHEREAS, the Township Committee and Union Carbide Corporation entered into an Amendment to Interim Settlement Agreement dated July 15, 1999 which postponed future litigation until January 31, 2001 and to toll the statute of limitations until June 11, 2001, or until 30 days written notice by either party; and

WHEREAS, the Township Committee and Union Carbide Corporation entered into a Second Amendment to Interim Settlement Agreement dated March 20, 2001, which postponed future litigation until February 1, 2002 and to toll the statute of limitations until May 1, 2002, or until 30 days written notice by either party; and

WHEREAS, the Township Committee and Union Carbide Corporation entered into a Third Amendment to Interim Settlement Agreement dated February 4, 2002 and March 12, 2002, which postponed future litigation until February 2, 2003 and to toll the statute of limitations until May 3, 2003, or until 30 days written notice by either party; and

WHEREAS, the Township Committee and Union Carbide Corporation entered into a Fourth Amendment to Interim Settlement Agreement dated February 27, 2003 and April 14, 2003, which postponed future litigation until February 2, 2004 and to toll the statute of limitations until May 3, 2004, or until 30 days written notice by either party; and

WHEREAS, the Township Council and Union Carbide Corporation entered into a Fifth Amendment to Interim Settlement Agreement dated February 10, 2004 and March 18, 2004, which postponed future litigation until February 2, 2005 and to toll the statute of limitations until May 3, 2005, or until 30 days written notice by either party; and

WHEREAS, the Township Council and Union Carbide Corporation entered into a Sixth Amendment to Interim Settlement Agreement dated April 12, 2005, which postponed future litigation until February 2, 2006 and tolled the statute of limitations until May 3, 2006, or until 30 days written notice by either party; and

WHEREAS, the Township Council and Union Carbide Corporation entered into a Seventh Amendment to Interim Settlement Agreement dated April 25, 2006, which postponed future litigation until February 5, 2007 and tolled the statute of limitations until May 3, 2007, or until 30 days written notice by either party; and

WHEREAS, the Township Council and Union Carbide Corporation entered into an Eighth Amendment to Interim Settlement Agreement dated April 10, 2007, which postponed future litigation until February 5, 2008 and tolled the statute of limitations until May 6, 2008, or until 30 days written notice by either party; and

WHEREAS, the Township Council and Union Carbide Corporation entered into a Ninth Amendment to Interim Settlement Agreement dated March 25, 2008, which postponed future litigation until February 5, 2009 and tolled the statute of limitations until May 6, 2009, or until 30 days written notice by either party; and

WHEREAS, the parties wish to amend that agreement to postpone future litigation until February 5, 2010, to toll the statute of limitations until May 6, 2010, or until 30 days written notice by either party; and

WHEREAS, a copy of the Tenth Amendment to Agreement will be kept on file in the Office of the Township Clerk upon execution;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. The Mayor is hereby authorized to execute and the Township Clerk to attest to a Tenth Amendment to Interim Settlement Agreement with Union Carbide Corporation, which will postpone future litigation until February 5, 2010, to toll the statute of limitations until May 6, 2010, or until 30 days written notice by either party. A copy of this agreement will be kept on file in the Office of the Township Clerk upon execution.

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Attorney
- b) Chief Financial Officer
- c) Engineering Dept.
- d) Wolff & Samson, PC  
The Offices at Crystal Lake  
One Boland Drive  
West Orange, NJ 07052  
ATTN: Lori Grifa, Esq.
- e) William L. Warren, Esq.  
Drinker, Biddle & Reath, LLP  
105 College Road East, Suite 300  
P.O. Box 627  
Princeton, N.J. 08542-0627
- f) Mayor
- g) Township Council
- h) Administrator

## REPORTS

A motion was made by Council Member Kubiell, seconded by Council Member Donohue, and carried with Council Members Cassano, Donohue, Hill, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve the following Reports.

1. Department of Recreation – February 2009 - \$262,120.20.
2. Winding River Skating Center – February 2009 - \$108,887.50.
3. Clerk’s Office – January 2009 - \$369,144.56.
4. Clerk’s Office – February 2009 - \$943.25.
5. Bey Lea Golf Course – February 2009 - \$52,367.59.
6. Youth Center – February 2009 - \$4,582.00.
7. Permits & Inspections – January 2009 - \$71,477.00.
8. Permits & Inspections – February 2009 - \$132,043.75.

## APPROVAL OF BILLS

Council President McGuckin asked for a report on the bills.

The Bill List, dated **March 10, 2009**, was approved on motion by Council Member Kubiell, seconded by Council Member Maruca, and carried with Council Members Kubiell, Maruca, Sevastakis, Donohue, Hill and Council President McGuckin voting yes, and with Council Member Cassano absent. The following respective exceptions to their votes were noted as abstentions to this vote:

Council President McGuckin abstained due to Business conflicts on the following:

Purchase Order 09-03318, payable to Ocean County Board of Health in the amount of \$65.00.

Council Member Donohue abstained due to Business conflicts on the following:

Purchase Order 09-03318, payable to Ocean County Board of Health in the amount of \$65.00.

Purchase Order 09-033478, payable to Toms River Board of Education in the amount of \$361.37.

Council Member Hill abstained due to Personal conflicts on the following:

Purchase Order 09-033478, payable to Toms River Board of Education in the amount of \$361.37.

Purchase Order 09-03419, payable to Engineering Inspection Invoices in the amount of \$3,505.00.

Purchase Order 09-03856, payable to Wawa Incorporated in the amount of \$94.00.

Purchase Order 09-03244, payable to Owen Little & Association in the amount of \$860.

Purchase Order 09-03333, payable to Presbyterian Homes in the amount of \$4,091.81.

Purchase Order 09-00781, payable to Terry F. Brady, Esquire, in the amount of \$3,500.00.

Council Member Kubiel abstained due to Personal conflicts on the following:

Purchase Orders 09-00776 and 09-03513, payable to Dr. Robert G. Cimer, Veterinary in the amount of \$2,108.00.

Council Member Sevastakis abstained due to Business conflicts on the following:

Purchase Order 09-03396, payable to Gilligan & Nardini Electrical in the amount of \$357.95.

## **ELECTED OFFICIALS COMMENTS**

Mayor Kelaher spoke regarding the State Budget, and the Mathis Bridge closing.

Councilwoman Donohue spoke regarding PARIS Grant; scanning in the Clerk's Office, and the Website Update.

Councilman Hill spoke regarding Peter Cassano's health; Toms River Wrestling; Camden's records, and Council on Affordable Housing.

Councilman Kubiel spoke regarding Toms River East Little League opening day, and the Governor's Budget for the State.

Councilwoman Maruca spoke regarding the State Tax Freeze Seminar and the Homeowners' Association Meetings.

Councilman Sevastakis spoke regarding Castle Park Planning; March 23, 2009 Recreation Committee Meeting, and 2010 goals.

Council President McGuckin has no comments.

## **PUBLIC COMMENTS**

Council President McGuckin announced the public portion and asked if any one wished to speak at this time.

William McPhail spoke regarding the Re-Valuation and viewing of his records.

A motion was made by Council Member Kubiel, seconded by Council Member Maruca, and carried with Council Members Donohue, Hill, Kubiel, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve Property Record Cards, Waiver, Re-Valuation process and posting of the process on Website regarding Open Public Records.

William McPhail spoke regarding Law Enforcement Agencies communicating with one another in the County and regarding Toms River Motor Vehicle Agency operations.

Pat Przybylko, Ortleigh Beach, spoke regarding Re-Valuation.

Don Polli, South Shore Drive, spoke regarding Re-Valuation and Tax Rate.

Thomas Stocker, spoke regarding pending litigation with Planning Board.

Bill Weigel, Shelter Cove, spoke regarding Public Works, and Tax Re-Valuation.

Sylvia Schackne spoke regarding Re-Valuation.

Ken Langdon, Ortley Beach, spoke regarding Re-Valuation.

Carol Benson spoke regarding Re-Valuation, and the used of microphones at Council Meetings.

Carol Araned-Mayer spoke regarding Re-Valuation Process and extension regarding implementation date.

Charles Henry, 1786 Old Freehold Road, spoke regarding weight limit at Old Freehold Road. He said recent snow plowing was "absolutely horrible."

Pat Przybylko, spoke again regarding Taxes and Re-Valuation.

Council President McGuckin asked if there were any other speakers. There was no response.

No further comments from the public appearing, a motion was made by Council Member Kubiell, seconded by Council Member Sevastakis, and carried to enter into a private Executive Session at 8:35 p.m.

A motion was made by Council Member Kubiell, seconded by Council Member Sevastakis and carried, to adopt the following resolution, which was read into the record by the Township Clerk:

## **RESOLUTION**

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, Public Law 1975, permits the exclusion of the public from a meeting in certain circumstances to discuss matters requiring confidentiality and/or of a privileged nature; and

WHEREAS, the Township Council is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF TOMS RIVER, IN THE COUNTY OF OCEAN AND STATE OF NEW JERSEY, as follows:

1. The Township Council will now conduct a private Executive Session.
2. The general nature of the subject matter to be discussed and/or acted upon is as follows:
  1. Matters of Personnel
  2. Anticipated Litigation
  3. Matters in Litigation
  4. Attorney Client Privilege
3. The following specific topics were announced.
  1. Gingerelli versus Toms River
  2. Solomon Dwek Bankruptcy
  3. Petlin Association and Toms River
  4. North Point Hollow Association – Affordable Units
  5. Review of Tort Claims
  6. Executive Session Minutes – February 24, 2009
  7. Clerk's Office Personnel
4. It is anticipated that deliberations conducted in closed session may be disclosed to the public upon the determination of the Township Council that the public interest will no longer be served by such confidentiality.

The foregoing resolution was approved on the following roll call vote:

Council Member Cassano	Absent
Council Member Donohue	Yes
Council Member Hill	Yes
Council Member Kubiell	Yes
Council Member Maruca	Yes
Council Member Sevastakis	Yes
Council President McGuckin	Yes

The Council reconvened the public portion at 9:14 PM, all Council Members Donohue, Hill, Kubiell, Maruca, Sevastakis and Council President McGuckin present and with Council Member Cassano absent.

A motion was made by Council Member Kubiell, seconded by Council Member Hill, and carried with Council Members Donohue, Hill, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve the following Resolution:

## **RESOLUTION APPROVING EXECUTIVE SESSION MINUTES**

WHEREAS, the attached Executive Session Minutes have been reviewed as to form and accuracy;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, State of New Jersey, as follows:

1. The following Executive Session Minutes are approved:

February 24, 2009

2. The Township Clerk shall maintain same as an official record.

A motion was made by Council Member Kubiell, seconded by Council Member Hill, and carried with Council Members Donohue, Hill, Kubiell, Maruca, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent, to approve the following Resolution:

**RESOLUTION RATIFYING AND AFFIRMING A MEMORANDUM OF  
UNDERSTANDING SIGNED BY GINGERELLI BROTHERS, INC., AND THE TOMS RIVER  
TOWNSHIP ATTORNEY RELATING TO A LEGAL ACTION FILED IN SUPERIOR COURT OF NEW  
JERSEY  
(DOCKET NO. OCN-L-4125-07), ENTITLED  
GINGERELLI BROTHERS, INC. V. TOWNSHIP OF TOMS RIVER**

**MARCH 10, 2009**

WHEREAS, Gingerelli Brothers, Inc. ("Gingerelli") filed a law suit in the Superior Court of New Jersey, Law Division, Ocean County (Docket No. OCN-L-4125-07), against the Township of Toms River, in connection with an ice rink dehumidifier; and

WHEREAS, on March 3, 2009 the matter was mediated by the Honorable Eugene D. Serpentelli (retired), Thomas DeNoia, appearing for Plaintiff Gingerelli Brothers and Kenneth B. Fitzsimmons, Esq., appearing for the Township of Toms River; and

WHEREAS, the mediation resulted in a Memorandum of Understanding being agreed to by Gingerelli and the Township Attorney; and

WHEREAS, the Township of Toms River is desirous of settling this litigation in an amount and subject to the terms set forth in the Memorandum of Understanding;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1. It hereby ratifies and affirms the Memorandum of Understanding entered into on March 3, 2009 by Kenneth B. Fitzsimmons, Esq., Attorney for the Township of Toms River and Thomas DeNoia, Attorney for Plaintiff, Gingerelli Brothers, Inc., in connection with a law suit filed against the Township of Toms River (Docket No. OCN-L-4125), a copy of which is on file in the Office of the Township Clerk.

2. The Township of Toms River will pay Gingerelli Brothers, Inc., the sum of \$37,500.00 (\$20,000.00 being held in reserve under the contract with John S. Truhan; \$2,500.00 to be paid by John S. Truhan Consulting Engineers, Inc.; and \$15,000.00 to be paid by Township), in full and final release/settlement of all claims by Gingerelli Brothers, Inc. against the Township.

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- a) Attorney
- b) Chief Financial Officer
- c) Purchasing
- d) Thomas DeNoia, Esq.  
DeNoia & Tambasco, L.L.C.  
501 Main Street  
Toms River, N.J. 08753
- e) John S. Truhan, P.E.  
John S. Truhan Consulting Engineers, Inc.  
1442 Lakewood Road  
Manasquan, N.J. 08736

No other business appearing, the meeting was adjourned at 9:16 P. M. A motion was made with Council Member Kubiell, seconded by Council Member Sevastakis, and carried with Council Members Donohue, Hill, Maruca, Kubiell, Sevastakis and Council President McGuckin voting yes, and with Council Member Cassano absent.

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GREGORY P. MCGUCKIN, COUNCIL PRESIDENT

