

RESOLUTION NO. 2009 - 324

RESOLUTION OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING RELEASE OF FUNDS HELD BY THE TOWNSHIP TO THE MENK CORPORATION IN ACCORDANCE WITH THE SANITARY SEWER REIMBURSEMENT AGREEMENT AND THE WATER REIMBURSEMENT AGREEMENT

WHEREAS, the Township of Barnegat, County of Ocean, State of New Jersey (hereinafter referred to as the "Township") has previously entered into agreements with the Menk Corporation ("Menk") which agreements are entitled Water Reimbursement Agreement ("Water Agreement"), as amended, and Sanitary Sewer Reimbursement Agreement ("Sewer Agreement"); and

WHEREAS, the Township is currently holding in escrow approximately \$388,510.60 of water reimbursement monies paid by other developers in Barnegat, as well as \$34,888.00 (principal only) and \$36,421.11 (sewer interest only) from monies paid by other developers; and

WHEREAS, Menk has demanded release of those funds by the Township; and

WHEREAS, the Township has received indications from other developers that they intend to institute suit against the Township because of what they perceive to be improper payments made by the Township to Menk in conjunction with the Water Agreement and Sewer Agreement:

NOW, THEREFORE, BE IT RESOLVED, this 4th day of May, 2009 by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

**DASTI, MURPHY
McGUCKIN, ULAKY,
CHERKOS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD

P.O. BOX 1057

FORKED RIVER, N.J. 08731

1. The Township authorizes the Township Chief Financial Officer to release the aforementioned funds being held by the Township in trust/escrow to the Menk Corporation on, but not before, May 18, 2009.

2. The Township authorizes and directs the Mayor, Township Clerk, Township Administrator and Township Solicitor to execute any and all necessary documents in order to implement the intent of this resolution.

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

- (a) Honorable Jeffrey Melchiondo, Mayor;
- (b) David Breeden, Administrator;
- (c) Kathleen Janeski, CFO; and
- (d) Jerry J. Dasti, Esq.

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Township of Barnegat at a meeting held on May 4, 2009, a quorum being present and voting in the majority.

**DASTI, MURPHY
McGUCKIN, ULAKY,
CHERKOS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

Kathleen T. West, RMC
Municipal Clerk

Prepared by:

**DASTI, MURPHY, McGUCKIN, ULAKY,
CHERKOS & CONNORS**
Forked River, New Jersey 08731

JJD:caf[Barnegat Resolutions 2009-GL#17982]
[Menk Reimbursement Agmt. (W/S) – GL#16735]