

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

November 4, 2010

The Marlboro Township Council held its regularly scheduled meeting on November 4, 2010 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, NJ 07746.

Councilman Cantor chaired the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 11, 2010; mailed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk. Notice of the time change was given to the above on May 10, 2010.

The Clerk called the Roll.

PRESENT: Councilman Cantor, Councilwoman Mazzola and Councilman Metzger. Council President LaRocca and Council Vice President Marder were absent.

Also present were: Louis Rainone, Esq., Business Administrator Jonathan Capp and Municipal Clerk Alida Manco.

Councilman Cantor opened the Public Hearing on comments of the application for County of Monmouth Open Space Trust Funds under the Monmouth County Municipal Open Space Grants Program to acquire the property known as 403 Tennent Road, Block 267, Lots 41 & 42. As there was no one who wished to speak, the Public Hearing was closed.

The following Resolution #2010-395 (Setting Special Meeting - Nov. 10, 2010 at 7:PM) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman

Mazzola, and passed on a roll call vote of 3 - 0 in favor (Absent: LaRocca and Marder).

RESOLUTION # 2010-395

BE IT RESOLVED by the Marlboro Township Council that a "Special" Council Meeting will be held on November 10, 2010 at 7:00 PM at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, N. J. 07746. The purpose of the special meeting is to discuss and take action on any items properly brought before the Township Council at that time. Citizen's Voice will be held.

The following Resolution #2010-396 (Authorizing Issuance of Plenary Retail Distribution License) was introduced by reference, offered by Councilman Metzger, seconded by Councilwoman Mazzola, and passed on a roll call vote of 3 - 0 in favor (Absent: LaRocca and Marder).

RESOLUTION # 2010-396

RESOLUTION OF THE TOWNSHIP OF MARLBORO
AUTHORIZING THE ISSUANCE OF ONE (1) ADDITIONAL
PLENARY RETAIL DISTRIBUTION LICENSE.

WHEREAS, pursuant to *N.J.S.A. 33:1-12.14*, a municipality is permitted to issue new plenary retail distribution licenses in ratio to a municipality's population; and

WHEREAS, in accordance with the information from the 2000 federal census counts, the Township of Marlboro has a population of 36,398; and

WHEREAS, in light of the such census information, the Township of Marlboro is permitted to issue up to four (4) plenary retail distribution licenses, and three (3) have been issued; and

WHEREAS, the Mayor and Township Council, having considered the same, desire to authorize the issuance of one (1) additional plenary retail distribution license and the advertisement for the receipt of sealed bids therefor as set forth hereinbelow.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, in the County of Monmouth and State of New Jersey, that the issuance of one (1) plenary retail distribution license and the advertisement for the receipt of sealed bid(s) therefor is hereby authorized pursuant to *N.J.S.A. 33:1-19, et seq.*; and

BE IT FURTHER RESOLVED, that the Township of Marlboro shall hold a public sealed bid sale for the aforesaid plenary retail distribution license.

BE IT FURTHER RESOLVED, that the following requirements and conditions must be met by any and all prospective bidders:

1. Only the bids of bidders qualified to have an interest in a plenary retail distribution license under the standards set forth in the *Alcoholic Beverage Control Act*, the regulations promulgated thereunder and any applicable provisions of the Code of the Township of Marlboro will be opened.

2. To pre-qualify, a prospective bidder must, on or before 10 AM on December 21, 2010, submit the following to the Township Clerk at 1979 Township Drive in Marlboro, New Jersey:

(a) A full and complete twelve (12) page Alcoholic Beverage Control License Application form, including the required municipal license fee of \$1,261.44 (the municipal license fee of an unsuccessful bidder shall be returned after the award of the license, less an administrative fee of ten percent (10%) of such license fee), and the required State license fee of \$200.00;

(b) A separate signed Certification of Proof of Compliance by the prospective bidder that it/he/she meets any and all conditions or requirements contained in this Resolution, and that the prospective bidder knows of no reason why it/he/she would be disqualified from having an interest in a plenary retail distribution license in New Jersey under the standards set forth in the *Alcoholic Beverage Control Act* and the rules and regulations promulgated thereunder; and

(c) a separately sealed envelope with the prospective bidder's deposit fee of \$71,000.00 (by bank check or certified check) which shall be non-refundable to the successful bidder after the award of bid.

3. The minimum bid for the plenary retail distribution license is \$710,000.00. The Mayor and Township Council reserve the right to reject all bids if the highest bid is not accepted.

4. Sealed bids shall be received on or before 10 AM. on December 21, 2010 at the office of the Marlboro Township Clerk, 1979 Township Drive, Marlboro, New Jersey. The outside of the sealed envelope shall state:

(a) "2010 Liquor Distribution License bid"; and

(b) Name of the Bidder.

5. At 3:00 P.M. on December 21, 2010, the Township Clerk shall publicly announce those prospective bidders who have pre-qualified. A list of such pre-qualified bidders shall also be posted on the public announcements bulletin board in the Municipal Building.

6. The Clerk of the Township of Marlboro will open any and all sealed bids received from pre-qualified bidders on 10 AM on December 22, 2010 at the office of the Marlboro Township Clerk, 1979 Township Drive, Marlboro, New Jersey. No bid will be opened from or on behalf of any bidder who does not pre-qualify or has not submitted proof of qualification. Immediately after opening the sealed bids of the pre-qualified bidders, the Township Clerk shall publicly announce the amount of each bid received and the name of each bidder.

7. The Township Council, shall, by written Resolution, adopted at a public meeting, either award the license to the highest qualified bidder or reject all bids. If the award is made to the highest qualified bidder, the ultimate issuance of the license shall be subject to each of the following terms and conditions:

(a) Payment of the balance of the bid by certified check made payable to the "Township of Marlboro" by March 10, 2011. Failure to make timely payment of such balance shall, at the option of the Township, result in

voiding of the license award and forfeiture of the successful bidder's deposit whereupon the Township may award the license to the remaining highest qualified bidder or determine to take no action;

(b) Payment of the State License Application Fee;

(c) Payment of the annual municipal plenary retail distribution license fee;

(d) Satisfactory outcome of further municipal background checks to investigate the source of funds used to purchase the plenary retail distribution license;

(e) Receipt of favorable State and/or Federal criminal background checks; and

(f) Compliance with the publication, hearing and Resolution requirements under *N.J.A.C. 13:2-2.1 et seq.*

The deposit(s) of all unsuccessful bidders shall be returned within ten (10) days of the date of the award.

8. The Township hereby reserves the right to reject all bids when the highest qualified bid is not accepted.

9. The sale of the plenary retail distribution license may be postponed or canceled at any time prior to the opening of the bids.

10. Prospective bidders shall also comply with all other provisions of *N.J.A.C. 13:2-2.1 et seq.*, including, but not limited to, publication of the Notice of Application.

11. If no new plenary retail distribution license has been issued pursuant to this Resolution by May 9, 2011, no new plenary retail distribution license shall thereafter be issued without a further Resolution of the Township Council determining to issue a new plenary retail distribution license.

BE IT FURTHER RESOLVED, that notice of the public sale of the plenary retail distribution license shall be in conformance with *N.J.S.A. 33:1-19.4*; and

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

- a. Township Administrator
- b. Township Chief Financial Officer
- c. DeCotiis, FitzPatrick & Cole, LLP

NOTICE OF INTENT TO ISSUE A NEW
ALCOHOLIC BEVERAGE DISTRIBUTION LICENSE
IN THE TOWNSHIP OF MARLBORO

The Mayor and Township Council of the Township of Marlboro, New Jersey, by Resolution #2010-396 have determined to consider the issuance of one (1) additional plenary retail distribution license by public sealed bid to the highest qualified bidder and hereby invites bids therefor. All prospective bidders for the license shall apply by submitting to the Township Clerk:

1. A full and complete twelve (12) page Alcoholic Beverage Control License Application form, including the required municipal license fee of \$1,261.44 (the municipal license fee of an unsuccessful bidder shall be returned after the award of the license, less an administrative fee of ten percent (10%) of such license fee), and the required State license fee of \$200.00;

2. A separate Certification of Proof of Compliance by the prospective bidder that it/he/she meets any and all conditions or requirements contained in Resolution #2010-396 and that the prospective bidder knows of no reason why it/he/she would be disqualified from having an interest in a plenary retail distribution license in New Jersey under the standards set forth in the *Alcoholic Beverage Control Act* and the rules and regulations promulgated thereunder; and

3. A separately sealed envelope with the prospective bidder's deposit fee of \$71,000.00 (by bank check or certified check) which shall be non-refundable to the successful bidder after the award of bid.

4. Bid proposal.

The minimum bid for the plenary retail distribution license shall be \$710,000.00.

The Mayor and Township Council reserve the right to reject all bids if the highest bid is not accepted. The award of the subject license may be postponed or canceled at any time prior to the opening of the bids.

The period of acceptance of bids shall end on December 21, 2010 at 10 A.M., prevailing time. The Clerk of the Township of Marlboro will, on December 21, 2010, at 3:00 P.M., prevailing time, publicly announce a list of those applicants who presumptively meet with qualifications for bidding as determined by applicable State law and regulation and the enabling Resolution #2010-396 and this Notice.

The Clerk of the Township of Marlboro will, on December 22, 2010, at 10 A.M., prevailing time, publicly announce the amount of each bid received and the name of each bidder and shall announce the successful bidder.

Full payment of the remaining balance for the license must be made to the Township by March 10, 2011.

At 7:15 PM, Councilwoman Mazzola moved that the meeting be adjourned. This was seconded by Councilman Metzger, and as there was no objection, the Clerk was asked to cast one ballot (Absent: LaRocca & Marder).

MINUTES APPROVED: December 20, 2010

OFFERED BY: MAZZOLA

AYES: 3

SECONDED BY: CANTOR

NAYS: 0

ABSTAIN: MARDER, LA ROCCA

ALIDA MANCO
MUNICIPAL CLERK

JEFF CANTOR
COUNCILMAN