

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

FEBRUARY 13, 2003

The Marlboro Township Council held a regularly scheduled Council Meeting on February 13, 2003 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Karcher opened 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 December 13, 2002; 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.

The Clerk called the Roll.

PRESENT: Councilman Denkensohn, Councilman Kovalski, Council Vice President Mione, Councilwoman Singer and Council President Karcher.

Also present were: Mayor Scannapieco, Township Attorney John O. Bennett, Business Administrator Chris Marion, Municipal Clerk Alida DeGaeta, Deputy Clerk Deborah Usalowicz.

Discussion followed on how Council wished to proceed with the amendments to the Master Plan. After discussion, a motion to send the Master Plan amendments back to the Planning Board for further review was made by Council Vice President Mione, seconded by Councilman Denkensohn and the following resolution #2003-39 was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-39

WHEREAS, the Marlboro Township Council is in receipt of a recommended Amendment to the 1997 Master Plan forwarded by the Marlboro Township Planning Board to the Marlboro Township Council; and

WHEREAS, it is the opinion of the Marlboro Township Council that further review is required of the recommended Amendment to the 1997 Master Plan prior to any action being taken with respect to any zoning changes by the Marlboro Township Council; and

WHEREAS, other concerns of the Marlboro Township Council with respect to further studies will be presented by a letter from the Council President; and

NOW THEREFORE BE IT RESOLVED by the Marlboro Township Council that the recommended Amendment to the 1997 Master Plan currently in the hands of the Town Council be referred back to the Planning Board for further review; and

BE IT FURTHER RESOLVED that the Council President is authorized to submit a letter to the Planning Board with the specifics of additional actions to be requested by the Council.

At 9:45PM, Councilman Kovalski moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Councilman Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot.

RESOLUTION # 2003-37

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 13th day of February, 2003 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely litigation.

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

At 10:00 PM, Councilman Kovalski moved that the meeting be opened. This was seconded by Council President Karcher, and as there was no objection, the Clerk was asked to cast one ballot.

Councilman Denkensohn made a motion to continue support of litigation to block involuntary redistricting, which was seconded by Councilwoman Singer, and the following Res. #2003-40 was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-40

RESOLUTION TO CONTINUE SUPPORT OF LITIGATION TO BLOCK  
INVOLUNTARY REDISTRICTING

WHEREAS, Marlboro Township is a constituent municipality of the Freehold Regional High School District ("FRHSD"); and

WHEREAS, the September 9, 2002 vote of the FRHSD to redistrict Marlboro students out of Marlboro High School was taken illegally, and was arbitrary and capricious.

NOW, THEREFORE, BE IT RESOLVED, that the Marlboro Township Council hereby continues to support and will continue to appropriate monies to fund the legal action instituted by its special counsel, Riker, Danzig, Scherer, Hyland & Perretti LLP, to block the redistricting plan undertaken by the FRHSD and to invalidate the September 9, 2002 vote by the FRHSD to redistrict.

The following Resolution # 2003-30 (2003 Mosquito Spraying Program) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-30

BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that it does hereby authorize the Monmouth County Mosquito Extermination Commission to apply pesticides from aircraft to control mosquitoes over portions of the Township of Marlboro.

We understand that all pesticides used are approved for aerial application by the State and Federal governments.

It is further understood that the areas being treated are only those found to have a significantly high mosquito population and may present either a public health nuisance or disease factor.

This approval is subject to the Monmouth County Mosquito Extermination Commission notifying the local police department prior to each and every application.

The following Resolution # 2003-31 (Authorization to Bid - Security Cameras) was introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 3 - 0 in favor (Absent: Denkensohn and Kovalski).

RESOLUTION # 2003-31

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Business Administrator is hereby authorized and directed to advertise for open competitive bids for the following said work, labor and/or materials as required by law:

Security Cameras

The following Resolution # 2003-32 (Appointment of Township Auditor - Thomas P. Fallon) was introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 3 - 0 in favor (Absent: Denkensohn and Kovalski).

RESOLUTION # 2003-32

BE IT RESOLVED by the Township Council of the Township of Marlboro that THOMAS P. FALLON, of the firm of Fallon & Fallon LLP, 1392 Route 36, Suite 102, Hazlet, N. J. 07730 is hereby appointed as Auditor for the Township of Marlboro for a term of one year commencing January 2003, whose duties shall include, among other things, the preparation of the Annual Audit for 2003, and assistance in the preparation of the 2003 Budget, 2003 Financial Statements and the 2003 Debt Statement.

The following Resolutions were introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 3 - 0 in favor (Absent: Denkensohn and Kovalski).

RESOLUTION # 2003-33

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 4-03 (On Premise 50/50) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on the following dates and times:

|               |           |
|---------------|-----------|
| July 17, 2003 | 6 - 11 PM |
| July 18, 2003 | 6 - 11 PM |
| July 19, 2003 | 6 - 11 PM |
| July 20, 2003 | 4 - 9 PM  |

at St. Gabriel's Church grounds, 100 North Main Street, Marlboro, N. J. 07746.

RESOLUTION # 2003-34

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 5-03 (Off Premise Merchandise) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on July 20, 2003 at 8 PM at St. Gabriel's Church, 100 North Main Street, Marlboro, New Jersey 07746.

RESOLUTION # 2003-35

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 6-03 (Carnival Wheels and Games) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on the following dates and times:

|               |           |
|---------------|-----------|
| July 17, 2003 | 6 - 11 PM |
| July 18, 2003 | 6 - 11 PM |

July 19, 2003

6 - 11 PM

July 20, 2003

4 - 9 PM

at St. Gabriel's Church grounds, 100 North Main Street,  
Marlboro, N. J. 07746.

RESOLUTION # 2003-36

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 7-03 (Off Premise 50/50) be and it is hereby granted to St. Gabriel's R.C. Church, 100 North Main Street, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held on July 20, 2003 at 8 PM at St. Gabriel's Church, 100 North Main Street, Marlboro, New Jersey 07746.

The following Resolution # 2003-41 (Commence Negotiation to Purchase Brandigon Property Block 148, Lot 30) was introduced by reference, offered by Councilman Kovalski, seconded by Council Vice President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-41

RESOLUTION AUTHORIZING THE TOWNSHIP OF MARLBORO TO COMMENCE  
NEGOTIATIONS AND ENTER INTO AN AGREEMENT FOR  
THE PURCHASE OF CERTAIN REAL PROPERTY KNOWN AND DESIGNATED  
AS BLOCK 148, LOT 30 ON THE MARLBORO TOWNSHIP TAX MAP  
(BRANDIGON PROPERTY)

WHEREAS, the Mayor and Township Council of the Township of Marlboro are committed in their efforts to acquire and maintain vacant lands for open space, recreation, conservation, historic and/or farmland purposes; and

WHEREAS, this commitment is consistent with the wishes of the voters of the Township of Marlboro, as evidenced by the overwhelming support received at the polls for the establishment of a Municipal Open Space, Recreation and Farmland and Historic Preservation Trust Fund, and for the tax levy associated therewith; and

WHEREAS, the principles behind the Township's efforts in preserving open space are set forth in Chapter 98 of the Code of the

Township of Marlboro, wherein the Township's Farmland, Historic and Open Space Committee was established; and

WHEREAS, the Farmland, Historic and Open Space Committee has recommended that the Township Council consider purchasing certain real property known and designated as Block 148, Lot 30 on the Marlboro Township Tax Map (hereinafter referred to as the "Property") for open space, recreational, historic and/or farmland purposes; and

WHEREAS, the Property, which is under the record ownership of Adele and Frederick Brandigon, consists of approximately 20.27 acres of land; and

WHEREAS, at this time, the Township Council wishes to authorize the Township Attorney to commence negotiations for the acquisition of the Property; and

WHEREAS, the Township Council further wishes to authorize the Mayor to execute and the Municipal Clerk to attest a tentative agreement in order to exhibit the Township's intent of acquiring the Property and to provide for a due diligence period for the preliminary assessment of the Property and the finalization of certain terms and conditions to be contained in a contract for sale governing the said acquisition; and

WHEREAS, any agreement for the purchase of the Property shall be specifically conditioned upon the adoption of an authorizing Ordinance by the Township Council of the Township of Marlboro, pursuant to the New Jersey Local Lands and Buildings Law, *N.J.S.A. 40A:12-1, et seq.*, as well as the adoption of a Bond Ordinance by the Township Council in order to fund all or part of the acquisition (and related costs), if necessary.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Township Council of the Township of Marlboro, in the County of Monmouth and State of New Jersey, as follows:

1. That the Township Attorney is hereby authorized to commence negotiations for the purchase of the property known and designated as Block 148, Lot 30 on the Marlboro Township Tax Map (the "Property").

2. That the Mayor is authorized to execute and the Municipal Clerk to attest a tentative agreement, which shall be satisfactory to the Township Attorney, exhibiting the Township's intent of acquiring the Property and providing for a due diligence period for

the preliminary assessment of the Property and the finalization of certain terms and conditions to be contained in a contract for sale governing the said acquisition

3. That the actual purchase of the Property shall be specifically conditioned upon the adoption of an authorizing Ordinance by the Township Council of the Township of Marlboro, pursuant to the New Jersey Local Lands and Buildings Law, *N.J.S.A. 40A:12-1, et seq.*, as well as the adoption of a Bond Ordinance by the Township Council in order to fund all or part of the acquisition (and related costs), if necessary, and any other terms and conditions contained within the fully-executed contract for sale.

4. That a certified copy of this Resolution shall be provided to each of the following:

- a. Adele and Frederick Brandigon
- b. Stephen Dick, Chairman of the Farmland, Historic and Open Space Committee
- c. Members of the Farmland, Historic and Open Space Committee
- d. John S. Mullan, Schoor DePalma
- e. Christopher R. Marion, Township Administrator
- f. Judith A. Tiernan, Chief Financial Officer
- g. John O. Bennett, III, Esq., Township Attorney

At 10:45 PM, Councilman Kovalski moved that the meeting go into executive session for reason of discussing anticipated litigation. This was seconded by Councilman Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot.

RESOLUTION # 2003-42

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 13th day of February, 2003 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely anticipated litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 10 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 10:55 PM, Councilman Kovalski moved that the meeting be opened. This was seconded by Council President Karcher, and as there was no objection, the Clerk was asked to cast one ballot.

The following Resolution # 2003-38 (Calling for Independent Investigation by U.S. Attorney Dist. of N.J.) was read into the record by Township Attorney John Bennett, offered by Councilman Kovalski, seconded by Council Vice President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-38

A RESOLUTION CALLING FOR AN INDEPENDENT INVESTIGATION  
BY THE U.S. ATTORNEY OF THE DISTRICT OF NEW JERSEY

WHEREAS, the Township Council of the Township of Marlboro ("Township") has reviewed various articles which have appeared in the Asbury Park Press, a newspaper circulated in the Township as well as throughout Monmouth County, containing, among other things, allegations concerning the manner in which certain large housing and commercial development proposals have been approved; and

WHEREAS, the Township Council is concerned about the serious issues raised in these particular newspaper articles; and

WHEREAS, it is the wish of the Township Council that these allegations be formally reviewed and independently investigated by the U. S. Attorney of the District of New Jersey.

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 allegations contained in the articles appearing in the Asbury Park Press concerning the manner in which certain large housing and commercial developments have been approved should be formally reviewed and independently investigated.

BE IT FURTHER RESOLVED that the Township Clerk forward a certified true copy of this Resolution to Chris Christie - U. S. Attorney - District of New Jersey.

At 11:25 PM, Councilman Kovalski moved that the meeting be adjourned. This was seconded by Council President Karcher, and

as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: March 27, 2003

OFFERED BY: Denkensohn AYES: 5

SECONDED BY: Kovalski NAYS: 0

---

ALIDA DE GAETA  
MUNICIPAL CLERK

---

ELLEN KARCHER  
COUNCIL PRESIDENT