

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

APRIL 24, 2003

The Marlboro Township Council held a regularly scheduled Council Meeting on April 24, 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: Township Attorney Jonathan Williams, Ronald H. Gordon, Esq., Business Administrator Chris Marion, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Public Information Report - Acting Public Information Director Susan Levine announced that the annual free rabies vaccination clinic will be held on Sat., May 3rd between 10am-12pm at the Municipal Complex storage barn. She also stated that the construction of cable television studio should be completed within the next two weeks. She informed the public about the public information forum sponsored by the Monmouth County Park System which will be held on Tues., April 29th at 7:30pm in the Town Hall regarding the Henry Hudson Trail, and the public information forum on the Marlboro State Hospital redevelopment plan to be held on May 29th at 8 PM in the Town Hall.

Councilman Kovalski moved that the minutes of March 13th and March 27th, 2003 be approved. The motion was seconded by Councilman Denkensohn and the minutes were passed on a roll call vote of 5 - 0.

Council President Karcher opened the Public Hearing on Ordinance # 2003-5 (Amending Bond Ord. # 2000-28 - Blossom Heights). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2003-105/Ord. # 2003-5 (Amending Bond Ord. # 2000-28 - Blossom Heights) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0.

RESOLUTION # 2003-105

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

ORDINANCE # 2003-5

BOND ORDINANCE AMENDING BOND ORDINANCE # 2000-28
WITH RESPECT TO VARIOUS CAPITAL IMPROVEMENTS FINALLY ADOPTED OF
THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
MARLBORO, NEW JERSEY ON OCTOBER 12, 2000

which was introduced on April 10, 2003, public hearing held April 24, 2003, be adopted on second and final reading this 24th day of April, 2003.

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

ORDINANCE # 2003-5

BOND ORDINANCE AMENDING BOND ORDINANCE # 2000-28
WITH RESPECT TO VARIOUS CAPITAL IMPROVEMENTS FINALLY ADOPTED OF
THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
MARLBORO, NEW JERSEY ON OCTOBER 12, 2000

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The Bond Ordinance of the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey (the

"Township") entitled "BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$2,713,500 FOR VARIOUS IMPROVEMENTS FOR AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$2,577,825 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION" finally adopted on October 12, 2000 (the "Ordinance") is hereby incorporated by reference in its entirety.

Section 2. Clause (a) under the subheading "Community Development Acquisition and Improvements" of Section 3(a) of the Ordinance is hereby amended in its entirety as follows:

"(a) Improvements to Sewer System at Blossom Heights

\$800,000 \$475,000 40"

(b) The Ordinance is further amended as follows:
(i) all references in Sections 1 and 3 in the Ordinance to "\$2,713,500" is hereby deleted and substituting in lieu therefor "\$3,013,500."

Section 3. The capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolutions in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 4. All other provisions of the Ordinance shall remain unchanged.

Section 5. This amendatory bond ordinance shall take effect twenty days after the first publication thereof after final adoption as provided by Local Bond Law.

The following Resolution # 2003-106 (Award of Contract - Pre-evaluation AOCs Brandigon Property) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-106

RESOLUTION AUTHORIZING THE TOWNSHIP OF MARLBORO TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH

SCHOOR DEPALMA INC. REGARDING THE PERFORMANCE OF A PRELIMINARY EVALUATION OF ENVIRONMENTAL AREAS OF CONCERN REGARDING REAL PROPERTY KNOWN AND DESIGNATED AS BLOCK 148, LOTS 30 AND 30Q ON THE MARLBORO TOWNSHIP TAX MAP - BRANDIGON (APPROXIMATELY 20.27 ACRES)

WHEREAS, in order to acquire and maintain vacant lands for open space, recreation, conservation, historic and/or farmland purposes, the Township of Marlboro is in negotiations to acquire the real property known as designated as Block 148, Lots 30 & 30Q on the Marlboro Township Tax Map ("Property"); and

WHEREAS, Schoor DePalma Inc. has completed a Preliminary Assessment of the Property pursuant to technical requirements for site remediation in accordance with N.J.A.C. 7:26E and has identified Areas of Concern ("AOC's"); and

WHEREAS, before the Township acquires the Property, the Township requires that a preliminary evaluation of AOCs on the Property be performed; and

WHEREAS, the Township requires the services of an environmental professional in order to perform a preliminary evaluation of AOC's on the Property; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, the Township Council, having considered the same, now wishes to authorize Schoor DePalma Inc to perform the aforesaid preliminary evaluation of AOCs on the Property.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That the Mayor, or his designee, is authorized to execute and the Township Clerk to attest an agreement in a form acceptable to the Township Attorney between the Township of Marlboro and Schoor DePalma Inc., with regard to the aforesaid services, as per the

proposal dated April 10, 2003, to be attached hereto and made a part hereof.

2. That the services to be performed shall be on an hourly basis as outlined in the attached proposal, with a cap on the total expenditure in the amount not to exceed \$2,100.00 for such services. Further authorization from the Township Council shall be required for any expenditure beyond said amount.

3. That this contract is awarded without competitive bidding as a "Professional Service", in accordance with *N.J.S.A. 40A:11-5*, of the Local Public Contracts Law of New Jersey, because the services will be performed by persons authorized by law to practice a recognized profession and it is not possible to obtain bids for such needed qualitative services.

4. That this award of contract is specifically contingent upon verification and certification by the Township Chief Financial Officer of adequate funding available for same. The Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

5. That Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the Township.

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

- a. Schoor DePalma Inc.
(Attn: John S. Mullan)
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-107 (Endorsing A-2753/S-1924 - Returning Ashes of Victims to World Trade Center Memorial) was read into the record by Council President Karcher, offered by Councilman Kovalski, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-107

WHEREAS, the unprovoked attack on the United States carried out by international terrorists on September 11, 2001 against targets in New York City, Washington, D.C. and Arlington, Virginia, resulted in

the deaths of thousands of innocent people, injury to countless others, and the destruction of innumerable lives; and

WHEREAS, among the victims of this depraved act were civilian and government workers, military personnel, airline passengers and crew members, police officers, fire fighters and paramedics, many of whom resided in this State; and

WHEREAS, the remains of many victims of the World Trade Center attacks were never located; and

WHEREAS, the ashes from the World Trade Center site, which contains remains of victims of September 11, 2001, has been held at Fresh Kills Landfill in Staten Island, N.Y.; and

WHEREAS, it is fitting and proper for the State to honor the victims of September 11, 2001 by returning their ashes to the site of a memorial at the World Trade Center in their honor; and

WHEREAS, A-2753/S-1924 requires the Port Authority of New York and New Jersey to honor the victims of the World Trade Center by covering the ashes of their remains, placing them in containers and transporting them from the Fresh Kills Landfill and returning them to the World Trade Center site to be used in a memorial built in their honor; and

WHEREAS, A-2753/S-1924 shall take effect upon enactment into law and also requires identical action by the State of New York by legislation having an identical effect with this legislation.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Marlboro, County of Monmouth, and State of New Jersey do hereby endorse and support the passage of A-2753/S-1924 by the State Legislature and enactment into law of identical legislation by the State of New Jersey.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Honorable James E. McGreevey, Governor, Senator Frank Lautenberg, Senator Jon Corzine, Senate Co-Presidents John O. Bennett, III and Richard Codey, Congressman Rush Holt, Congressman Frank Pallone, Jr., Assemblyman Michael J. Arnone and Assemblywoman Clare M. Farragher.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to Governor George Pataki, Mayor Michael Bloomberg, the Speaker of the New York State General Assembly and President of the New York State Senate.

The following Resolution # 2003-108 (Award of Contract - 9/11 Memorial) was introduced by reference, offered by Councilman Kovalski, seconded by Councilman Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-108

RESOLUTION AUTHORIZING AWARDING A CONTRACT FOR EXTRAORDINARY UNSPECIFIABLE SERVICES TO MASTER MEMORIALS, INC. OF WESTFIELD, NEW JERSEY FOR THE PREPARATION OF A 9/11 MEMORIAL IN THE TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro wishes to erect a Memorial in commemoration of the victims of the 9/11 terrorist attack on the United States of America; and

WHEREAS, such services are deemed extraordinary unspecifiable services which pursuant to (N.J.S.A. 40A:11-5(1)(a)(ii)) may be awarded without competitive bidding; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for extraordinary unspecifiable services without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, the Township Council has indicated its desire to engage Master Memorials, Inc., with offices located at 524 Central Avenue, Westfield, to prepare and install a fountain, benches, monument and ground marker for the aforesaid 9/11 Memorial for a flat fee of Twenty Eight Thousand Dollars (\$28,000.00).

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the appropriate Township officials be and hereby are authorized to execute an agreement, acceptable to the Township Attorney, between the Township of Marlboro and Master Memorials, Inc., of Westfield, New Jersey, for the preparation and installation of a fountain, benches, monument and ground marker for a Memorial to commemorate the victims of the 9/11 terrorist attack on the United States of America for the amount of \$28,000.00, and in accordance with the terms of the Memorandum of Agreement attached hereto as Exhibit "A" and made a part hereof.

BE IT FURTHER RESOLVED, that contract is awarded without competitive bidding as an extraordinary unspecifiable service in

accordance with Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).

BE IT FURTHER RESOLVED, that Township Clerk shall advertise a notice of this action in a legal newspaper pursuant to N.J.S.A. 40A:11-1 in compliance with Local Public Law guidelines.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

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

- a. Master Memorials Inc.
- b. Business Administrator
- c. Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-109 (Award of Contract - Pavement Management) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-109

RESOLUTION AUTHORIZING THE TOWNSHIP OF MARLBORO TO
ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH
MASER CONSULTING, P.A. REGARDING THE
PERFORMANCE OF A PAVEMENT MANAGEMENT STUDY

WHEREAS, a Pavement Management Study is a detailed report used for record keeping and allocation of pavement maintenance resources and includes a detailed inventory and evaluation of roadway pavement conditions, preparation of maintenance actions and associated costs, including optimization of pavement conditions and meeting budgetary limitations for a given municipality; and

WHEREAS, the Township Council believes that a Pavement Management Study would aid the public welfare and safety in the Township of Marlboro; and

WHEREAS, Marlboro Township's 2002 Capital Improvement Program provided funding to undertake a Pavement Management Study in the Township of Marlboro; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, *N.J.S.A. 40A:11-1, et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, the Township Council, having considered the same, now wishes to authorize Maser Consulting, P.A. to undertake a Pavement Management Study for the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That the Mayor, or his designee, is authorized to execute and the Township Clerk to attest an agreement in a form acceptable to the Township Attorney between the Township of Marlboro and Maser Consulting, P.A., with regard to the aforesaid services, as per the proposal dated February 12, 2003, to be attached hereto.

2. That the services to be performed shall be on an hourly basis as outlined in the attached proposal, with a cap on the total expenditure in the amount not to exceed \$73,500.00 for such services. Further authorization from the Township Council shall be required for any expenditure beyond said amount.

3. That this contract is awarded without competitive bidding as a "Professional Service", in accordance with *N.J.S.A. 40A:11-5*, of the Local Public Contracts Law of New Jersey, because the services will be performed by persons authorized by law to practice a recognized profession and it is not possible to obtain bids for such needed qualitative services.

4. That this award of contract is specifically contingent upon verification and certification by the Township Chief Financial Officer of adequate funding available for same. The Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

5. That Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the Township.

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

- a. Maser Consulting, P.A.
(Attn: William H. R. White, III)
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. Township Engineer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-110 (Urging the Governor and State Legislature to Convene a Constitutional Convention to Reform Property Tax System) was introduced by reference, offered by Councilman Kovalski, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-110

RESOLUTION OF THE TOWNSHIP OF MARLBORO URGING THE GOVERNOR AND STATE
LEGISLATURE TO CONVENE A CONSTITUTIONAL CONVENTION AND INTRODUCE
LEGISLATION TO REFORM THE INEQUITABLE PROPERTY TAX SYSTEM USED TO
FUND SCHOOLS IN THE STATE OF NEW JERSEY

WHEREAS, the taxpayers and residents of the Township of Marlboro, have overwhelmingly voiced their support for shifting school taxes out of the property tax system which currently exists in the State of New Jersey; and

WHEREAS, it appears that changes to the property tax system can only be implemented by way of new legislation or an amendment to the State Constitution; we recommend that the legislature investigate feasible alternatives proposed by grass roots citizen organizations and various legislators and that concurrently the legislature prepare for a constitutional convention; and

WHEREAS, it is in the best interest of our taxpayers to find a fair method to fund our schools, we ask that a legislative committee be formed to assess proposals that meet this public need and that a separate legislative committee prepare for a constitutional convention; and

WHEREAS, such a constitutional convention can only be convened at the request of the Legislature; and

WHEREAS, the New Jersey Constitution of 1947 has only been amended by way of a constitutional convention on one occasion, in 1966, more than 35 years ago, and this change was solely limited to revising state legislative districts; and

WHEREAS, it has now been more than 55 years since the State of New Jersey fully reviewed the way the state taxes it's citizens and spends their money; and

WHEREAS, the Township of Marlboro firmly believes that 55 years is too long a period of time to have passed without such a review being conducted by way of a constitutional convention; and

WHEREAS, such legislation or constitutional convention could investigate, study and recommend proposed reforms to eliminate existing inequities in the property tax system, which proposed recommendations could then be submitted to the voters; and

WHEREAS, the property tax system that was originally promulgated in 1947, while having served it's useful purpose, should certainly be subject to review after more than five decades; and

WHEREAS, in both the State Senate, (S-478) and the General Assembly, (A-540, a bi-partisan effort is now underway to place a referendum on the ballot for November, 2003 asking the states voters to approve the convening of such a constitutional convention; and

WHEREAS, the New Jersey League of Municipalities, the representative of 566 cities and towns throughout the State of New Jersey, supports this bi-partisan effort to place such a public question on the November 4, 2003 General Election Ballot; and

WHEREAS, the Township of Marlboro believes that such a public question will only be placed to the voters if a ground-swell of support is provided in support thereof by those cities, towns and municipalities which form the State of New Jersey; and

WHEREAS, the Township of Marlboro urges all Monmouth County municipalities to support legislative solutions and the constitutional convention so that an antiquated tax system which has been in existence for 55 years without any prior reforms be changed to meet the needs of the public.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Marlboro that the Township unequivocally supports proposed Senate Bill S-478 and Assembly Bill A-540 and

urges all municipalities in Monmouth County to adopt similar resolutions in support thereof.

BE IT FURTHER RESOLVED that the Mayor and Council request the State Legislature and Governor to consider existing proposals for school tax reform in order to resolve the inequitable property tax system presently used to fund the schools in the State of New Jersey.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. Governor James McGreevey
2. All State Legislators for Monmouth Counties
3. Adjoining Municipalities
4. New Jersey State League of Municipalities
5. Monmouth County Board of Chosen Freeholders

The following Resolution # 2003-111 (Award of Bid - T- Shirts - Rec./Swim) was introduced by reference, offered by Council Vice President Mione, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-111

RESOLUTION AWARDING BID FOR THE PROVISION OF T-SHIRTS FOR THE TOWNSHIP OF MARLBORO TOWNSHIP RECREATION DEPARTMENT AND SWIM CLUB

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the provision of T-Shirts in various colours and sizes for the Marlboro Township Recreation Department and Swim Club, and received two (2) sealed bids therefor; and

WHEREAS, the two (2) bids received were that of (1) A1 Uniform City Inc. of Camden, New Jersey, for the amount of \$3,902.75; and (2) Metuchen Center, Inc. d/b/a Team Sports of New Brunswick, New Jersey, for the amount of \$3,476.73; and

WHEREAS, Administration and the Township Recreation Department have reviewed the said bids received and recommended that the same be awarded to Metuchen Center, Inc. d/b/a Team Sports as the lowest qualified bid; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township to award the said bid for the provision of the aforesaid services,

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the appropriate Township officials be and hereby are authorized to execute an agreement, acceptable to the Township Attorney, between the Township of Marlboro and Metuchen Center, Inc. d/b/a Team Sports of New Brunswick, New Jersey, for the provision of T-Shirts in various colours and sizes for the Marlboro Township Recreation Department and Swim Club in the amount of \$3,476.73, and in accordance with the bid proposal submitted by Metuchen Center, Inc., d/b/a Team Sports on file with the Township.

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

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

- a. Metuchen Center, Inc. d/b/a Team Sports
- b. Township Administrator
- c. Township Recreation Department
- d. Chief Financial Officer
- e. Township Swim Club
- f. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-112 (Reject and Rebid: Swim Club Snack Bar Concession) was introduced by reference, offered by Councilwoman Singer, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-112

BE IT RESOLVED by the Township Council of the Township of Marlboro that all bids heretofore received for

Swim Club Snack Bar Concession

are hereby rejected and the Business Administrator is authorized and directed to return the bid bond or other security to the appropriate bidder.

BE IT FURTHER RESOLVED that the Business Administrator be and he is hereby authorized and directed to advertise for open, competitive bids for

Swim Club Snack Bar Concession

as required by law.

The following Resolution # 2003-113 (Authorizing Contract - Auditor - Fallon & Fallon) was introduced by reference, offered by Councilman Denkensohn, seconded by Council Vice President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-113

RESOLUTION AUTHORIZING THE PROFESSIONAL
AUDITOR SERVICES OF FALLON & FALLON

WHEREAS, there exists a need for the services of an auditor in order to provide auditing services for 2003 to the Township; and

WHEREAS, the services will include, among other things, preparation of the Annual Audit for 2003, assistance in the preparation for the 2003 Budget, 2003 Financial Statements and the 2003 Debt Statement; and

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

WHEREAS, the Township Council, having considered the same, now wishes to authorize Fallon & Fallon to provide these services.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That the Mayor is authorized to execute and the Township Clerk to attest the attached agreement between the Township of Marlboro and Fallon & Fallon regarding the above-referenced services.
2. That the total fee for the services, including expenses, shall be as set forth in the attached agreement.
3. That this contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5 of

the Local Public Contracts Law of New Jersey, because the services will be performed by persons authorized by law to practice a recognized profession and it is not possible to obtain bids for such needed qualitative services.

4. That the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

5. That notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the Township.

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

- a. Fallon & Fallon
1392 Route 36
Suite 102
Hazlet, NJ 07730
- b. Judith Tiernan, Chief Financial Officer
- c. Christopher Marion, Business Administrator
- d. Township Attorney

The following resolutions were introduced by reference, offered by Councilman Denkensohn, seconded by Council President Karcher and passed on a roll call vote of 5 - 0 in favor: Res. #2003-115 (Redemption Tax Sale Certs. - Various), Res. #2003-116 (Refunds for Overpayments 2003 Taxes - Various), Res. #2003-117 (Refund to WMUA - B. 413.04, L. 9), Res. #2003-118 (Refunds First Quarter Taxes - Various), Res. #2003-119 (Refunds to WMUA - Various), and Res. #2003-120 (Refund to MTMUA - B. 206, L. 60).

RESOLUTION # 2003-115

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$46,703.12 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$46,703.12 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIEN HOLDER</u>	<u>AMOUNT</u>
98-39	360.01/3	Arianna Financial Corp. 191 Glen Road Mountainside, NJ 07092	\$23,594.40
02-6	120/59.01	Fernwood Funding, LLC 92 Main Avenue Wallington, NJ 07057	2,057.28
02-18	360.01/1	MD-SASS-IV (4) Wachovia Bank, N.A. Cust. 123 So. Broad St. PA1328S Philadelphia, PA 19109	7,294.68
02-19	360.01/2	Richard Pisciotta P.O. Box 234 Barnegat Light, NJ 08006	5,458.68
02-20	360.01/4	Betty Simon, L.L.C. P.O. Box 238 Northfield, NJ 08225	8,298.08
TOTAL:			<u>\$46,703.12</u>

RESOLUTION # 2003-116

WHEREAS, the attached list in the amount of \$2,654.77 known as Schedule "A", is comprised of amounts representing overpayments for 2003 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
173	7 C0272	Nancy Mastrocola 272 Fairfield Place Morganville, NJ 07751	\$1,069.99

232	2	Todd & Jennifer Schaefer	1,584.78
5 Prescott Drive		5 Prescott Drive	
		Marlboro, NJ 07746	

TOTAL: \$2,654.77

RESOLUTION # 2003-117

WHEREAS, current sewer charges in the amount of \$157.15 for Block 413.04 Lot 9 assessed to Laurent & Judy Pius, have been paid by MDSASS-IV, lienholder of the Tax Sale Certificate #02-26 on the above-referenced property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned sewer charges in the amount of \$157.15 be refunded to the Western Monmouth Utilities Authority.

RESOLUTION # 2003-118

WHEREAS, the attached list, known as Schedule "A", is comprised of amounts representing payment for 2003 first quarter taxes based upon the preliminary bills, and,

WHEREAS, these Blocks and Lots no longer appear on the current tax rolls,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amount which totals \$6,593.88 to the respective taxpayers.

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
193	51 QFARM	Rosemont Estates II, LLC	\$ 139.57
	Wyncrest Road	Attn: Dan Werbler	
		242 Route 79, Suite 9	
		Morganville, NJ 07751	
220	3	Vito Carissimo & Louis Aiese	1,943.99
	School Road East	2 Hudson Street	
		Marlboro, NJ 07746	
275	51	McLaughlin Auto Service Cntr	1,408.32
	Longfellow Terrace	Rte 9 & Longfellow Terrace	

Morganville, NJ 07751

364 65 Joseph Manzo 428.48
School Road East 55 Highway 34
Matawan, NJ 07747

392 28 Kara of Monmouth, LLC 1,437.68
Molly Pitcher Road 197 Route 18 North
Suite 202N
East Brunswick, NJ 08816

413 35 Carmine Casola, Jr. 1,235.84
126 South Main St. 138 Trenton-Lakewood Road
Cream Ridge, NJ 08514

TOTAL:
\$6,593.88

RESOLUTION # 2003-119

WHEREAS, tax sale certificates sold at the 2003 Tax Lien Sale included delinquent sewer charges in the amount of \$8,138.58 as per Schedule "A",

WHEREAS, the above-mentioned tax sale certificates were bought by a third party,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned sewer charges in the amount of \$8,138.58 be refunded to the Western Monmouth Utilities Authority.

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNERS</u>	<u>AMOUNT</u>	<u>CERT.#</u>
127	5	Hatch, Norman & Jacqueline	\$ 91.56	03-8
149	3	Hatch, Norman & Jacqueline	206.73	03-10
176	7 C0516	Burtnick, Anne M.	130.58	03-15
176	7 C0587	Boyd, Margaret	121.44	03-16
305	61	Shaw, Rosalie	266.14	03-27
312	173	Messina, Robert & Kathleen	437.49	03-28
374	41	Cappellani, Jerome & Irene	155.59	03-32
393	20	Levenson, Louise	240.18	03-33
412	307 C0055	Kutz, Joseph (Estate)	322.82	03-35
412.04	12	Bolton, Dianna	349.88	03-37
412.07	13	Kennis, Roni L.	434.49	03-38

107	1	Rublin Contractors, Inc.	121.49	03-42
116	17	Enea, John	248.26	03-43
120.02	11	Bianchi, Angelantonio & Jacqueline	352.49	03-44
143.05	13	Bellotti, Alyson Orbann	457.88	03-45
176	7 C0813	Chase Manhattan Mortgage	366.32	03-46
176	7 C0867	Minardo, Domenick	440.99	03-47
176	91	Campione, Michael & Maureen	371.59	03-48
178	2 C0383	Clark, Robert M.	185.10	03-49
225	67	Martinez, Israel	353.83	03-50
246	4	Powers, Stephen E. & Susan	412.92	03-51
268.05	10	Mallow, David A. & Babette	359.10	03-52
270.01	14	Gorelik, Alexander & Oksana	337.77	03-53
305	190	Romagnolo, Deborah A.	186.18	03-54
345	7	Wershba, Ronald	209.54	03-55
371	18	Chen, Tzuan C.	234.48	03-56
415	21.31	Route 79 Associates	743.74	03-57

TOTAL: \$8,138.58

RESOLUTION # 2003-120

WHEREAS, tax sale certificates sold at the 2003 Tax Lien Sale included a delinquent water charge in the amount of \$278.61 as per Schedule "A",

WHEREAS, the above-mentioned tax sale certificate was bought by a third party,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned water charge in the amount of \$278.61 be refunded to the MTMUA.

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>	<u>CERT.#</u>
206	60	McNamara, Kenneth L.	\$278.61	03-58

TOTAL: \$278.61

The following Resolution # 2003-121 (Raffle License Molly Pitcher Stitchers) 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 # 2003-121

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 09-03 be and it is hereby granted to Molly Pitcher Stitchers, Old Tennent Church, Meff Hall, Tennent, N. J. 07763.

BE IT FURTHER RESOLVED that said Raffle (Off-premise Merchandise) will be held on October 12, 2003 at 5 PM at Marlboro Middle School, Route 520, Marlboro, New Jersey 07746.

At 9:20 PM, Councilman Denkensohn moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Councilman Kovalski, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the closed session commenced at 9:35 PM.

RESOLUTION # 2003-122

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 24th day of April, 2003 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely acquisition of property, contract negotiations and 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 60 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 10:45PM, Councilman Kovalski moved that the meeting be opened. This was seconded by Councilman Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot.

The following Resolution # 2003-123 (Authorizing the Issuance of One Plenary Retail Consumption License) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-123

RESOLUTION OF THE TOWNSHIP OF MARLBORO AUTHORIZING THE
ISSUANCE OF ONE (1) PLENARY RETAIL CONSUMPTION LICENSE

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

WHEREAS, in accordance with the most recent federal census counts, the Township of Marlboro has a population of 36,398; and

WHEREAS, in light of the recent census counts, the Township of Marlboro is permitted to issue up to three (3) additional plenary retail consumption licenses; and

WHEREAS, in furtherance thereof, on October 10, 2002, the Township Council of the Township of Marlboro adopted Ordinance No. 2002-26, which authorized the issuance of up to three (3) additional plenary retail consumption licenses for a total of twelve (12) of such licenses; and

WHEREAS, the Mayor and Township Council, having considered the same, now wish to authorize the issuance of one (1) plenary retail consumption license and the advertisement for the receipt of sealed bids therefor as set forth below.

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 consumption licenses and the advertisement for the receipt of sealed bid therefor is hereby authorized pursuant to N.J.S.A. 33:1-19, et seq.

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

BE IT FURTHER RESOLVED that it is the intent of the Mayor and Township Council to attract bidders interested in utilizing the plenary retail consumption license in a restaurant (as defined in N.J.S.A. 33:1-1(t)).

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

1. All bidders must be pre-qualified and only the bids of bidders qualified to have an interest in a retail alcoholic beverage 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 10:00 A.M. on June 13, 2003, 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 \$2,000.00 (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 \$100.00;

(b) A separate Certification of Proof of Compliance by the prospective bidder that it meets any and all conditions or requirements contained in this Resolution, including that the license will be used in conjunction with a restaurant which shall be a minimum of 3,500 square feet and have at least one hundred (100) seats, to be located on Route 9, Route 79 or Route 34 in the Township and knows of no reason why he or she would be disqualified from having an interest in a Retail Liquor 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 \$55,000.00 (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 consumption license is \$550,000.00. The Mayor and Township Council reserve the right to reject all bids if the highest bid is not accepted.

4. At 2:00 P.M. on June 13, 2003, 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.

5. Sealed bids shall be received on or before 10 AM on June 20, 2003 at the office of the Marlboro Township Clerk, 1979 Township Drive, Marlboro, New Jersey. The outside of the sealed envelope shall state:

- (a) "2003 Liquor License bid"; and
- (b) Name of the Bidder

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.

6. 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" upon the earlier of the following: (i) the issuance of a Certificate of Occupancy; or (ii) by March 1, 2004, whichever occurs first. 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 Retail License Fee;

(d) Satisfactory outcome of further municipal background checks to investigate the source of funds used to purchase the 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.

7. The Township reserves the right to reject all bids where the highest qualified bid is not accepted.

8. The sale may be postponed or canceled at any time prior to the opening of the bids.

9. 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 notice of application.

10. If no new license shall have been issued pursuant to this Resolution by March 1, 2004, no new license shall thereafter be issued without further Resolution of the Township Council determining to issue a new license.

BE IT FURTHER RESOLVED that notice of the public sale of the plenary retail consumption licenses be in conformance with N.J.S.A. 33:1-19.4.

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

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

At 11:00PM, Councilman Kovalski moved that the meeting be adjourned. This was seconded by Councilman Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: May 22, 2003

OFFERED BY: Singer

AYES: 5

SECONDED BY: Mione

NAYS: 0

ALIDA DE GAETA
MUNICIPAL CLERK

ELLEN KARCHER
COUNCIL PRESIDENT