

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

AUGUST 14, 2003

The Marlboro Township Council held a regularly scheduled Council Meeting on August 14, 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 Kovalski, Council Vice President Mione, Councilwoman Singer and Council President Karcher.
(Absent: Denkensohn)

Also present were: Mayor Scannapieco (9:00PM), Township Attorney Jonathan Williams, Esq., Business Administrator Chris Marion, Municipal Clerk Alida DeGaeta.

Public Information Report - Public Information Director Susan Levine gave the emergency hotline #1-888-LIGHTSS (1-888-544-4877) to report an electrical power outage. As a follow-up to Council President Karcher's comments regarding the West Nile virus and mosquito borne diseases, Ms. Levine informed the public on the tips provided by the CDC. She stated the CDC public hotline is 1-888-246-2675 hours are Mon.-Fri. 8:00am-11:00pm, Sat.& Sun. 10:00am-8:00pm. Ms. Levine announced that Sunday, Sept. 21st, is the rain date for Marlboro Day, the Senior programs scheduled for September and that the Municipal Offices would be closed on Mon., Sept. 1st in observance of Labor Day.

Councilwoman Singer moved that the minutes of June 26th be approved. This motion was seconded by Councilman Kovalski and the minutes were passed on a roll call vote of 4 - 0 (Absent: Denkensohn).

Councilwoman Singer moved that the minutes of July 17th be approved. This motion was seconded by Councilman Kovalski and the minutes were passed on a roll call vote of 3 - 0, with Councilman Kovalski abstaining (Absent: Denkensohn).

Council President Karcher opened the Public Hearing on Ordinance # 2003-14 (Re-appropriating Previous Bond Ords.). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2003-225/Ord. # 2003-14 (Re-appropriating Previous Bond Ords.) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 4 - 0 (Absent: Denkensohn).

RESOLUTION # 2003-225

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

ORDINANCE # 2003-14

BOND ORDINANCE REAPPROPRIATING \$115,000
PROCEEDS OF OBLIGATIONS NOT NEEDED FOR THEIR
ORIGINAL PURPOSES FOR THE ACQUISITION OF
VARIOUS IMPROVEMENTS BY THE TOWNSHIP OF
MARLBORO, NEW JERSEY

which was introduced on July 17, 2003, public hearing held August 14, 2003, be adopted on second and final reading this 14th day of August, 2003.

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

ORDINANCE # 2003-14

BOND ORDINANCE REAPPROPRIATING \$115,000 PROCEEDS OF
OBLIGATIONS NOT NEEDED FOR THEIR ORIGINAL PURPOSES
FOR THE ACQUISITION OF VARIOUS IMPROVEMENTS BY THE
TOWNSHIP OF MARLBORO, NEW JERSEY

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 members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1:

Pursuant to N.J.S.A. 40A:2-39, it is hereby determined that \$115,000 of the bond proceeds of obligations originally made available pursuant to the following ordinances of the Township of Marlboro, County of Monmouth, New Jersey is no longer necessary for the purposes for which the obligations previously were authorized. Each amount is listed under the column, "Balance to be Reappropriated, " and is further described by reference to the number of the bond ordinance pursuant to which such amounts have been made available, the original appropriation made by the bond ordinance, and the description of the improvement for which such amounts originally were appropriated.

The \$115,000 bond proceeds to be reappropriated are made available as follows:

Ordinance Number	Appropriation	Description of Improvement	Balance to be Reappropriated
96-34	\$ 290,000	Resurfacing and Restoration of Various Roads	\$ 47,000
97-16	400,000	Improvements of Various Roads	27,000
99-34	250,000	Sewer System Improvements at Blossom Heights	41,000

TOTAL \$115,000.00

SECTION 2:

The total amount of \$115,000 referred to in Section 1 above is hereby reappropriated as follows:

(a) Recodification of ordinances, and including all work and materials necessary therefore or incidental thereto \$40,000

(b) Acquisition of data collection equipment/GPS locator and associated software, and including all work and materials necessary \$20,000

therefore or incidental thereto.

(c) Acquisition of various public works, including a skid steer loader with planer, leaf vacuum, trailer and automatic lift, and including all work and materials necessary therefore or incidental thereto. \$55,000

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 resolution 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, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Township Clerk and is available for public inspection.

SECTION 4:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council President Karcher opened the Public Hearing on Ordinance # 2003-15 (Easement - Valesi Drive). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2003-226/Ord. # 2003-15 (Easement - Valesi Drive) was introduced by reference, offered by Councilman Kovalski, seconded by Council Vice President Mione and passed on a roll call vote of 4 - 0 (Absent: Denkensohn).

RESOLUTION # 2003-226

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

ORDINANCE # 2003-15

AN ORDINANCE TO CONVEY A REVOCABLE EASEMENT OF LANDS
OWNED BY THE TOWNSHIP OF MARLBORO NOT NEEDED
FOR MUNICIPAL PROPOSES

which was introduced on July 17, 2003, public hearing held August 14, 2003, be adopted on second and final reading this 14th day of August, 2003.

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

The following Resolution # 2003-227/Ord. # 2003-16 (Authorizing Encroachment Utility and Conservation Easement - B. 395, L. 6) 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 # 2003-227

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

ORDINANCE # 2003-16

AN ORDINANCE AUTHORIZING AN ENCROACHMENT ONTO AN
EXISTING UTILITY EASEMENT AND CONSERVTION
EASEMENT ON PROPERTY KNOWN AS BLOCK 395, LOT 6,
TOWNSHIP OF MARLBORO, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on September 25, 2003 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2003-16

AN ORDINANCE AUTHORIZING AN ENCROACHMENT ONTO AN EXISTING
UTILITY EASEMENT AND CONSERVATION EASEMENT ON PROPERTY

KNOWN AS BLOCK 395, LOT 6, TOWNSHIP OF MARLBORO,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY

WHEREAS, Robert Peller and Shoshana Peller, married, are the Owners ("Owners") of the property known as Block 395, Lot 6, Township of Marlboro, County of Monmouth and State of New Jersey (the "Property"); and

WHEREAS, on June 26, 2003, the Owners of the Property requested permission from the Township Council to encroach upon an existing Utility Easement owned by the Township of Marlboro ("Utility Easement") and an existing Conservation Easement owned by the Township ("Conservation Easement") located on the Property in order to install, operate and maintain electric and gas support lines for a swimming pool; and

WHEREAS, the Township is willing to grant permission to the Owners to encroach upon a portion of the Utility Easement and Conservation Easement located on the Property solely for the purpose of installing, operating and maintaining the aforesaid electric and gas support lines for a swimming pool, provided that:

(a) the Owners comply with all provisions of Township Ordinance #41-85 which establishes conditions for intrusions into conservation easements; and

(b) the Owners comply with the Township Zoning Ordinance and Set-Back requirements of the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, that permission to encroach upon a portion of the Utility Easement and Conservation Easement located on the Property, solely for the purpose of installing, operating and maintaining electric and gas support lines for a swimming pool is hereby granted to Owners.

BE IT FURTHER ORDAINED, that this permission is conditioned upon the Owners' compliance with all provisions of Township Ordinance #41-85 which establishes conditions for intrusions into conservation easements.

BE IT FURTHER ORDAINED, that this permission is conditioned upon Owners' compliance with all conditions of the Township Zoning Ordinance and Set-Back requirements of the Township.

BE IT FURTHER ORDAINED, that the Mayor and Township Clerk are hereby authorized and directed to execute any documents necessary to convey grant such encroachment ordained herein.

BE IT FURTHER ORDAINED, that this ordinance shall take effect following adoption and approval in a time and manner prescribed by law.

The following Resolution # 2003-228/Ord. # 2003-17 (Prohibiting Left Turn - Route 520 - Commerce Bank) was introduced by reference, offered by Councilwoman Singer, seconded by Councilman Kovalski and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-228

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

ORDINANCE # 2003-17

AN ORDINANCE PROHIBITING LEFT TURNS INTO AND OUT OF THE EASTERLY DRIVEWAY OF THE CONSTRUCTION SITE FOR THE PROPOSED COMMERCE BANK, BEING LOCATED ON LOTS 34, 35 & 36 IN BLOCK 176, 46 COUNTY ROUTE 520, MARLBORO, NEW JERSEY

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on September 25, 2003 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2003-17

AN ORDINANCE PROHIBITING LEFT TURNS INTO AND OUT OF THE EASTERLY DRIVEWAY OF THE CONSTRUCTION SITE FOR THE PROPOSED COMMERCE BANK, BEING LOCATED ON LOTS 34, 35 & 36 IN BLOCK 176, 46 COUNTY ROUTE 520, MARLBORO, NEW JERSEY

WHEREAS, Site Development, Inc. ("Developer") is the Developer for construction of a Commerce Bank Branch Building located at 46 County Route 520, Township of Marlboro, County of Monmouth, State of New Jersey (the "Site") which has received site plan approval from the Planning Board of the Township of Marlboro; and

WHEREAS, Developer agreed, as a condition of its site plan approval, to construct certain public improvements in conjunction with the construction of the Site; and

WHEREAS, such improvements include, but are not limited to, the installation of a traffic signal at the intersection of County Road 520 and Kenduck Drive to regulate the flow of existing traffic entering into Marlboro Plaza and the Site; and

WHEREAS, in order to provide safe and efficient control of traffic until the installation of such traffic light, Developer requires that access to the Site from Route 520 be limited to right turns in and out only ("Right In/Right Out") and has received approval for said Right In/Right Out Plan from the Monmouth County Planning Board; and

WHEREAS, the Monmouth County Planning Board's approval for said Right In/Right Out Plan is conditioned upon, among other things, the Township adopting an ordinance prohibiting left turns into and out of the easterly driveway of the Site until the traffic light is installed and operational; and

WHEREAS, the Township Administration and Engineering Departments agree with the Monmouth County Planning Board's determination that the prohibition of left hand turns into and out of the easterly driveway of the Site is necessary to provide safe and efficient control of traffic until the installation of the traffic light; and

WHEREAS, the Township Council has determined that the establishment of such limitation on left hand turns is necessary and proper for the safety and welfare of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that left hand turns into and out of the easterly driveway of the Site located at 46 Route 520, Township of Marlboro, County of Monmouth and State of New Jersey are prohibited until the completion of the traffic light installation at the intersection of Route 520 and Kenduck Drive.

BE IT FURTHER ORDAINED, that the prohibition on left hand turns shall be voided automatically once the traffic light has been installed and is fully operational and has received the approval of the County of Monmouth.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with the applicable law.

The following Resolution # 2003-229/Ord. # 2003-18 (Bond Ordinance - Swim Pool Improvements) was introduced by reference, offered by Councilwoman Singer, seconded by Councilman Kovalski and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-229

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

ORDINANCE # 2003-18

BOND ORDINANCE PROVIDING AN APPROPRIATION OF FOR
1,750,000 CONSTRUCTION OF A MUNICIPAL POOL AND
RELATED IMPROVEMENTS FOR AND BY THE TOWNSHIP OF
MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY AND
AUTHORIZING THE ISSUANCE OF \$1,750,000 BONDS OR
NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE
APPROPRIATION

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on September 25, 2003 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2003-18

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$1,750,000 FOR CONSTRUCTION OF A MUNICIPAL POOL AND RELATED IMPROVEMENTS FOR AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$1,750,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION

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 members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1:

The improvements described in Section 3 of this bond ordinance (the "Improvements") are hereby authorized to be undertaken by the Township of Marlboro, New Jersey (the "Township") as general improvements. For the said Improvements there is hereby appropriated the amount of \$1,750,000. No down payment required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the "Local Bond Law"), as the purpose authorized herein is deemed self-liquidating and the obligations authorized herein are deductible from the gross debt of the Township, as more fully explained in Section 6(e) of this ordinance.

SECTION 2:

In order to finance the additional cost of the Improvements, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$1,750,000 pursuant to the provisions of the Local Bond Law (the "Bonds"). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Township are hereby authorized to be issued in the principal amount not exceeding \$1,750,000 pursuant to the provisions of the Local Bond Law (the "Bond Anticipation Notes" or "Notes").

SECTION 3:

(a) The Improvements authorized and the purposes for which obligations are to be issued are construction of a municipal pool and related improvements, including pool, filter room building, day camp pavilion, day camp storage building, playground equipment, volleyball court, service road, sprinkler system, landscaping, including all work and materials necessary therefor or incidental

thereto, and all as shown on and in accordance with the plans and specifications on file in the office of the Clerk and hereby approved.

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$1,750,000.

(c) The estimated cost of the Improvements is \$1,750,000 which amount represents the initial appropriation made by the Township.

SECTION 4.

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Township (the "Chief Financial Officer"); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Township Council of the Township at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

SECTION 5:

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 resolution 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, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Township Clerk and is available for public inspection.

SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvements described in Section 3 of this bond ordinance are not current expenses, and are capital improvements or properties that the Township may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the Improvements, within the limitations of the Local Bond Law, taking into consideration the respective amounts of all obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Township Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Township, as defined in the Local Bond Law, is increased by the authorization of the Bonds and Notes provided in this bond ordinance by \$1,750,000 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$100,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

(e) This bond ordinance authorizes obligations of the Borough solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for a purpose that is deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

SECTION 7:

Any funds received from time to time by the Township as contributions in aid of financing the purposes described in Section 3 of this Ordinance shall be used for financing said Improvements by application thereof either to direct payment of the cost of said Improvements or to the payment or reduction of the authorization of

the obligations of the Township authorized therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvements shall, be held and applied by the Township as funds applicable only to the payment of obligations of the Township authorized by this Bond Ordinance.

SECTION 8:

The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

SECTION 9:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Township reasonably expects to pay expenditures with respect to the Improvements prior to the date that Township incurs debt obligations under this Bond Ordinance. The Township reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Township under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$1,750,000.

SECTION 10:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

The following Resolution # 2003-230 (Confirming Appointment of Susan Levine as Director of Public Information) was introduced by reference, offered by Councilwoman Singer, seconded by Council President Karcher and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-230

RESOLUTION CONFIRMING THE APPOINTMENT OF SUSAN LEVINE
AS THE DIRECTOR OF PUBLIC INFORMATION

WHEREAS, the Mayor has advised the Township Council of his intention to appoint Susan Levine as the Director of Public Information for the Township of Marlboro subject to the advice and consent of the Township Council.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that it hereby advises and consents to the appointment of Susan Levine as the Director of Public Information for the Township of Marlboro in accordance with § 4.91 in Article XIII of the Code of the Township of Marlboro, entitled "Department of Public Information".

The following Resolution # 2003-221 (Person to Person Transfer Consumption License - Westrock, Inc. (Spikes) to BTA, LLC (carried from mtg. 7/17) was introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-221

RESOLUTION OF THE TOWNSHIP OF MARLBORO
AUTHORIZING A PERSON-TO-PERSON TRANSFER OF A
CERTAIN PLENARY RETAIL CONSUMPTION LICENSE

WHEREAS, application has been made by B.T.A., LLC for a person-to-person transfer of a Plenary Retail Consumption License Number 1328-33-008-004 presently held by Westrock Incorporated; and

WHEREAS, the applicant has disclosed and the appropriate Township officials have reviewed the source of all funds used in connection with the purchase of said license, which information is contained in the report of the Police Department concerning this transfer application; and

1. The submitted application form is complete in all respects;
2. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or Division-approved conditions; and
3. The applicant has disclosed and the authority has reviewed the source of all funds used in the purchase

of the license and the licensed business and all additional financing obtained in connection with the licensed business.

WHEREAS, the Township Council of the Township of Marlboro has reviewed the application and all supporting documentation finds it appropriate to approve the transfer of the aforesaid alcoholic beverage license.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the application for person-to-person transfer of Plenary Retail Consumption License Number 1328-33-008-004 filed by B.T.A., LLC, to be used under the trade name of Famous Pino La Forchetta Restaurant located at 448 Route 9 North in the Township of Marlboro be and hereby is approved, subject to the conditions set forth hereinbelow.

1. The approval of the Division of Alcoholic Beverage Control to the person-to-person transfer of the aforesaid license to B.T.A., LLC.
2. That prior to the use of the aforesaid license for the sale, service or consumption of alcoholic beverages on the premises, the licensee notify the Code Enforcement Officer of the Township of Marlboro for the purposes of said officials making an inspection of the premises and a determination of the maximum permitted occupancy of the premises pursuant to applicable Township ordinances.
3. That the licensee comply with the aforesaid maximum occupancy of the premises as determined by the code Enforcement Officer of the Township of Marlboro.
4. Subject to final clearance from all appropriate law enforcement agencies.

BE IT FURTHER RESOLVED that the license transferred herewith shall be subject to suspension or revocation for a violation of any of the aforesaid conditions pursuant to N.J.S.A. 33:1-32.

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

- a. Westrock Incorporated
- b. B.T.A., LLC
- c. Director of the Division of Alcoholic Beverage Control
- d. Marlboro Township Police Department

e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-231 (Establishing Code of Conduct - Recreation Programs) 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 # 2003-231

RESOLUTION ESTABLISHING A CODE OF CONDUCT FOR YOUTH SPORTS EVENTS SPONSORED BY THE MARLBORO TOWNSHIP DEPARTMENT OF RECREATION AND PARKS

WHEREAS, pursuant to N.J.S.A. 5:17-1 et seq., any sports teams which are member teams in a league organized or affiliated with municipal recreation departments may require that all youth athletes, coaches, officials or parents of youth athletes, as a condition of participation in any athletic program by the youth athlete, agree in writing to a code of conduct which establishes guidelines for the behavior and conduct to be displayed at youth sports events; and

WHEREAS, the Township Council believes that is in the best interests for the health, welfare and safety of the youth of the Township that a Code of Conduct be established to provide guidelines for the behavior and conduct of the youth athletic teams sponsored by the Township Department of Recreation and Parks.

NOW, THEREFORE BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that a Code of Conduct be established for all youth athletic team recreation programs sponsored by the Township Department of Recreation and Parks in a form substantially the same as that attached hereto as Schedule "A". (see regular minute book for copy of Schedule "A").

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

- a. Superintendent of Recreation
- b. Township Administrator
- c. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-232 (Reject and Rebid - 911 Memorial Project - Various Phases of Project Construction) 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 # 2003-232

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

911 Memorial Project - Various Phases of
Project Construction

are hereby rejected.

BE IT FURTHER RESOLVED that the Business Administrator be and he is hereby authorized and directed to advertise for proposals for

911 Memorial Project - Various Phases of
Project Construction

as required by law.

The following Resolution # 2003-233 (Authorization to Bid - Swim Club Pool Construction) 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 # 2003-233

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:

Swim Club Pool Construction

The following Resolution # 2003-234 (Authorization to Bid - Recreation Capital Projects (1) Irrigation System Installation at Union Hill and Vanderburg Parks (2) Basketball Court Installation at Vanderburg Park (3) Hawkins Road Park Improvements) 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 # 2003-234

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:

Recreation Capital Projects

- (1) Irrigation System Installation at Union Hill and Vanderburg Parks
- (2) Basketball Court Installation to Vanderburg Park
- (3) Hawkins Road Park Improvements

The following Resolution # 2003-235 (Award of Contract - Recodification - General Code Publishers) was introduced by reference, offered by Councilwoman Singer, seconded by Councilman Kovalski and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-235

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN GENERAL CODE PUBLISHERS CORP. AND THE TOWNSHIP OF MARLBORO, NEW JERSEY FOR RECODIFICATION, PUBLICATION AND EVALUATION SERVICES FOR THE MUNICIPAL ORDINANCES AND CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, there exists a need for the revision and recodification of the municipal ordinances contained in the Code of the Township of Marlboro; and

WHEREAS, the Township authorized the solicitation of proposals for the revision and codification of the municipal ordinances contained in the Code Book of the Township; and

WHEREAS, two (2) proposals were received therefor as follows:

- (1) General Code Publishers Corp., Rochester New York, for the amount of \$24,910.00; and
- (2) Coded Systems, Avon New Jersey, for the amount of \$45,000.00; and

WHEREAS, General Code Publishers Corp. is: (1) engaged in the business of providing specialized codification services to municipalities and other governmental entities; and (2) is the current provider of codification and publishing services to the Township; and (3) has provided the lowest proposal for the aforesaid services; and (4) has, by its previous performance of codification and publishing services to the Township proven itself a responsible provider of said services; and

WHEREAS, the Township has authorized an additional solicitation from General Code Publishers Corp. to provide a proposal for the examination and evaluation of the previous work product performed in connection with the prior recodification work for the Township; and

WHEREAS, General Code Publishers provided a proposal for such examination and evaluation of the previous work product performed in connection with the prior recodification work for the Township of Marlboro for the amount of \$8,450.00; and

WHEREAS, it is in the best interests of the Township to have such previous work product evaluated; and

WHEREAS, the printing of municipal ordinances and other services necessarily incurred in connection with the revision, codification and evaluation of municipal ordinances is specifically excluded from the bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor and Township Clerk are hereby authorized to execute a contract between General Code Publishers Corp. and the Township of Marlboro, for the provision of: (1) recodification and printing of the municipal ordinances and other services necessarily incurred in connection with the revision and codification of the municipal ordinances of the Township of Marlboro; and (2) to examine and evaluate the previous work product performed in connection with the prior recodification work for the Township of Marlboro.

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

- a. General Code Publishers Corp.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-236 (Award of Contract - Detention/Retention Basin Maintenance Contract) 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 # 2003-236

A RESOLUTION TERMINATING THE TOWNSHIP OF MARLBORO'S CONTRACT WITH GREENLEAF LANDSCAPE SYSTEMS & SERVICES, INC. FOR DETENTION/RETENTION MAINTENANCE SERVICE FOR THE YEAR 2003 AND AWARDING A CONTRACT TO SHAMROCK LAWN & LANDSCAPE, INC. TO PROVIDE DETENTION/RETENTION MAINTENANCE SERVICES FOR THE YEAR 2003

WHEREAS, the Township Council awarded a contract to Greenleaf Landscape Systems & Services, Inc. for the provision of detention/retention basin maintenance services for the year 2003 by Resolution # 2003-99 (the "Contract"); and

WHEREAS, Greenleaf Landscape Systems & Services, Inc. has failed to perform such services adequately, necessitating the termination of the Contract; and

WHEREAS, the Township received four (4) responses to the bids to provide detention/retention basin maintenance services on March 18, 2003; and

WHEREAS, Brothers Lawn Service submitted a response to the request for bids to provide detention/retention basin maintenance services which was determined to be non-conforming and non-responsive to the bid specification requirements;

WHEREAS, the next lowest responsible bidder who is willing and available to complete the aforementioned services for the balance of the term of the Contract, is Shamrock Lawn & Landscape, Inc. for the amount of \$ 103,820.00, to be paid on a pro-rata basis; and

WHEREAS, the Mayor and Township Council have indicated their desire to engage Shamrock Lawn & Landscape, Inc. to provide detention/retention basin maintenance services for the remainder of the Contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Contract between the Township and Greenleaf Landscape Systems, Inc. for detention/retention basin maintenance service be terminated for failure to perform such services adequately; and

BE IT FURTHER RESOLVED, by the Township Council that a contract for detention/retention basin maintenance services be awarded to Shamrock Lawn & Landscape, Inc. for the remainder of the term of the Contract originally awarded to Greenleaf Landscape Systems, Inc. on a pro-rata basis and on the same terms therefor and that the Mayor is hereby authorized to execute and the Township Clerk to witness said contract with Shamrock Lawn & Landscape, Inc. in a form to be approved by the Township Attorney, for the aforementioned services; and

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

- a. Greenleaf Landscape Systems & Services, Inc.
- b. Shamrock Lawn & Landscape, Inc.
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Township Engineer
- f. Superintendent Public Works
- g. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-237 (Award of State Contract - UPS) 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 # 2003-237

A RESOLUTION AUTHORIZING THE PURCHASE OF ONE
UNINTERRUPTIBLE POWER SUPPLY UNIT
UNDER STATE CONTRACT # A81185

WHEREAS, the Township has been without an Uninterruptible Power Supply Unit ("UPS") since May 1, 2003; and

WHEREAS, the Police Department of the Township of Marlboro has recommended that the Township purchase a replacement UPS to provide battery backup for the Police Department's critical equipment, including, but not limited to, radios, telephones, 911 lines, alarms and computers; and

WHEREAS, it is a requirement that any New Jersey 911 Public Safety Answering Point have a UPS; and

WHEREAS, a new MGE Galaxy Series UPS 20KVA is available under

New Jersey State Contract # A-81185 through ePlus, 300 Horizon Center, Suite 308, Robbinsville, NJ 08691 for the amount of \$28,125.300; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the public welfare and safety to have a functioning UPS in order to provide uninterrupted Police and Emergency Services; and

WHEREAS, funds are available and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase one (1) MGE Galaxy Series UPS 20KVA in the amount of \$28,125.00 through ePlus of Robbinsville, New Jersey, under State Contract A-81185.

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

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

The following Resolution # 2003-238 (Award of Contract - Municipal Finance Accounting Software System) was introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-238

A RESOLUTION AWARDING A CONTRACT TO INTERSOFT TECHNOLOGIES INTERNATIONAL, LLC TO PROVIDE MUNICIPAL FINANCE AND ACCOUNTING SOFTWARE TO THE TOWNSHIP OF MARLBORO

WHEREAS, pursuant to The Local Public Contracts Law, N.J.S.A. 40A:11-4.1 et seq., a municipality may procure the purchase of proprietary computer software by competitive contracting in lieu of public bidding; and

WHEREAS, by Blanket Resolution # 2002-249, the Township of Marlboro authorized the acceptance of proposals for the provision of municipal finance and accounting software to the Township of Marlboro in accordance with the provisions of N.J.S.A. 40A:11-4.1 et seq.; and

WHEREAS, on May 16, 2003 the Township received two (2) proposals therefore and by Resolution # 2003-188 rejected said proposals due to procedural issues and re-authorized the acceptance of proposals for the provision of municipal finance and accounting software to the Township and on August 7, 2003 received five (5) proposals therefor; and

WHEREAS, the five (5) proposals received were as follows:

1. H&L Systems, Inc., 3112 Route 37 East, Toms River, NJ 08753 for the amount of \$33,350.00
2. Intersoft Technologies International, LLC, 1125 US Highway 22 West, Bridgewater, NJ 08807 for the amount of \$32,500.00; and
3. KVS Information Systems, 821 Maple Road, Williamsville, NY 14221 for the amount of \$39,416.00; and
4. Edmunds & Associates, 333 Tilton Road, Northfield, NJ 08225 for the amount of \$11,000.00; and
5. Cogsdale Corp., 14 MacAleer, Suite # 5, Charlottetown, CA for the amount of \$104,397.00

WHEREAS, the Township Administration and the Township Finance Department have reviewed the said proposals received and recommended that same be awarded to Intersoft Technologies International, LLC as the proposal which best conformed to the criteria set forth by the Township; and

WHEREAS, funds are available and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Mayor and Township Council have indicated their desire to engage Intersoft Technologies International, LLC to provide municipal finance and accounting software to the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township

Council of the Township of Marlboro that a contract be awarded to Intersoft Technologies International, LLC to provide municipal finance and accounting software to the Township of Marlboro; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute and the Township Clerk to witness a Contract with Intersoft Technologies International, LLC in a form to be approved by the Township Attorney, for the aforementioned software; and

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

- a. Intersoft Technologies International, LLC
- b. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

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 4 - 0 in favor (Absent: Denkensohn): Res. # 2003-239 (Bond Reduction Kensington Gate - Sect. 1), Res. # 2003-240 (Bond Reduction Kensington Gate - Sect. 2), Res. # 2003-241 (Redemption Tax Sale Certs. - Various), Res. # 2003-242 (Refunds for Overpayments - Various), Res. # 2003-243 (Apply Balance to 2003 Taxes - B. 167, L. 1), Res. # 2003-244 (Veteran Deductions - Various).

RESOLUTION # 2003-239

RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE AND CASH BONDS FOR DEVELOPMENT KNOWN AS KENSINGTON GATE, SECTION I

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for the reduction of Township held Performance and Cash Bonds for a development known as Kensington Gate, Section I; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed reports from the Township Engineer dated July 18, 2003, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends a partial reduction in the current Performance and Cash Bond amounts being held by the Township; and

WHEREAS, the Township Council now wishes to take the following action regarding the aforesaid Performance and Cash Bonds.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Guarantees posted for the Development known as Kensington Gate Section I shall be reduced as follows:

The Performance Bond, in the original amount of \$2,070,813.66, is presently in the amount of \$1,249,676.12 and shall be reduced by \$536,084.84 (25.90%), so that the amount to remain shall be \$713,591.28 (34.50%).

The Cash Bond, in the original amount of \$230,090.41, is presently in the amount of \$138,852.90 and shall be reduced by \$59,564.98 (25.90%), so that the amount to remain shall be \$79,287.92 (34.50%).

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the payment of all fees required by the Planning Board and/or Developer's Agreement for the aforesaid development.

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

- a. Calton Homes, Inc.
- b. Safeco Insurance Company of America
- c. Township Engineers
- d. Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2003-240

RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE AND CASH BONDS FOR DEVELOPMENT KNOWN AS KENSINGTON GATE, SECTION II

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for the reduction of Township held Performance and Cash Bonds for a development known as Kensington Gate, Section II; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed reports from the Township Engineer dated July 18, 2003, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends a partial reduction in the current Performance and Cash Bond amounts being held by the Township; and

WHEREAS, the Township Council now wishes to take the following action regarding the aforesaid Performance and Cash Bonds.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Guarantees posted for the Development known as Kensington Gate Section II shall be reduced as follows:

The Performance Bond, in the original amount of \$1,483,126.85, is presently in the amount of \$1,123,465.13 and shall be reduced by \$481,217.13 (32.40%), so that the amount to remain shall be \$642,248.00 (43.30%).

The Cash Bond, in the original amount of \$164,791.87, is presently in the amount of \$124,829.46 and shall be reduced by \$53,468.57 (32.40%), so that the amount to remain shall be \$71,360.89 (43.30%).

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the payment of all fees required by the Planning Board and/or Developer's Agreement for the aforesaid development.

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

- a. Calton Homes, Inc.
- b. Safeco Insurance Company of America
- c. Township Engineers
- d. Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2003-241

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$89,241.53 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 \$89,241.53 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>
97-39	344/5 9 Ingersoll Road	Betty Simon, Trustee LLC P.O. Box 238 Northfield, NJ 08225	\$14,910.86
99-38	107/7 Wicker Place	Culmac, Inc. P.O. Box 251 Monmouth Beach, NJ 07750	3,096.25
00-2	105/3 14 Thomas Lane	Culmac, Inc. P.O. Box 251 Monmouth Beach, NJ 07750	7,711.13
00-22	107/7 Wicker Place	Culmac, Inc. P.O. Box 251 Monmouth Beach, NJ 07750	8,974.25
01-2	105/3 14 Thomas Lane	Phoenix Funding Inc. 191 Glen Road Mountainside, NJ 07092	10,203.51
03-10	149/3 51 Tennent Road	Richard Simon, Trustee LLC P.O. Box 238 Northfield, NJ 08225	10,174.62
03-15	176/7 C0516 516 Tivoli Court	Richard Simon, Trustee LLC P.O. Box 238 Northfield, NJ 08225	7,337.76
03-32	374/41 7 Paddock Court	Richard Simon, Trustee LLC P.O. Box 238 Northfield, NJ 08225	26,833.15
			<hr/>
TOTAL:			\$89,241.53

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RESOLUTION # 2003-242

WHEREAS, the attached list in the amount of \$3,828.43 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>
206.01	35	Pandya Siddharth	\$2,404.44
30 Cape May Drive		30 Cape May Drive Marlboro, NJ 07746	
376	10	CitiMortgage	1,423.99
74 Caldwell Terr.		Attn: J. Rosano, Tax Dept. 95 Methodist Hill Drive Rochester, NY 14623 Re: Milton & Loretta Zamkoff	
TOTAL:			<u>\$3,828.43</u>

RESOLUTION # 2003-243

WHEREAS, the Tax Court of New Jersey has granted a judgment in the amount of \$9,304.20 for the year 2002 and \$9,919.25 for the year 2003 for Block 167 Lot 1, located at 242 Route 79, assessed to Regal Plaza, LLC, Inc.,

WHEREAS, the 2002 taxes have been paid in full, the Tax Collector is directed to refund the amount of \$9,304.20,

WHEREAS, the 2003 taxes have unpaid balances, the Tax Collector is directed to apply the amount of \$9,919.25,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$9,304.20 to Peter J. Zipp, Esq./ Regal Plaza, LLC, Inc. and to apply the amount of \$9,919.25 as noted above.

RESOLUTION # 2003-244

WHEREAS, Veteran deductions totaling \$1,250.00 have been granted as per the attached Schedule "A" for the year 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to apply these deductions to the respective taxpayers as per Schedule "A".

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
126	5	James J. & Louise M. Carlson	\$250.00
31 Baldwin Avenue		31 Baldwin Avenue	
		Morganville, NJ 07751	
288	29 C0508	Frank & Martha Meli	250.00
508 Bayberry Court		508 Bayberry Court	
		Englishtown, NJ 07726	
370	21	Robert A. & Linda E. Sneddon	250.00
8 Stone Lane		8 Stone Lane	
		Marlboro, NJ 07746	
371	99	Herman & Roslyn Rosenblum	250.00
42 Murray Hill Terr.		42 Murray Hill Terrace	
		Marlboro, NJ 07746	
371	130	Richard W., Sr. & Joan Bonner	250.00
106 Murray Hill Terr.		106 Murray Hill Terrace	
		Marlboro, NJ 07746	
			<hr/>
TOTAL:			\$1,250.00

The following Resolution # 2003-245 (Acceptance of Audit - General Comments and Recommendations) was introduced by reference, offered by Councilman Kovalski, seconded by Council Vice President Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-245

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, the annual report of audit for the year 2002 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S. 40A:5-6, and a copy has been received by each member of the governing body, and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed as a minimum, the sections of the annual audit entitled:

General Comments
Recommendations
Auditor's Opinion

and

WHEREAS, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments
Recommendations
Auditor's Opinions

as evidenced by the group affidavit form of the governing body, and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five (45) days after the receipt of the annual audit, as per the regulations of the Local Finance Board, and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52:27BB-52 - "A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

At 9:50pm, Councilman Kovalski moved that the meeting go into executive session for reason of discussing contract negotiations, property acquisition and litigation. This was seconded by Council Vice President Mione, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Denkensohn). Recess was called and the closed session commenced at 10:10 PM.

RESOLUTION # 2003-247

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 14th day of August, 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 11:50PM, 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 (Absent: Denkensohn).

The following Resolution # 2003-248 (Authorizing Settlement Agreement - Group Construction) was introduced by reference, offered by Councilman Kovalski, seconded by Council President Karcher and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-248

A RESOLUTION APPROVING SETTLEMENT OF PENDING LITIGATION IN THE MATTER OF THE TOWNSHIP OF MARLBORO V FIRST INDEMNITY OF AMERICA INSURANCE COMPANY, GROUP CONSTRUCTION, INC., FAWN VALLEY DEVELOPMENT CORPORATION, JOSE PERRERA, JACK PATILLO, MICHAEL COLEMAN, JOHN DOES 1-100 AND ABC COMPANIES 1-20 BY EXECUTION OF A SETTLEMENT AGREEMENT BETWEEN THE PARTIES-IN-INTEREST

BE IT RESOLVED, by the Township Council of the Township of Marlboro, that the settlement of pending litigation in the matter of The Township of Marlboro v First Indemnity of America Insurance Company, Group Construction, Inc., Fawn Valley Development Corporation, Jose Perrera, Jack Patillo, Michael Coleman, John Does 1-100 and ABC Companies 1-20, Docket No. MON-L-4898-00 by execution of a Settlement Agreement between the parties-in-interest is hereby approved; and

BE IT FURTHER RESOLVED, that Special Counsel Kenneth W. Biedzynski, Esq., of the firm of Goldzweig, Farrell & Green, L.L.C. is hereby authorized to execute the Settlement Agreement on behalf of the Township of Marlboro; and

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

- a. Kenneth W. Biedzynski, Esq.
- b. Township Mayor
- c. Township Administrator
- d. Township Engineer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-249 (Increase CAP Riker Danzig) was introduced by reference, offered by Council President Karcher, seconded by Council Vice President Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-249

RESOLUTION AUTHORIZING AN ADDITIONAL INCREASE IN THE CAP ON EXPENDITURES FOR THE LEGAL SERVICES OF RIKER, DANZIG, SCHERER, HYLAND & PERRETTI, L.L.P., TO SERVE AS

SPECIAL COUNSEL TO THE TOWNSHIP OF MARLBORO

WHEREAS, there is a continued need for the Township of Marlboro to retain the services of special counsel in order to represent the interests of the Township vis-à-vis the Freehold Regional High School Board of Education; and

WHEREAS, the Township Council had previously authorized an increase in said expenditure cap to \$100,000.00 in order to allow the continued representation of the Township's interests by the Special Counsel; and

WHEREAS, it has become necessary to authorize an additional increase in said expenditure cap in order to allow the continued representation of the Township's interests by the Special Counsel; and

WHEREAS, the services to be provided by the Special Counsel 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 therefor, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the Office of the Township 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 an increase in the total expenditure cap for the professional service contract of the Special Counsel for the continued provision of the aforesaid legal services.

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, as follows:

1. That the total expenditure cap set forth in the agreement previously authorized by the Township Council, between the Township of Marlboro and Riker, Danzig, Scherer, Hyland & Perretti, L.L.P., regarding the above-referenced legal services, shall be increased to \$140,000.00. Any services performed which involve expenditures beyond said amount shall require further authorization from the Township Council.

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

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

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

- a. Riker, Danzig, Scherer, Hyland & Perretti, L.L.P.
(Attn: Lance J. Kalik, Esq.)
- b. Township Administrator
- c. Chief Financial Officer
- d. Township Attorney

The following Resolution # 2003-250 (Increase CAP De Cotiis - Marlboro Hospital Contract) was introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2003-250

RESOLUTION AUTHORIZING AN INCREASE IN THE CAP ON
EXPENDITURES FOR THE LEGAL SERVICES OF DeCOTIIS, FITZPATRICK, COLE &
WISLER, LLP TO SERVE AS SPECIAL COUNSEL TO THE TOWNSHIP OF MARLBORO
FOR LEGAL SERVICES IN CONNECTION WITH THE PURCHASE
OF THE MARLBORO STATE PSYCHIATRIC HOSPITAL PROPERTY
FROM THE STATE OF NEW JERSEY

WHEREAS, there is a continued need for the Township of Marlboro to retain the services of special counsel in order to represent the interests of the Township in matters involving the acquisition of the Marlboro State Psychiatric Hospital property, located at Block 159, Lot 11 on the Marlboro Tax Map, from the State of New Jersey, and specifically, in negotiations with representatives of the State relating thereto; and

WHEREAS, the Township Council had previously adopted Resolution #2001-214, which appointed the law firm of DeCotiis, Fitzpatrick, Cole & Wisler, LLP (the "Special Counsel") to provide the necessary legal services to the Township for negotiating the purchase of the Marlboro State Psychiatric Hospital property from the State of New Jersey, at the rate of \$150.00 per hour and with a cap as to the total expenditure in the amount of \$25,000.00, without further authorization from the Township Council; and

WHEREAS, the Township Council had found it necessary to authorize an increase in said expenditure cap in order to allow the continued representation of the Township's interests by the Special Counsel, which the Township Council authorized through the adoption of Resolution #2002-221, increasing the total expenditure to the amount of \$50,000.00, and through the adoption of Resolution #2002-347, increasing the total expenditure to the amount of \$75,000; and through the adoption of Resolution # 2003- 92 increasing the total expenditure to the amount of \$85,000.00 and;

WHEREAS, it has become necessary to authorize an additional increase in said expenditure caps in order to allow the continued representation of the Township's interests by the Special Counsel and to authorize additional legal services to the Township by the law firm DeCotiis, FitzPatrick, Cole & Wisler, LLP, to negotiate a redevelopment agreement with a developer for the redevelopment of the Marlboro State Psychiatric Hospital property; and

WHEREAS, the services to be provided by the Special Counsel 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 Township 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 an increase in the total expenditure cap for the professional service contract of the Special Counsel for the continued and expanded provision of the aforesaid legal services.

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, as follows:

1. That the total expenditure cap set forth in the agreement previously authorized by the Township Council, between the Township of Marlboro and DeCotiis, Fitzpatrick, Cole & Wisler, LLP, regarding the above-referenced legal services, shall be increased by \$20,000.00 for all legal services in connection with the negotiations for the

purchase of the Marlboro State Psychiatric Hospital property from the State of New Jersey, conducting due diligence on developers who have submitted proposals for the redevelopment of the Marlboro State Psychiatric Hospital property and the negotiation of the redevelopment of the Marlboro State Psychiatric Hospital property. Any services performed which involve expenditures beyond said amount shall require further authorization from the Township Council.

2. That the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for the aforesaid increase and to attach same to this Resolution.
3. That Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the Township.
4. That a certified copy of this Resolution shall be provided to each of the following:
 - a. DeCotiis, Fitzpatrick, Cole & Wisler, LLP
 - b. Township Administrator
 - c. Chief Financial Officer
 - d. Township Attorney

The following Resolution # 2003-251 (Setting Special Meeting - Sept. 9 - 8 M - Finance Matters and Executive Session) was introduced by reference, offered by Council President Karcher, seconded by Councilman Kovalski and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

At 11:55PM, 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 (Absent: Denkensohn).

MINUTES APPROVED: September 25, 2003

OFFERED BY: Singer

AYES: 4

SECONDED BY: Kovalski

NAYS: 0

ABSTAIN: Denkensohn

ALIDA DE GAETA
MUNICIPAL CLERK

ELLEN KARCHER
COUNCIL PRESIDENT