

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

NOVEMBER 13, 2003

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

Council President Karcher opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on December 13, 2002; mailed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

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

Also present were: Mayor Scannapieco, Township Attorney Jonathan Williams, Esq., Ronald H. Gordon, Esq., Business Administrator Chris Marion, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Mayor-elect Kleinberg, Councilwoman-elect Morelli, and Councilman-elect Joseph Pernice were in attendance.

Public Information Report - Public Information Director Susan Levine spoke about the success of the first annual Harvest Festival and thanked all the members of the Beautification Committee and township employees who volunteered their time. She gave an update on the construction of the Marlboro Township Cable Television Studio.

Councilman Kovalski moved that the minutes of October 9, 2003 be approved. This motion was seconded by Councilman Denkensohn and the minutes as amended were passed on a roll call vote of 4 - 0 (Abstain: Singer).

Councilman Kovalski moved that the minutes of October 23, 2003 be approved. This motion was seconded by Councilman Denkensohn and the minutes as amended were passed on a roll call vote of 5 - 0.

Council President Karcher opened the Public Hearing on Ordinance # 2003-21 (Rescinding Redevelopment Plan for Marlboro State Hospital Property and directing preparation of a substitute redevelopment plan which provides for use of property for open space, conservation and recreation). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2003-312/Ord. # 2003-21 (Rescinding Redevelopment Plan for Marlboro State Hospital Property and directing preparation of a substitute redevelopment plan which provides for use of property for open space, conservation and recreation) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0.

RESOLUTION # 2003-312

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

ORDINANCE # 2003-21

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO RESCINDING THE REDEVELOPMENT PLAN DATED FEBRUARY 2001 AND AMENDED ON MARCH 1, 2001 FOR THE MARLBORO STATE HOSPITAL PROPERTY AS ADOPTED BY ORDINANCE 2001-3 AND DIRECTING PREPARATION OF A SUBSTITUTE REDEVELOPMENT PLAN WHICH PROVIDES FOR THE USE OF THE MARLBORO STATE HOSPITAL PROPERTY IN PERPETUITY FOR OPEN SPACE, CONSERVATION AND RECREATION, CONSISTENT WITH THE ATTACHED REPORT PREPARED BY NORTH AMERICAN REALTY ADVISORY SERVICES DATED OCTOBER 23, 2003

which was introduced on October 23, 2003, public hearing held on November 13, 2003, be adopted on second and final reading this 13th day of November, 2003.

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

The following Resolution # 2003-310/Ordinance # 2003-22 (Ordinance Providing for Public Contract Reform - carried from mtg. 10/23) 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 # 2003-310

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

ORDINANCE # 2003-22

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO PROVIDING FOR PUBLIC CONTRACTING REFORM

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 December 4, 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 # 2003-22

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO PROVIDING FOR PUBLIC CONTRACTING REFORM

Be It Ordained by the Township Council of the Township of Marlboro:

Preamble

WHEREAS, professional business entities are exempt from public bidding requirements; and

WHEREAS, it has become common for professional business entities to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts: and

WHEREAS, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities;

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro that the policy of the Township of Marlboro will be to set maximum amounts professional business entities may contribute politically and beyond which they become ineligible to receive a public professional service contract from Marlboro Township.

SECTION 1

Prohibition on Awarding Public Contracts to Certain Contributors

(a) Any other provisions of law to the contrary notwithstanding, the Municipality or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure services from any professional business entity if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to a campaign committee of any Marlboro Township candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Marlboro Township Party Committee, in excess of the thresholds specified in subsection (d) within one calendar year immediately preceding the date of the contract or agreement.

(b) No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the Municipality or any department or agency thereof or of its independent authorities for the rendition of professional services shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Marlboro Township

candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Marlboro Township Party Committee, between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.

(c) For purposes of this ordinance, a "professional business entity" seeking a public contract means an individual; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.

(d) Any individual meeting the definition of "professional business entity" under this section may annually contribute a maximum of \$400 each for any purpose to any candidate, for mayor or council, or \$500 to the Marlboro Township or Party Committee, without violating subsection (a) of this section. However, any group of individuals meeting the definition of "professional business entity" under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all Marlboro Township candidates and office holders with ultimate responsibility for the award of the contract, and all Marlboro Township political parties combined, without violating subsection (a) of this section.

(e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

(1) The Marlboro Township Council, if the contract requires approval or appropriation from the Council.

(2) The Mayor of Marlboro Township, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

SECTION 2

Contributions Made Prior to the Effective Date

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any Municipal candidate for Mayor or Council, or Municipal Party Committee shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this ordinance.

SECTION 3

Contribution Statement by Professional Business Entity

(a) Prior to awarding any contract or agreement to procure services with any professional business entity, the Township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offer or has not made a contribution in violation of Section 1 of the Act.

(b) The professional business entity shall have a continuing duty to report any violations of this Act that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township and shall be in addition to any other certifications that may be required by any other provision of law.

SECTION 4

Return of Excess Contributions

A professional business entity or Township candidate or officeholder or Municipal Party Committee may cure a violation of Section 1 of this Act, if, within thirty (30) days after the general election, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the Township candidate or Municipal Political Party.

SECTION 5

Penalty

(a) All Marlboro Township professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional business entity as defined in Section 1(c) to violate Section 1(b) or to knowingly conceal or misrepresent contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

(b) Any professional business entity as defined in Section 1(c) and (d) who knowingly fails to reveal a contribution made in violation of the Act, or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Marlboro Township contracts for a period of four calendar years from the date of the violation.

SECTION 6

Severability

If any provision of this law, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this law to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this law are severable.

SECTION 7

Effective Date

This Act shall take effect upon passage and publication in accordance with applicable law.

The following Resolution # 2003-313/Ordinance # 2003-23 (Shade Tree Ordinance) 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 # 2003-313

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

ORDINANCE # 2003-23

ESTABLISHING SHADE TREE ORDINANCE

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 December 4, 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 SUMMARY

TAKE NOTICE THAT ON NOVEMBER 13, 2003, THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO INTRODUCED ORDINANCE #2003-23, ENTITLED "AN ORDINANCE ESTABLISHING A SHADE TREE COMMITTEE AND RULES AND REGULATIONS REGARDING SHADE TREES."

TAKE FURTHER NOTICE THAT THIS ORDINANCE ESTABLISHES A SHADE TREE COMMITTEE, CREATES THE POSITION OF CONSERVATION OFFICER AND ESTABLISHES RULES AND REGULATIONS REGARDING THE REMOVAL, REPLACEMENT AND PROTECTION OF SHADE TREES IN THE TOWNSHIP OF MARLBORO AND ESTABLISHING A PROCEDURE FOR THE IMPLEMENTATION AND ENFORCEMENT OF SAME.

TAKE FURTHER NOTICE that this Ordinance shall be considered for final passage on December 4, 2003, at 8 P.M., at the Marlboro Township Town Hall, 1979 Township Drive, Marlboro New Jersey, at which time all persons interested will be given an opportunity to be heard concerning this Ordinance.

TAKE FURTHER NOTICE that a copy of this Ordinance may be obtained at no cost by any member of the general public, during regular business hours, at the office of the Township Clerk, 1979 Township Drive, Marlboro, New Jersey.

The following Resolution # 2003-314/Ordinance # 2003-24 (Amending Chapter 62 - Clarifying and Establishing Fees under O.P.R.A.) was introduced by reference, offered by Councilwoman Singer, seconded by Councilman Kovalski and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-314

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

ORDINANCE # 2003-24

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 62 "FEES", ARTICLE III "MUNICIPAL SERVICES", SECTION 62-4 "FEES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO CLARIFY AND ESTABLISH FEES FOR INFORMATION REQUESTED UNDER THE OPEN PUBLIC RECORDS ACT, N.J.S.A. 47:1A-1 et seq.

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 December 4, 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 # 2003-24

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 62 "FEES", ARTICLE III "MUNICIPAL SERVICES", SECTION 62-4 "FEES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO CLARIFY AND ESTABLISH FEES FOR INFORMATION REQUESTED UNDER THE OPEN PUBLIC RECORDS ACT, N.J.S.A. 47:1A-1 et seq.

WHEREAS, the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA") provides that certain public records be available to the public; and

WHEREAS, OPRA regulates fees to be charged by municipalities for requests under OPRA; and

WHEREAS, the Township of Marlboro desires to amend the Code of the Township of Marlboro to be consistent with the provisions of OPRA, N.J.S.A. 47:1A-1 et seq.

NOW, THEREFORE, BE IT ORDAINED, by the Municipal Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Chapter 62 Fees, Article II Municipal Services, Section 62-4 Fees of the Code of the Township of Marlboro be and is hereby amended and supplemented to modify the fees charged for requests for public information to make same consistent with the provisions of OPRA, N.J.S.A. 47:1A-1 et seq., as follows:

§ 62-4(A). Fees.

Shall remain unchanged, except that the section regarding Municipal Court Discovery shall be deleted in its entirety and replaced with the following:

Municipal Court discovery (payable in advance)

Driving while intoxicated cases	\$25.00 for the first 5 pages, plus \$1.00 for each additional page
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All other Municipal Court Discovery:	\$15.00 for the first 3 Pages, plus \$1.00 for each additional page
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Breathalyzer ampoule:	\$5.00 each
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Audio Cassette tapes (duplication Thereof)	\$25.00 each
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VHS Video tapes (duplication thereof)	\$75.00 each
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Photos:	
3 X 5	\$1.00 each
8 X 10	\$7.00 each
11 X 14	\$13.00 each

Motor vehicle storage fee, per day:	\$20.00
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§ 62-4(B) shall remain unchanged.

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 applicable law.

The following Resolution # 2003-315/Ordinance # 2003-25 (Amending Chapter 4 - Deputy Custodians of Public Records) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Kovalski and passed on a roll all vote of 5 - 0 in favor.

RESOLUTION # 2003-315

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

ORDINANCE # 2003-25

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 4
"ADMINISTRATION OF GOVERNMENT", SECTION ARTICLE
III "MUNICIPAL CLERK; DEPUTIES", SECTION 4-23
"DUTIES" OF THE CODE OF THE TOWNSHIP OF MARLBORO
TO PROVIDE FOR THE APPOINTMENT OF DEPUTY
CUSTODIANS OF PUBLIC RECORDS

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 December 4, 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 # 2003-25

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 4
"ADMINISTRATION OF GOVERNMENT", SECTION ARTICLE
III "MUNICIPAL CLERK; DEPUTIES", SECTION 4-23
"DUTIES" OF THE CODE OF THE TOWNSHIP OF MARLBORO
TO PROVIDE FOR THE APPOINTMENT OF DEPUTY
CUSTODIANS OF PUBLIC RECORDS

WHEREAS, pursuant to the "Public Access to Government Records Act " N.J.S.A. 47:1A-1 et seq., the Custodian of Government Records may deputize another party or parties to serve as Deputy Custodian(s) of Government Records; and

WHEREAS, there exists a need for several Deputy Custodians of Government Records for the various Township departments to review, copy and provide documents requested under N.J.S.A. 47:1A-1 et seq.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, Monmouth County, New Jersey that Chapter 4, Administration of Government, Article III Municipal Clerk; Deputies, Section 4-23 Duties, of the Code of the Township of Marlboro is hereby amended and supplemented as follows:

SECTION 4-23 shall remain in full force and effect and shall incorporate the following:

§ 4-23(8)

The Township Clerk, as the Custodian of Government Records for Documents, may, in accordance with N.J.S.A. 47:1A-1 et seq. and in consultation with the Township Business Administrator, appoint Deputy Custodians of Government Records for Documents requested under N.J.S.A. 47:1A-1 et seq. for the various Township departments.

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 applicable law.

The following Resolution # 2003-316/Ordinance # 2003-26 (Amending Section 4-30 - Interim Appointments) was introduced by reference, offered by Council Vice President Mione, seconded by Councilman Denkensohn and passed on a roll call vote of 4 - 0 in favor (Abstain: Karcher).

RESOLUTION # 2003-316

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

ORDINANCE # 2003-26

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 4 "ADMINISTRATION OF GOVERNMENT", ARTICLE IV "MAYOR", SECTION 4-30 "INTERIM APPOINTMENTS" OF THE CODE OF THE TOWNSHIP OF MARLBORO

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 December 4, 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 # 2003-26

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 4 "ADMINISTRATION OF GOVERNMENT", ARTICLE IV "MAYOR", SECTION 4-30 "INTERIM APPOINTMENTS" OF THE CODE OF THE TOWNSHIP OF MARLBORO

WHEREAS, the Code of the Township of Marlboro requires amendment in order to conform to the provisions of The Optional Municipal Charter Law (i.e. The Faulkner Act), N.J.S.A. 40:69A-1 et seq.; and

WHEREAS, The Optional Municipal Charter Law provides that Department Heads are appointed by the Mayor with the advice and consent of the Township Council and serve such positions until their successors are appointed and qualified, pursuant to the provisions of N.J.S.A. 40:69A-43(b).

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Municipal Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 4, Administration of Government, Article IV Mayor, Section 4-30 Interim Appointments of the Code of the Township of Marlboro be amended and supplemented to conform to the provisions of N.J.S.A. 40:69A-1 et seq. as follows:

§ 4-30 Interim Appointments

Is hereby deleted in its entirety and replaced with a new §4-30 entitled Interim Appointments to read as follows:

§ 4-30 Interim Appointments

Whenever a vacancy exists in any office required by the Charter or this Chapter to be filled by the Mayor with the advice and consent of the Township Council and there is no holdover incumbent, the Mayor may, in the absence of any contrary provision in the Charter or Ordinances, temporarily fill such vacancy by appointing himself, at no additional remuneration, Acting Department Head in the event of a vacancy in such office, except when the Mayor is prohibited, as a matter of law, from holding said position. The Mayor shall not appoint, either on a temporary or interim basis, any other person to such position(s) without the advice and consent of the Township Council of the Township of Marlboro.

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 applicable law.

The following Resolution # 2003-317/Ordinance # 2003-27 (Amending Ord. # 2003-19 - No Left Turn Goddard School) was introduced as amended 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 # 2003-317

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

ORDINANCE # 2003-27

AN ORDINANCE PROHIBITING LEFT TURNS INTO AND OUT OF THE PROJECT LOCATED ON COUNTY ROUTE 520 FOR THE PROPOSED DAY CARE FACILILITY TO BE KNOWN AS THE GODDARD SCHOOL, BEING LOCATED ON LOT 37 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 December 4, 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 # 2003-27

AN ORDINANCE AMENDING ORDINANCE # 2003-19 PROHIBITING LEFT TURNS INTO AND OUT OF THE PROJECT LOCATED ON COUNTY ROUTE 520 FOR THE PROPOSED DAY CARE FACILILITY TO BE KNOWN AS THE GODDARD SCHOOL, BEING LOCATED ON LOT 37 IN BLOCK 176, 46 COUNTY ROUTE 520, MARLBORO, NEW JERSEY

WHEREAS, on October 23, 2003, the Township Council of the Township of Marlboro adopted Ordinance # 2003-19, which

prohibited left turns into and out of the site of the proposed day care facility to be known as The Goddard School, located on Lot 37 in Block 176, 46 County Route 520, Marlboro, New Jersey (the "Development") until the completion of a traffic light installation at the intersection of Route 520 and Kenduck Drive; and

WHEREAS, upon additional review of the plans for the Development by the Division of Engineering, it has been determined that the prohibition of left hand turns into and out of the site is to be a permanent prohibition.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that Ordinance # 2003-19 is hereby amended as follows:

Left hand turns into and out of the Site located at 46 County Route 520, Township of Marlboro, County of Monmouth and State of New Jersey are prohibited.

BE IT FURTHER ORDAINED, that, except for the above, all of the provisions of Ordinance # 2003-19 shall remain in force and effect.

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 # 2003-318 (Award of State Contract - Dodge Durango PD Detective Bureau) was introduced by reference, offered by Council Vice President Mione, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-318

A RESOLUTION AUTHORIZING THE PURCHASE OF
A NEW 2004 DODGE DURANGO AND RELATED OPTIONS FOR THE
MARLBORO TOWNSHIP DIVISION OF POLICE UNDER
STATE CONTRACT # A53130

WHEREAS, the Township of Marlboro Division of Police has recommended that the Township purchase a new 2004 Dodge Durango and related options for the Detective Bureau of the Township Division of Police from Warnock Fleet of East Hanover, New Jersey under State Contract #A53130 for the amount of \$21,239.24; 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 citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide new equipment to the Division of Police; 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 a new 2004 Dodge Durango and related options for the Detective Bureau of the Township Division of Police from Warnock Fleet of East Hanover, New Jersey under State Contract #A53130 for the amount of \$21,239.24.

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

- a. Warnock Fleet of East Hanover, New Jersey
- b. Township Administrator
- c. Township Division of Police
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-319 (Award of Bid - Snow Removal Services) 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 # 2003-319

A RESOLUTION AWARDING A CONTRACT TO AKC, INC. TO PROVIDE SNOW REMOVAL SERVICES FOR THE 2003-2004 SNOW REMOVAL SEASON FOR THE TOWNSHIP OF MARLBORO DIVISION OF PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the provision of snow removal services for all eight (8) snow removal zones in the Township of Marlboro for the 2003-2004 snow season and on October 6, 2003 received three (3) bids therefor; and

WHEREAS, the three (3) bids received were as follows:

1. AKC, Inc., 178 Highway 34 and Schank Road, Holmdel, NJ 07733 for the aggregate amount of \$2,954.88 per hour; and
2. Triple C Nurseries, 489 County Road SW, Marlboro, NJ 07746 for the aggregate amount of \$2,939.00 per hour but either did not bid on all eight (8) zones or did not meet the equipment requirements as stipulated by the bid specifications; and
3. J.H. Brothers Lawn Service, 169 Robertsville Road, Freehold, NJ 07728 for the aggregate amount of \$1,470.00 per hour but either did not bid on all eight (8) zones or did not meet the equipment requirements as stipulated by the bid specifications.

WHEREAS, the Township Administration and the Township Division of Public Works have reviewed the said bids received and recommended that same be awarded to AKC, Inc. as the lowest responsible bidder on all eight (8) snow districts.

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 AKC, Inc. of Holmdel, New Jersey to provide snow removal for all eight (8) snow removal zones in the Township of Marlboro for the 2003-2004 snow season for the Township of Marlboro Division of Public Works.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract be awarded to AKC, Inc. of Holmdel, New Jersey to provide snow removal for all eight (8) snow removal zones in the Township of Marlboro for the 2003-2004 snow season for the Township of Marlboro Division of Public Works; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute and the Township Clerk to witness a Contract with AKC, Inc; in a form to be approved by the Township Attorney, for the aforementioned equipment; and

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

- a. AKC, Inc.
- b. Township Administrator
- c. Chief Financial Officer
- d. Township Division of Public Works
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-320 (Reject and Rebid - Janitorial Services) was introduced by reference, offered by Councilwoman Singer, seconded by Council President Karcher and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-320

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

Janitorial Services

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

Janitorial Services

as required by law.

The following Resolution # 2003-321 (Reject and Rebid - Swim Pool Club Improvements) was introduced by reference, offered by Council Vice President Mione, seconded by Councilman Kovalski and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-321

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

Swim Pool Club Improvements

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 Pool Club Improvements

as required by law.

The following Resolution # 2003-322 (Rescinding Res. # 2003-288 - Recording System for Communications) 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 # 2003-322

A RESOLUTION RESCINDING RESOLUTION # 2003-288 AUTHORIZING THE PURCHASE OF ONE NEW EVANTIDE VR3322 THIRTY-TWO (32) CHANNEL VOICE LOGGER UNDER STATE CONTRACT # A51005

WHEREAS, on October 9, 2003 the Township of Marlboro adopted Resolution # 2003-288, which authorized the purchase of an Evantide VR3322 Thirty-Two (32) Channel Voice Logger from Quality Communications of Lakewood, New Jersey under State Contract # A51005; and

WHEREAS, on November 6 2003, the Township Division of Police was advised that State Contract # A51005 was invalidated by Court Ruling and only covered the purchase of upgrade equipment for an existing voice logger system; and

WHEREAS, due to the invalidation of the aforesaid State Contract, it is now necessary for the Township to rescind Resolution # 2003-288 which authorized the purchase of an Evantide VR3322 Thirty-Two (32) Channel Voice Logger from Quality Communications of Lakewood, New Jersey under State Contract # A51005 and to request bids for same.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that Resolution # 2003-288 authorizing purchase of an Evantide VR3322 Thirty-Two (32) Channel Voice Logger from Quality Communications of Lakewood, New Jersey under State Contract # A51005 be and hereby is rescinded.

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

- a. Quality Communications of Lakewood, New Jersey
- b. Township Business Administrator
- c. Chief Financial Officer
- d. Township Division of Police
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-323 (Change Order Professional Services Vanderburg Sanitary Pump Station) 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 # 2003-323

A RESOLUTION AUTHORIZING AND APPROVING A CHANGE ORDER
AMENDING THE ORIGINAL CONTRACT BETWEEN THE TOWNSHIP OF
MARLBORO AND CME ASSOCIATES FOR ADDITIONAL COORDINATION AND
FIELD WORK OUTSIDE THE SCOPE OF THE ORIGINAL CONTRACT FOR
THE VANDERBURG SOCCER COMPLEX/AQUATIC CENTER
SEWAGE EJECTOR SYSTEM

WHEREAS, on April 25, 2002 the Township of Marlboro awarded a contract to CME Associates of Howell, New Jersey

for engineering services in connection with the design of the Vanderburg Soccer Complex/Aquatic Center Sewage Ejector System (the "Contract"); and

WHEREAS, the amount of the Contract awarded to CME Associates was \$16,800.00; and

WHEREAS, additional costs were incurred by CME Associates outside the scope of the Contract because CME Associates was asked by the Marlboro Township Division of Public Works to investigate possible breakage to the forcemain of the sanitary pump station contained in the Vanderburg Complex; and

WHEREAS, the coordination and field work performed by CME Associates in connection with the aforesaid investigation was performed for a total amount of \$2,500.00 and was undertaken outside the purview of the Contract and was not anticipated in the Contract's construction administration budget, requiring a Change Order to amend the amount of the Contract; and

WHEREAS, the Township Administration and the Division of Public Works have reviewed the request from CME Associates for the additional monies requested for the coordination and field work undertaken in connection with the aforesaid investigation of the forcemain and have recommended that a Change Order to amend the amount of the Contract from \$16,800.00 to \$19,300.00, reflecting an increase of \$2,500.00 from the original Contract amount be authorized and approved by the Township Council; and

WHEREAS, the Mayor and Township Council have indicated their agreement that a Change Order to amend the amount of the contract from \$16,800.00 to \$19,300.00, reflecting an increase of \$2,500.00 from the original Contract amount be authorized by the Township Council.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Change Order to amend the amount of the Contract from \$16,800.00 to \$19,300.00, reflecting an increased of \$2,500.00 from the original Contract amount be and hereby is authorized and approved; and

BE IT FURTHER RESOLVED, that the Township Division of Public Works is hereby authorized to issue a Change Order

for the aforementioned work to CME Associates of Howell, New Jersey; and

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

- a. CME Associates
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Superintendent Public Works
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-324 (Award of Professional Services Contract Green Acres Grant Application) 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 # 2003-324

RESOLUTION AUTHORIZING THE TOWNSHIP OF MARLBORO TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH SCHOOR DEPALMA INC. FOR THE PREPARATION OF A MONMOUTH COUNTY MUNICIPAL OPEN SPACE GRANT PROGRAM APPLICATION FOR THE PROPOSED DEVELOPMENT OF THE PROPERTY KNOWN AS MARLBORO TOWNSHIP PARK - PHASE II (H&L SOCCER FIELDS)

WHEREAS, there exists a need for the services of an engineer in order to prepare a Monmouth County Municipal Open Space Grant Program Application for the proposed Development of the property known as Marlboro Township Park - Phase II (H&L Soccer Fields) (the "Project"); 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 application preparation services in connection with the Project.

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 application preparation services, as per the proposal dated October 27, 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 \$5,448.00 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, Vice President)
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. Township Engineer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-325 (Change Order #1 - Cable Studio Equipment) was introduced by reference, offered by Councilwoman Singer, seconded by Council President Karcher and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-325

A RESOLUTION AUTHORIZING AND APPROVING A CHANGE ORDER AMENDING THE ORIGINAL CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND CUSTOM FIT, INC. FOR THE PROVISION OF CABLE TELEVISION STUDIO EQUIPMENT TO THE TOWNSHIP OF MARLBORO CABLE STUDIO

WHEREAS, on December 12, 2003 the Township of Marlboro awarded a contract to Custom Fit, Inc. of Chantilly, Virginia to provide cable television studio equipment to the Township of Marlboro Cable Studio (the "Contract"); and

WHEREAS, the amount of the Contract awarded to Custom Fit, Inc. was \$82,052.00 for Part I (Studio/Remote Equipment) and \$6,176.00 for Part III (Editing Equipment/Canopus NLE Turnkey System) for a total amount of \$88,228.00; and

WHEREAS, the Township of Marlboro Office of Public Information has reviewed the Contract and has advised the Township Council that the JVC500ENGP2, a portable camera package contracted for under Part I of the Contract has been discontinued by the manufacturer and that a Change Order is needed to amend Part I of the Contract to reflect a decrease in the amount of \$6,020.00 to Part I of the Contract, amending the Contract Price for Part I of the Contract from \$82,052.00 to \$76,032.00, resulting in an amended aggregate Contract Price of \$82,208.00 from the original aggregate Contract amount of \$88,228.00; and

WHEREAS, the Township Administration has reviewed the memorandum regarding the proposed change order prepared by the Office of Public Information dated November 10, 2003

and have recommended that a Change Order to amend the amount of Part I of the Contract from \$82,052.00 to \$76,032.00, reflecting a decrease of \$6,020.00 from the original Contract amount for Part I and resulting in an amended aggregate Contract amount of \$82,208.00 from the original aggregate Contract amount of \$88,228.00, be authorized and approved by the Township Council; and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Change Order to amend the amount of Part I of the Contract from \$82,052.00 to \$76,032.00, reflecting a decrease of \$6,020.00 from the original Contract amount for Part I and resulting in an amended aggregate Contract amount of \$82,208.00 from the original aggregate Contract amount of \$88,228.00 be and hereby is authorized and approved; and

BE IT FURTHER RESOLVED, that the Township Office of Public Information is hereby authorized to issue a Change Order for the aforementioned Contract to Custom Fit, Inc.; and

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

- a. Custom Fit, Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Office of Public Information
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-326 (Bond Reduction Lexington Estates Sect. 4A) 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 # 2003-326

RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE AND CASH BONDS FOR THE DEVELOPMENT KNOWN AS LEXINGTON ESTATES, SECTION 4A SUBDIVISION

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 Lexington Estates Section 4A Subdivision; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed reports from the Township Engineer dated September 29, 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 Lexington Estates Section 4A Subdivision shall be reduced as follows:

The Performance Bond, in the original amount of \$459,011.77, is presently in the amount of \$459,011.77 and shall be reduced by \$275,407.06 (60%), so that the amount to remain shall be \$183,604.71 (40%).

The Cash Bond, in the original amount of \$51,001.31, is presently in the amount of \$51,001.31 and shall be reduced by \$30,600.79 (60%), so that the amount to remain shall be \$20,400.52 (40%).

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. K. Hovnanian at Marlboro Township VIII
- b. Fireman's Fund Insurance Co.
- c. Township Engineers
- d. Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-327 (Bond Reduction Windsor Estates) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Kovalski and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-327

RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE AND CASH BONDS FOR THE DEVELOPMENT KNOWN AS WINDSOR ESTATES SUBDIVISION

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 Windsor Estates Subdivision; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed reports from the Township Engineer dated November 6, 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 Windsor Estates Subdivision shall be reduced as follows:

The Performance Bond, in the original amount of \$474,263.96, is presently in the amount of \$474,263.96 and shall be reduced by \$279,892.96 (59%), so that the amount to remain shall be \$194,371.00 (41%).

The Cash Bond, in the original amount of \$52,696.00, is presently in the amount of \$52,696.00 and shall be reduced by

\$31,099.00 (59%), so that the amount to remain shall be \$21,597.00 (41%).

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. Kara of Monmouth, LLC
- b. Greenwich Insurance Company
- c. Township Engineers
- d. Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-328 (Bond Release Cagnina Road Improvements) 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 # 2003-328

RESOLUTION AUTHORIZING RELEASE OF CASH BOND FOR SALVATORE AND SHERRY CAGNINA FOR IMPROVEMENTS TO 55 BUCKLEY ROAD, BLOCK 417, LOT 5, TOWNSHIP OF MARLBORO, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

WHEREAS, in accordance with *N.J.S.A. 40:55D-53*, the Township of Marlboro has received a request for the release of the Cash Bond being held by the Township to guarantee the improvements to Buckley Road fronting the property known as 55 Buckley Road, Block 417, Lot 5, Township of Marlboro, County of Monmouth, State of New Jersey owned by Salvatore and Sherry Cagnina (the "Property"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated November 4, 2003, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends the release of the Cash Bond being held by the Township; and

WHEREAS, the Township Council now desires to take the following action regarding the aforesaid Cash Bond.

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 Cash Guarantee posted for the Property shall be released in its entirety.

BE IT FURTHER RESOLVED, that such bond release is subject to the relocation of the traffic sign as required in the report from the Marlboro Township Traffic Safety Division dated October 24, 2003.

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

- a. Salvatore and Sherry Cagnina
- b. Township Engineer
- c. Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2003-329 (Bond Release - Marlboro Assoc. - Grading and Clearing & Bond Reduction Site Work) was tabled to a future meeting.

The following Resolution # 2003-330 (Cancellation of Grant Appropriations and Grant receivables) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Kovalski and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-330

RESOLUTION AUTHORIZING CANCELLATION OF
GRANT APPROPRIATIONS
AND GRANT RECEIVABLES

WHEREAS, there exist various grant appropriations and grant receivables that remain open on the books, and

WHEREAS, these grants can no longer be spent nor receivables collected,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, that the following grant appropriations and grant receivables be cancelled and the

necessary entries be made in the books and records of the Township of Marlboro:

APPROPRIATIONS

<u>YEAR</u>	<u>GRANT</u>	<u>ACCT. #</u>	<u>AMOUNT</u>
1998	CDBG	G-02-41-712-399	\$11,043.78
2000	Freeman Foundation	G-02-41-721-399	\$ 109.24
2000	Hndcp. Recreation	G-02-41-733-311	\$ 1,865.25
		G-02-41-733-399	\$ 1,293.63
2000	Occupant Protection	G-02-41-723-311	\$ 520.00
		G-02-41-723-399	\$ 480.00
2001		G-02-41-735-399	\$ 249.46
2001	COPS UHP	G-02-41-719-311	\$14,605.00
		G-02-41-730-399	\$56,599.12
		G-02-41-731-399	\$ 654.77
2002		G-02-41-731-402	\$ 5,833.32
2001	Mo.Co. Mun. Alliance	G-02-41-726-311	\$ 3,590.96
2002		G-02-41-726-312	\$ 1,022.21
		G-02-41-726-313	\$ 630.00

RECEIVABLES

1998	CDBG		\$ 6,194.11
2000	Occupant Protection		\$ 1,000.00
2001			\$ 9,147.00
2001	Mo.Co. Mun. Alliance		\$ 959.52

The following Resolution # 2003-331 (Authorizing Cancellation of Swim Operating Budget Balances to Surplus) was introduced by reference, offered by Council Vice President Mione, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-331

WHEREAS, the following Swim Utility Fund budget appropriation balances remain unexpended:

<u>DESCRIPTION</u>	<u>ITEM #'S</u>	<u>AMOUNT</u>
Recreation Trophies & Supplies	3-07- -700-706	9,000
Furn. & Equip.	3-07- -700-707	6,000
Plumbing/Hvac	3-07- -700-708	1,000
Office Supplies	3-07- -700-709	1,000
Legal/Acctg.	3-07- -700-715	2,000
Adv.	3-07- -700-721	1,000
Electric	3-07- -700-731	2,000
Water	3-07- -700-735	3,000
Sport's Equip.	3-07- -700-797	3,500

TOTAL UNEXPENDED
OPERATING BALANCES 3-07- -700-700 \$ 28,500

<u>DESCRIPTION</u>	<u>ITEM #'S</u>	<u>AMOUNT</u>
Electric Services	3-07- -701-012	\$ 5,000
Engineering	3-07- -701-015	50,000
Furn & Equip.	3-07- -701-707	15,000
Security Systems	3-07- -701-755	15,000
Data Processing	3-07- -701-781	10,000
Snack Bar Equipment	3-07- -701-782	20,000
General Capital Improvements	3-07- -701-786	<u>156,500</u>

TOTAL UNEXPENDED
CAPITAL EXPENDITURES 3-07- -701-000 \$ 271,500

TOTAL BUDGET APPROPRIATION
BALANCES WHICH REMAIN UNEXPENDED \$ 300,000

WHEREAS, it is necessary to formally cancel said balances so that the unexpended balances may be credited to Surplus;

NOW THEREFORE, BE IT RESOLVED, by the council of the TOWNSHIP OF MARLBORO, that the above listed unexpended balances of the Swim Utility Fund be canceled.

The following Resolution # 2003-332 (Increase CAP DeCotiis - Marlboro State Hospital) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-332

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 #2001-221, 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 #2002-214, increasing the total expenditure to the amount of \$50,000.00; 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 #2003-250, increasing the total expenditure to the amount of \$105,000.00; 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 \$35,000.00 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 Resolutions were introduced by reference, offered by Council Vice President Mione, seconded by Councilman Kovalski and passed on a roll call vote of 5 - 0 in favor: Res. #2003-333 - Redemption Tax Sale Certs. - Various, Res. #2003-334 - Refunds Overpayments 2003 Taxes - Various, Res. #2003-335 - Veteran Deduction - B. 251, L. 3, Res. #2003-336 - Veteran Deduction - B. 143.05, Lot 27, Res. #2003-337 - Disabled Vet. Deduction - B.420, L.13, Res. #2003-338 - Disabled Vet. Deduction - B.178, L.2 C0411.

RESOLUTION # 2003-333

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$38,218.83 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 \$38,218.83 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>
02-24	408/12	Betty Simon, Trustee LLC	\$23,660.31
	23 Colts Run	P.O. Box 238 Northfield, NJ 08225	
03-24	265/4	Richard Simon, Trustee LLC	13,825.95
	10 Sudbury Road	P.O. Box 238 Northfield, NJ 08225	

03-45	143.05/13	American Tax Funding, LLC	732.57
323 Wedgewood Road		Attn: Martha Moseley	
		P.O. Box 862658	
		Orlando, FL 32886-2658	

TOTAL: \$38,218.83

RESOLUTION # 2003-334

WHEREAS, the attached list in the amount of \$5,168.48 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>
119	32.12	Countrywide Tax Services	\$ 200.00
14	Monticello Court	SV2-24	
		P.O. Box 10211	
		Van Nuys, CA 91410-0211	
		Re: David Craig & Meri Daum	
332	12.16	S I Bank & Trust	4,968.48
18	Totten Court	Attn: Keri English	
		15 Beach Street	
		Staten Island, NY 10304	
		Re: Steven & Beth Glassman	
TOTAL:			<u>\$5,168.48</u>

RESOLUTION # 2003-335

WHEREAS, the Tax Court of New Jersey has granted a judgment for a veteran deduction in the amount of \$250.00 for the year 2003 on Block 251 Lot 3, located at 6 Carter Drive, assessed to Roseann Guida Citron,

WHEREAS, the 2003 taxes have an unpaid balance, the Tax Collector is directed to apply the amount of \$250.00 to this unpaid balance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to apply the amount of \$250.00 as noted above.

RESOLUTION # 2003-336

WHEREAS, a Veteran deduction in the amount of \$250.00 has been allowed for the year 2003 for Block 143.05 Lot 27, located at 353 Wedgewood Road, assessed to Gin L. & Robin W. Chin,

WHEREAS, taxes for the year 2003 have an unpaid balance on the above-referenced block & lot,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to apply the amount of \$250.00 as noted above.

RESOLUTION # 2003-337

WHEREAS, the Tax Assessor has granted a disabled veteran exemption for Stephen Sideroff, Block 420 Lot 13, located at 46 Dutch Lane Road,

WHEREAS, taxes were billed for the full year of 2003 in the amount of \$3,542.68, and

WHEREAS, this exemption became effective April 15th, 2003 and taxes were paid for the full year of 2003, the above mentioned taxpayer is due a refund of \$2,509.39,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$2,509.39 to the above-mentioned taxpayer and cancel same.

RESOLUTION # 2003-338

WHEREAS, the Tax Assessor has granted a disabled veteran exemption for John Tomasiello, Block 178 Lot 2 C0411, located at 411 Yorkshire Place,

WHEREAS, taxes were billed for the full year of 2003 in the amount of \$2,993.52, and

WHEREAS, this exemption became effective July 11th, 2003 and taxes were paid for the full year of 2003, the above mentioned taxpayer is due a refund of \$1,406.08,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$1,406.08 to the above-mentioned taxpayer and cancel same.

The following Resolution # 2003-339 (Raffle License Marlboro H.S. Jr. Mustangs Wrestling) 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 # 2003-339

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 13-03/04 (Off Premise 50/50) be and it is hereby granted to Marlboro Jr. Mustangs Wrestling, 5 Whitman Road, Morganville, N. J. 07751.

BE IT FURTHER RESOLVED that said Raffle will be held on February 21, 2003 at 12 Noon at Marlboro Middle School, Route 520, Marlboro, New Jersey 07746.

The following Resolution # 2003-340 (Special Meeting - Action items & Executive Session for Contract Negotiations/Acquisition of Property Nov. 24 - 8PM) 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 # 2003-340

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Special Council Meeting will be held on November 24, 2003, at 8:00 p.m., at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, N. J. 07746.

BE IT FURTHER RESOLVED that the purpose of this special meeting is to hold an executive session to discuss acquisition of real property, contract negotiations and litigation and to take such other action as may be necessary. Citizen's Voice will be limited to 15 minutes.

BE IT FURTHER RESOLVED that formal action may be taken at the conclusion of the executive session.

The following Resolution # 2003-342/Ord. # 2003-28 (Establishing Youth Exchange Advisory Program) was introduced by reference, offered by Council Vice President Mione, seconded by Councilman Kovalski and passed on a roll call vote of 3 - 0 in favor with Councilwoman Singer voting no. (Absent: Denkensohn.)

RESOLUTION # 2003-342

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

ORDINANCE # 2003-28

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 4 "ADMINISTRATION OF GOVERNMENT", ARTICLE II "COUNCIL", SECTION 4-12 "STANDING COMMITTEES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ESTABLISH THE YOUTH EXCHANGE ADVISORY PROGRAM AS A SPECIAL COMMITTEE OF THE MARLBORO TOWNSHIP COUNCIL

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 December 4, 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 # 2003-28

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 4, "ADMINISTRATION OF GOVERNMENT", ARTICLE II "COUNCIL", SECTION 4-12 "STANDING COMMITTEES" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ESTABLISH THE YOUTH EXCHANGE ADVISORY PROGRAM AS A SPECIAL COMMITTEE OF THE MARLBORO TOWNSHIP COUNCIL

WHEREAS, on August 24, 1997 the Township of Marlboro entered into a "Sister City" agreement with the Town of Johana, Toyama Prefecture, Japan, to establish friendship between the municipalities ("Sister Agreement") and to establish a Youth Exchange Program (the "Exchange Program") to promote cultural awareness and good will; and

WHEREAS, on October 22, 1998, Resolution # 1998-258 was adopted establishing a twelve (12) person Advisory

Committee ("Advisory Committee") to direct activities in furtherance of the purposes set forth in the Sister Agreement, specifically, the administration and planning of the Exchange Program; and

WHEREAS, the Township Council of the Township of Marlboro, has determined that it is in the best interests of the residents of the Township to establish the Advisory Committee as a special committee of the Township Council with respect to the administration and planning of the Exchange Program.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro, in the County of Monmouth, State of New Jersey that Chapter 4, "Administration Of Government", Article II "Council", Section 4-12 "Standing Committees" of the Code Of The Township Of Marlboro be and is hereby amended and supplemented to establish a Youth Exchange Program as a special committee of the Township Council as follows:

SECTION 1.

4-12 "Standing Committees"

Subsections 4-12.A. and 4-12.B. shall remain unchanged.

A new subsection 4-12.C. shall be add as follows:

4-12.C. "Youth Exchange Advisory Committee"

A. Establishment of the Youth Exchange Advisory Program.

The Youth Exchange Advisory Committee of the Township of Marlboro is hereby established as a special committee of the Township Council and shall be funded accordingly.

B. Purpose. The Youth Exchange Advisory Committee shall undertake the administration, management and planning of the Youth Exchange Program between the Township of Marlboro and the Town of Johana, Toyama Prefecture, Japan.

C. Membership; organization; terms.

i. The Youth Exchange Advisory Committee shall consist of twelve (12) members appointed by the Township Council.

ii. The members of the Youth Exchange Advisory Committee shall include the Mayor, or his designee, who shall be a permanent member of the Youth Exchange Advisory Committee during the term of the Mayor's Office.

iii. The members of the Youth Exchange Advisory Committee shall serve without compensation.

iv. The Township Council shall designate one (1) of the members to serve as Chair and presiding officer of the Youth Exchange Advisory Committee.

v. The terms of office of the first Youth Exchange Advisory Committee members shall be for one (1), two (2) and three (3) years, as designated by the Township Council in making said appointments. Thereafter, the members' successors shall be appointed for terms of three (3) years and until the appointment and qualification of their successors. The first members of the Youth Exchange Advisory Committee shall be appointed for the following terms:

(1) Three (3) members for the term expiring December 31, 2004.

(2) Four (4) members for the term expiring December 31, 2005.

(3) Four (4) members for the term expiring December 31, 2006.

vi. A vacancy in the Youth Exchange Advisory Committee occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

D. Duties.

The Youth Exchange Advisory Committee is established to administer, plan and manage the Youth Exchange Program established by the Sister Agreement with the Town of Johana in Japan. The Youth Exchange Advisory Committee shall be a strictly advisory body with no power to regulate or

promulgate rules and regulations. The Youth Exchange Advisory Committee members shall report to the Township Council on a regular basis regarding its activities.

SECTION 2. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 3. REPEAL OF ALL INCONSISTENT ORDINANCES

All ordinances of the Township of Marlboro that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. EFFECTIVE DATE

The foregoing ordinance shall take effect immediately upon adoption by the Township and publication as required by law.

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

RESOLUTION # 2003-341

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

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 12:15am, Councilwoman Singer 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.

At 12:16am, Councilwoman Singer moved that the meeting be adjourned. This was seconded by Council President Karcher, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: December 11, 2003

OFFERED BY:	Denkensohn	AYES:	3
SECONDED BY:	Singer	NAYS:	0
			(Burrows & Rosen not eligible to vote)

ALIDA DE GAETA
MUNICIPAL CLERK

ELLEN KARCHER
COUNCIL PRESIDENT