

**REGULAR MEETING
OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF LITTLE FALLS
WAS HELD THIS EVENING IN THE MUNICIPAL BUILDING**

Monday, January 28, 2013

Council President John Vantuno called the meeting to order at 7:30 p.m. with the following members present: Louis Fontana, Joseph Maceri, Pamela Porter and Joseph Rento. Also present were Mayor Darlene Post, Township Attorney William Northgrave, Township Engineer Dennis Lindsay, Municipal Clerk William Wilk and Township Administrator Joanne Bergin.

Absent: None

Township Employees present: Construction Official Joseph Macones, Recreation Director John Pace, CMFO/Treasurer William Schaffner, DPW Superintendent Phillip Simone, Fire Chief Jack Sweezy and Deputy Municipal Clerk Cynthia Kraus

Following the Salute to the Flag, the Statement of Public Notice was read.

STATEMENT OF PUBLIC NOTICE: Take notice that adequate notice of this meeting was provided in accordance with N.J.S.A. 10:4-8 and N.J.S.A. 10:4-10 as follows: A notice of the meeting was prominently posted on the bulletin board at the Municipal Building, located at 225 Main Street, Little Falls, N.J. on January 8, 2013; a copy of the notice was faxed to the North Jersey Herald and News and The Record on the same date; additionally, a copy of the notice was filed in the office of the Township Clerk on said date.

APPOINTMENT OF MUNICIPAL ATTORNEY (Appointment by Mayor with Advice and Consent of Council) – It was moved by Councilmember Fontana, seconded by Councilmember Porter, that the Council approve the appointment of WILLIAM NORTHGRAVE as TOWNSHIP ATTORNEY

Poll: Ayes: Fontana, Porter, Rento and President Vantuno
 Nays: None

The Council President declared the motion passed.

INTRODUCTION AND CONVERSATION WITH CANDIDATES TO FILL COUNCIL VACANCY – Council President VANTUNO explained that the candidates to fill the vacant seat would come before the Council at this time to answer some questions. Mr. Wilk reminded that Mercedes Gonzalez previously resigned her position, and explained the process for filling a vacancy in detail.

Valerie Freda, explained that she has been a resident of Little Falls for 15 years and her son recently graduated from Passaic Valley High School. When he was in school, she was involved with the PTA; she was Vice President for two years. She was also involved with the LFFPA. She also coached the Little League team while her son was there and she recently became part of the Republican County Committee. She tries to be involved in town. She is concerned with taxes and flooding. She said she is interested in knowing more about how the town works. Councilmember FONTANA asked if there is anything that concerns her that she would like to fix. Ms. Freda said she would like to remedy the flooding issues, adding that this is a pressing matter.

Joseph Maceri, 119 Donato Drive, said he is honored and humbled to be here this evening. He explained that he has been married for over ten years with two children who are both a part of the community and involved in many sports. He has worked in town at Damiano Law Office for the last ten years. He and his wife have been very active in the community. Prior to working at the law office, he received his Bachelor's degree in Political Science at William Paterson University. He also received his Juris Doctorate at Michigan State Law School. He has been involved in public service since college He has been involved in many civic organizations and has volunteered for the last 20 years. He informed that he is currently the Vice Chairman for the Little Falls Republican Organization and a County Committee member. He is part of Governor Christie's Re-election Committee and is on the Passaic County Transition Team. He is a Vice President of Unico National; he served as their general counsel. He is also on the Executive Board for the LFAC. He would like to continue to work and try to make Little Falls a great place to raise his family.

Councilmember FONTANA asked if there is anything that concerns him that he would like to fix. Mr. Maceri said he would like to focus on taxes, explaining that it is very expensive to live in Little Falls, even though they have the second lowest tax rate in Passaic County. He said the officials should have a voice in the County and they must find more ways to generate revenue in town. He would like to work with the Council to find more ways to accomplish this.

William Organisciak, Yolanda Drive, explained that he has been a resident of Little Falls for five years, and has been attending all Council meetings. He informed that he has worked on the Technology Committee, he has worked with the Police Department and Joanne Bergin. He is humbled to have been chosen as a candidate to fill this seat. He explained that he would like to help those people who don't get involved or attend Council meetings and be their voice. In response to Councilmember FONTANA, he said he also would like to focus on taxes, adding that they must bring more revenue into town and build up Main Street. This will get the college kids to come to town and spend more money.

At this time, Council President VANTUNO explained that this vacancy will be filled for the remainder of this year. Therefore, an election will be held in November to fill the seat for the rest of the term, which will expire 12/31/14.

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Councilmember FONTANA nominated JOSEPH MACERI to fill this Council seat. It was seconded by Councilmember PORTER.

Poll: Ayes: Fontana, Porter, Rento and President Vantuno
Nays: None

The Council President declared the motion passed.

OATH OF OFFICE administered by Mayor Darlene Post, to Councilmember JOSEPH MACERI

APPROVAL OF MINUTES

It was moved by Councilmember Fontana, seconded by Councilmember Porter, that the Minutes of the meeting of December 17, 2012 be and they were approved.

Poll: Ayes: Fontana, Porter and President Vantuno
Nays: None
Abstain: Maceri and Rento

The Council President declared the motion passed.

REMARKS FROM CHAIR

Council President VANTUNO informed that the Clifton Health Department will be providing flu shots for everyone every Wednesday until March 27, 2013. He also wished to remind everyone that the department heads are now attending the meetings, and he asked each of them to introduce themselves by name and title at this time.

COUNCILMEMBER REPORTS

Councilmember RENTO thanked each of the candidates for putting themselves forward for consideration. He hoped no one would be discouraged and would continue to participate in any way possible. He also congratulated Councilmember Maceri.

Councilmember MACERI thanked Assemblyman Rumana for taking time to attend tonight's meeting. He thanked his family for supporting him and being here tonight as well, expressing special thanks to his wife. He also thanked the Mayor and Council for their vote of confidence, and said he hopes he can help to make this town great.

Councilmember PORTER congratulated Councilmember Maceri and Mr. Northgrave on their appointments. She also thanked Mr. Organisciak and Ms. Freda for coming before the Council for consideration. She also informed that the Municipal Alliance had their first meeting of the year; they are in the process of setting up new programs and getting to know each other. She informed that the Senior Citizen's Advisory Committee meeting will have their first meeting next month.

Councilmember FONTANA thanked Mr. Organisciak and Ms. Freda for coming out and putting themselves forward as candidates. He congratulated Councilmember Maceri and Mr. Northgrave, adding that he is looking forward to working together. He also informed that the Boy Scouts Local Troop 14 had their annual derby this past weekend. The winner was 9-year old Luke Baskinger, whose car went 222 miles per hour; he was the champion for the town. He congratulated him on his victory.

MAYOR'S REPORT

Mayor Post asked everyone to join her in a moment of silence for John Sokalski who was a member of Fire Company #3 for 35 years and was employed in the Recycling Department. She also thanked Mr. Organisciak and Ms. Freda for their willingness to want to serve the community. She congratulated Councilmember Maceri and Mr. Northgrave on their victories as well. She informed that she met with the committee for the old police building this past week and they discussed many options; no decisions have been made at this time. She informed that she attended the Installation Dinner for Fire Company #4 this past Saturday; she congratulated everyone. Mayor Post also informed that she is providing a copy of the Mayor's 2013 Budget to the Council, adding that the budget will be introduced on 2/11/13.

ATTORNEY'S REPORT

Mr. Northgrave had nothing to report.

ADMINISTRATOR'S REPORT

Mrs. Bergin reported as follows:

Transit Village Presentation

Thank you Council President Vantuno for the opportunity to update the council and public on the Township's efforts to work with the NJDOT to determine if the pursuit of a Transit Village designation is appropriate for our municipality.

I'll start by providing a brief overview of the Transit Village program. A designated Transit Village is a municipality that has been recommended for designation by a statewide interagency Transit Village Task Force. To qualify, the Township has to make a commitment to revitalizing and redeveloping the area around the train station into compact, mixed-use neighborhoods with a strong residential component. The area that makes up the Transit Village district is a half-mile radius around the train station. In order to be designated a Transit Village, the Township must document that there are multiple Transit Oriented Design projects planned for the area within the district.

A municipality can be designated a Transit Village only after much of the planning and background work has already been done. Before we invest the time and cost associated with tasking our professionals to complete Transit Village specific planning, it has been my position that we further examine this designation as one that would have a specific and real benefit to the Township. The advantages typically are the end result of the planning done as part of the application process. So, before we start planning, we first are working to determine if this program is right for our Town.

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I'd like to direct everyone to take a look at the large map on display – at the center is the Little Falls Train Station, which would be the designated transit hub location as required for any Transit Village designation. While we do have several bus stops in town, those do not qualify as hubs.

Traditionally, Transit Village designation covers a ½ mile radius. This radius is simply not going to be sufficient for any plans to use the Transit Village to connect train riders to the downtown, or to allow for the Township to complete extensive transit-oriented design in this area. Looking at the map, you will see that extending the radius to ¾ mile is most ideal as it will allow for planning and potential improvements to occur not only throughout the downtown area past Wilmore Road almost as far as Turnberry Road, but will also allow for planning heading west on Main Street past Route 23. At the NJDOT's standard ½ mile mark, only a small section of retail establishments would be included. This will create an unnecessary boundary for planning downtown enhancements and in implementing grant-funded programs that can only be used with the Transit Village designation scope. For example, if the Township put in a grant request for pavers, NJDOT funding would provide for those kinds of improvements only within the radius, leaving a significant portion of the retail district without improvements or continuing with them at a cost to the Township.

Additionally, by extending the radius, the Township can incorporate several potential reinvestment, traffic-oriented design study areas which will allow for the Township to facilitate a more transit- and pedestrian-supportive environment.

I made this same presentation to the Township's Planning Board in the summer, and secured the board's support for a radius extension request to the NJDOT. The Passaic County Planning Department provided its support of the radius extension request as well. In December, Michael Lysicatos from the County Planning Department, Planner Jeff Janota and myself made a presentation before the NJDOT's Development Opportunities Interagency Team otherwise known as the Transit Village Task Force.

The group was very engaged in understanding the Township's radius request, but indicated to apply for that formally would require planning documentation justifying that request from the perspective of transit-oriented design. With that, the Township has approved a contract for a Master Plan Re-examination. In that process, which we anticipate to get underway shortly, some of the planning components of this initiative will be addressed. It is my intent that the Master Plan update will provide the Township with sufficient updates and zoning changes that illustrate how to best build up the area around the train station while also identifying potential areas of redevelopment and identifying ways to enhance our retail areas.

Quarterly or as-needed updates on the Master Plan Re-examination will be provided to the Council and Public by either the Planner or myself. We will also update the NJDOT Task Force with our progress and encourage them to participate as needed with their areas of expertise. The goal is first to identify if this designation is right for our Town, and then if so, to pursue that with minimal expense.

At this time, Mr. Lindsay reported on some capital projects that will be coming to a close this year, and said the total cost of these projects was below the total amount approved by \$17,000. He further noted that the town received over \$460,000 from the NJDEP to offset these projects.

Essential Radio System Update

The matter we're discussing this evening goes back many years and I'll set the table for this presentation by first providing some facts:

Facts/conclusions:

1. The Township engaged the professional services of First Mile Technologies to develop the terms and parameters of a request for proposal in order to establish a town wide Essential Services Radio Integration Program.
2. Based on the recommendations of the consultant a Request for Proposal was advanced.
3. Pinnacle Wireless, Inc. was the only company that responded to the RFP.
4. A contract was awarded to Pinnacle by the governing body. What was signed referred to the RFP and Council Resolution of approval. All terms and conditions were therefore as set forth in the RFP. There was no detailed contract with terms, conditions, times for performance, etc.
5. There was no Performance Bond required by the RFP.
6. There was no subsequent contract with First Mile to allow it oversight of the installation. No other person employed by the Township was identified as having the necessary technical experience to manage the contract installation other than Township Administrator/Clerk William Wilk.
7. Following award of the contract, issues came to light which prevented the contracting parties to proceed as originally planned through the RFP. Specifically, the Township, through its project manager, Mr. Wilk, failed to secure permission to install new equipment at the Mill.
8. The planned integration of the existing equipment system and implementation of new equipment to create a town wide Essential Services Communications System was modified without benefit of a written change order indicating approval by the Township Administrator or Governing Body.
9. The equipment and all labor called for in the original request for proposal had been fully paid for by the municipality.
10. A town wide Emergency Communications system does not exist.
11. There is additional work necessary to be done in order to establish the town wide Emergency Communication System which Pinnacle states it is willing to undertake; however, Pinnacle regularly fails to participate in weekly progress update conference calls or deliver on requested materials.

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12. According to Pinnacle Wireless, all of the equipment purchased in connection with the original RFP as modified has been delivered and is on Township property.

Overview:

In July 2007, a \$610,000.00 bond was approved by the Governing Body. Its purpose was to fund a town wide Essential Radio Communications System for fire and police. A request for proposal of such a system produced a response by Pinnacle Wireless, Inc. A turnkey system was proposed which would include new equipment, integration of existing equipment and creation of a fully functional town wide Essential Services Communications System. Existing dead communication areas were to be eliminated. As of January 2013 the Bond funds had been fully disbursed. The system is not in place. There are still dead areas in the town. Most of the equipment described in the RFP is now in storage and has not been installed.

During the last ten years, approximately \$1,620,349.00 had been raised by two separate bonds and two FEMA Assistance to Firefighters Grant awards for the purpose of upgrading essential services communications. Despite the infusion of such funds, the Township of Little Falls still does not have a viable system in place.

The other matter that has components interplaying with this one is the construction of a monopole cell tower that commenced on property owned by the Great Notch Fire Company in 2009. Questions and complaints from residents to the governing body could not be addressed properly. There was limited information available, creating the need for further inquiry.

With that, the governing body authorized former Township Attorney Joseph Trapanese to commission a fact-finding investigation. The specific questions raised were:

1. Was the governing body aware that a permit for construction of a call tower at 170 Long Hill Road was issued;
2. Was the governing body apprised of the need for a cell tower to support emergency communications equipment;
3. How were the bond funds were disbursed;
4. Why isn't the town-wide communications system operational;
5. What became of the equipment purchased from Pinnacle?

The Township then retained the services of Nicholas Brindisi, Esq. to complete fact-finding reports that addressed these questions. As requested by the Governing Body as part of an administrative internal review of this matter, I reviewed the formal reports completed by Mr. Brindisi, as well as the entire contents of his files on the fact-finding mission. I also met Mr. Brindisi to discuss his work in detail. In his fact-finding process, Mr. Brindisi interviewed and documented discussions with Michael Hayford from Pinnacle, former Pinnacle employee Clifford Sessoms, Graham Davis of First Mile Solutions, Township Clerk William Wilk, and compiled other relevant materials including Planning Board minutes, an independent report complete by Ronald Sokalski, Township Council minutes, invoices from Pinnacle, the RFP and subsequent contract, correspondence from the police and fire departments; and various other correspondence that occurred during the more five years since the money was bonded and the fact-finding report was complete. Tonight's report will reference Mr. Brindisi's review and subsequent findings, followed up by the administrative internal review I conducted at the request of Mayor and Council. This report will also reference memos provided by Pier Con Solutions, an independent communications company hired by the Township in July 2011 to complete an unbiased report of the Essential Services Radio Integration Project RFP and the equipment purchased through that process.

Where we are today with the system: Most of the equipment acquired through this contract is in storage. The Fire Department transmitter is currently licensed at the Great Notch Fire Department on Long Hill Road and the Police Department transmitter is licensed at 300 Main Street. In its original design of the system both Fire and Police transmitters were to be located at the Great Notch Firehouse. In its re-design of the system, Pinnacle moved the main transmitter to Montclair State University and that's where new transmitter is currently located, but not licensed. Securing a license at this site is not feasible, and therefore, the transmitter must be moved back to Great Notch. It is the Township's expectation that this will be done by Pinnacle as part of their design. Great Notch will be the site of the main transmitter.

There are also three receiver sites necessary for the system to work. The receiver system is installed at the Fire Headquarters but will not be operational until the microwave loop can be completed (which will occur once a site is identified as needed). Currently the receivers are located at Great Notch and the transmitters are at MSU. Part of the license issue will require Pinnacle to swap equipment at these two sites. Both are already installed but need to be moved and will not be operational until the microwave loop is completed. A more detailed report on the township's options in terms of a location to close this loop will be held in February.

The equipment in storage includes dispatch consoles, receiver equipment needed for the Mill, antennas, additional microwave equipment and a logging recorder. All of this will be used in the coming months as we work to implement the system.

Currently the Fire Department uses a radio system that consists of several parts:

- A transmitter/repeater, 2 receiving sites and a radio console used by the dispatcher all located separate and apart from each other.
- These pieces of equipment are connected via radio tie lines (phone lines) that incur a monthly charge to the Township.

The equipment in use was purchased in 2004. The premise of the 2006 RFP Pinnacle project was both to replace the 2-year old equipment and to install a microwave link system to replace the radio tie lines. The microwave equipment would be purchased thereby eliminating the monthly recurring cost of the radio tie lines.

Graham Davis, the consultant hired by the Town to write the RFP, was aware of the equipment owned by the town, the topography of the town and the future needs of the town when he developed the RFP.

Pinnacle, who was awarded the project in 2006, was aware of these facts and based their response, pricing and equipment to be supplied on the RFP. It was only when the equipment began to be installed in 2009 that it became evident that:

- The Township had failed to obtain the permission to install equipment at some of the sites identified as necessary by Pinnacle.
- Some of the locations identified in the RFP were unsuitable for use with the equipment purchased. (Lattice tower could not support the equipment. Topography caused a re-design of the Civic Center, PD fire HQ loop and the Fire HQ to Great Notch link in favor of a MSU link).
- The additional expense to redesign, re-engineer and in some cases change equipment caused the 2008 final engineering report to be issued to address these changes.

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- The July 16, 2012 Exhibit B price sheet, when compared to the 2006 version supplied with the awarded RFP illustrates some the new costs incurred because of the changes.

PierCon was brought on to manage the Pinnacle project on behalf of the Township and ensure no further unnecessary losses were incurred while getting the system operational.

One whip antenna (State Police Emergency Network - SPEN) and several microwave panel antennas were installed by Pinnacle on the existing light-duty lattice tower at Great Notch Fire Department. That tower came down during Hurricane Sandy, forcing the Township to up its schedule to relocate all equipment to the new T-Mobile monopole tower. At the onset of the project there was no T-Mobile tower or University Hall at MSU. The lattice tower was to be used for the system that was proposed. Only when Pinnacle realized that the topography would not allow the system to work did the other sites come into play.

PierCon's recommendation to Pinnacle is to relocate the equipment to the Great Notch Fire Department. Pinnacle's opinion is that the light duty lattice is not structurally sound enough to hold the Township's equipment; however, they still proceeded to install their equipment on the lattice two years ago (albeit of lesser scale than originally planned). Pinnacle maintains it completed a structural engineering study of the tower, but has not provided that report to the Township or to PierCon as our consultant. Pinnacle has indicated it would resolve this by relocating everything off that light duty lattice. Pier Con is attempting to coordinate this with Pinnacle and T-Mobile.

There are essentially three parts to this radio project:

1. The new State Police Emergency Network (SPEN) transmitter, police and fire transmitter/repeaters.
2. The microwave network that connects the new transmitter/repeaters, receiving sites, old radio systems, back-up transmitters and the five dispatch consoles together. (This system would replace most of the leased radio tie lines - phone lines - that currently perform this function).
3. The installation of five dispatch consoles to control the transmitters, The Fire Department would replace their two 4- to 5-year old consoles currently in use. The PD (two) and OEM (one) would each get new consoles. These departments currently use control stations, mobile radios that activate the transmitter/repeaters, to talk on their frequencies.

Issues with the three main parts of the radio project:

1. The SPEN Transmitter at the Great Notch Firehouse does not appear to conform to the license restrictions regarding antenna height. The new Police and Fire transmitters/repeaters are not licensed and cannot be used (MSU site). The existing PD transmitter, which becomes the back up in the new system, is proposed to be connected through the new network not in a stand-alone configuration as with the FD backup. This means if the network goes down the PD backup is lost too.
2. Without the connectivity between the consoles, transmitters/repeaters receiving sites, old radio systems and the consoles the systems will not work.
3. The dispatch consoles that were purchased were designed by Pinnacle and are of a proprietary design. This would mean that they might not be able to be supported by another radio vendor in the future.

There are additional project issues, specifically that equipment was purchased but not delivered; two computer servers that were delivered are both out of warranty; a NICE brand voice-logging recorder order for the Police Department (does not record telephone lines, the server supplied is missing parts, annual maintenance contract required); no provision for communications directly with neighboring police and fire departments; wireless headsets missing from the dispatch consoles; coverage deficiency; a backup antenna system that isn't needed; base station antennas at an incorrect frequency; circuits installed are incorrect; and more issues related to pricing.

Administrative Review (Internal): At the heart of this matter are questions and concerns raised about the RFP, the contract award, the complete expenditure of the bond, and the lack of an installed system to show for that.

The file was taken to the Passaic County Prosecutor's Office, and as reported to Council in June of 2012, the Prosecutor's Office reviewed the matter and is not pursuing criminal charges, citing that this is an administrative issue to be handled by the Municipality. That information led to the Council to request an internal administrative review of the matter, which I have been working on since that time.

To assess the history, we will begin with the RFP process.

First Mile Technologies (Graham Davis) was the expert retained by the Township to develop the scope and terms of the anticipated RFP and received a fee of \$5,520 for that project, although there was no documented process on how the Township selected or hired this expert. Despite meeting with the Police Department prior to creating the RFP, the list of needs, equipment on hand, and a list of locations needing coverage were not addressed in the RFP. In the RFP, the contractor was to utilize existing equipment wherever possible. Regarding new equipment, the contractor was to "design the network, procure equipment, install equipment and test the network on a turnkey basis." The RFP also stated that the "Police Department may be rebuilt as a new facility in the future; therefore the system design shall accommodate this project in a planned non interruption manner." Additionally, the successful contractor was required to produce drawings and design documents. Such drawings and design documents were to be reviewed and approved by Little Falls Township prior to any physical work taking place. Such approvals did not relieve the contractor of any responsibility to provide a complete working radio communications system. The contractor was also instructed to issue a complete final report, including a written description of the system, locations, methods and test results including interpretation of test results, with graphical and tabular representatives of the findings. The final report was required to be delivered to Little Falls Township within 15 business days after all work is completed. These reports along with several exhibits (A1, A2, A3, C cited in the RFP) were never received by the Township. There was no time for performance set forth in the RFP or the contract, and it is clear that \$605,000.00 is the full and final price for design, installation and supply of a fully operational turnkey Essential Services Communications System.

Issues:

Immediately after the award there are deviations from the RFP from which the one-page contract was developed. The payment terms were 25% down payment, 25% upon delivery, 40% upon installation, 5% upon beneficial use and 5% upon system acceptance.

- In May 2008, Pinnacle was paid \$60,900.00 for "Progress billing – final systems engineering 10% milestone billing."

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- In December 2008, Pinnacle was paid \$91,350.00 for “progress billing – final balance due on down payment and \$91,350.000 for “Progress billing – 60% equipment delivery and storage, a total payment of \$182,700.00
- In June 2009, Pinnacle was paid \$243,500.00 for “Progress billing materials; \$12,500.00 for progress billing engineering; and \$48,500 for Progress billing – direct labor,” for a total payment of \$304,500.00.
- In June 2009, Pinnacle had been paid \$548,100.00. The price established in “Exhibit B” of the RFP dated 11/13/2006 was \$609,578.78. The new Exhibit B pricing dated July 16, 2010, presented by Pinnacle to the Town in response to then BA Matt Kazmierczak’s request, shows a new system total cost of \$601,228.31. There is a remaining balance of \$.031 according to this information.

Therefore, 99.9999% of the entire turnkey system was paid for - yet the system was not functioning and much of the listed equipment was not delivered or installed. Additionally, there is no connectivity between sites, the microwave locations cannot see one another therefore the equipment cannot talk to each other.

Despite this, Pinnacle submitted a bill in November 2009 “Project billing – final equipment delivery \$30,450.00 and system optimization \$22,678.00 for a total of \$53,128.00. This was considered the final payment and was paid by the Township. The final report and other deliverables required at the final payment phase were not delivered.

Had the RFP payment schedule been complied with, Little Falls would have been out of pocket \$304,784.40 versus the current amount out of pocket of \$601,228.00. There are no written change orders signed off by the Township which modified the RFP.

The bidding process was lacking for the following reasons:

- First Mile Solutions was paid for its services to prepare the RFP, but there was no contract.
- Graham Davis of First Mile Solutions consulted with the only bidder, Pinnacle Wireless, and utilized its knowledge and expertise in preparing a plan for implementation of the project.
- Consequently, Pinnacle was in a position whereby it had already prepared specifications prior to the start of the bidding process.
- The RFP only allowed a period of four days in which a bidder could submit an intention to bid.
- N.J.S.A. 40A:11-4.5d requires the administrator to prepare a report evaluating and recommending the award of this bid which must be submitted to the governing body and made available to the public. There is no record of a report prepared by Mr. Wilk.
- The proposed contract between the Township and successful bidder is a generic single page document which merely incorporated the terms of the proposal. The purpose of a contract is to precisely set forth obligations of each party in order that the intended result can be achieved. With this in mind, it would have been incumbent upon First Mile and Mr. Wilk to ensure certain basic protections were incorporated into the RFP, and if not, in the contract.
- The RFP indicates services were to commence on August 8, 2006. Pinnacle did not present a final engineering report until May 20, 2008. This report indicted completion would be 90 days from the release to proceed.
- On July 3, 2008, Mr. Wilk, in an email to Pinnacle, advised that the Township Council authorized it to proceed. There was no resolution from the governing body authorizing Pinnacle to proceed.
- The project is still incomplete. N.J.S.A. 49A: 11-17 required that all specifications for any public work shall fix a completion date and a provision allowing for a deduction from the contract price for each day beyond the completion date. These requirements were lacking in the RFP.

In my opinion, payment to Pinnacle presents a very serious concern. Verification of services provided is an important safeguard to ensure that the Township is paying for services properly rendered. N.J.S.A. 40A:5-16 mandates that a governing body not pay any money unless (1) the person claiming payment first present a detailed bill with a certification that payment is correct and (2) a duly designated employee of the local unit having knowledge of the facts certify that the goods have been received or that the services have been rendered. N.J.S.A. 2C:21-34 provides in sub-section (a) that a person commits a crime if the person knowingly submits to the government any claim for performance of a government contract knowing the claim is false, fictitious or fraudulent. In the invoices paid to Pinnacle, there is no list of equipment delivered or any explanation of storage charges which are not included in the RFP.

Having completed the administrative review as requested by Council, I cannot understand how the Township would have paid Pinnacle nearly in full and contrary to the terms of the RFP knowing the problems that existed with respect to lack of delivery and installation of equipment. In addition, there is no excuse whatsoever what the Township project file is this matter does not contain certain copies of vouchers, verifications and other significant documents.

Pinnacle’s response

In response to inquiries on why the payment schedule set forth in the RFP was disregarded, Mr. Hayford indicated that Pinnacle’s work was directed by then-Township Business Administrator/Clerk William Wilk, and that after the contract was awarded, the Township broke up the project into different factions which changed the terms. In addition, it was determined that the sites they anticipated to use were no longer available, specifically Great Notch Fire Company and the Mill. The existing lattice tower at Great Notch could not accommodate the necessary equipment. Pinnacle was advised by Mr. Wilk that T-Mobile was going to erect a cell tower at the site which would accommodate the necessary equipment. In July 2008, Pinnacle was advised to proceed. The equipment was delivered to Pinnacle and was programmed, assembled in cabinets where necessary, and staged for delivery. Mr. Hayford’s understanding was that the payments were approved by the Township because the project delays were not the fault of the vendor. Pinnacle further indicates it is still waiting for final instructions on which site will be used. In April 2011, at the request of former Township Administrator Henry Underhill, all of the equipment paid for and in Pinnacle’s possessions was delivered to Little Falls. This was done, because as of that date, nobody from the Township had ever requested delivery of the equipment and therefore could not really tell what was missing from the equipment that had been purchased.

Inquiry of William Wilk

While First Mile was paid more than \$5,000 to prepare the RFP, it was not asked to provide a recommendation on the vendor selected. Further, in regards to deviating from the payment schedule, Mr. Wilk indicated that following the award, Pinnacle advised that some changes were necessary. As there were further delays which were not the fault of the contractor, it was agreed that the municipality would pay Pinnacle the balance of the money due under contract. The litigation over the cell tower held up the use of the Great Notch location. No changes orders were used, but each time a change was made, Mr. Wilk indicated that the issue was raised with the Council and approved; therefore, he proceeded as directed by the governing body.

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Next steps

Proceed with PierCon to determine the best way to maximize the equipment we cannot return.

Proceed with PerCon to identify the optimal communications system.

Proceed with internal disciplinary action as needed.

Identify process and procedures as needed to ensure this could never happen again.

PUBLIC PORTION

It was moved by Councilmember Rento, seconded by Councilmember Fontana, that the meeting be and it was opened to the public.

Poll: Ayes: Fontana, Maceri, Porter, Rento and President Vantuno
 Nays: None

The Council President declared the motion passed.

George Stafford, Outreach Director for NJ Highlands Coalition, explained he was here to ask the Council pass a resolution at a future meeting to endorse the Highlands Act and Master Plan. He explained that a good deal of drinking water is received from the Highlands. This would be an indication to New Jersey and other municipalities that Little Falls supports the Highlands, who continues to provide free clean water. He explained that he could be contacted with any questions.

Ed Schumacher, 65 Woods Road, said he is interested in building 24 homes on Woods Road and he would like to start this Spring. However, he had some concerns of several houses on Woods Road that should be addressed for property maintenance issues, noting that one of them is owned by the bank. He also heard that the County is looking to widen Clove Road; he asked for the status of this. Referring to the Reassessment in town, he thinks this is an excellent idea. He also asked for guidance with regard to designating a street name, and said he would like feedback while he is doing his construction in order to be efficient.

Louis Fernandez, 54 Harrison Street, said the process for selecting a candidate seemed orchestrated. He said all of the candidates said they were active in Little Falls and they were Republicans. He explained that in a democracy, the candidate who takes the most votes would be the winner.

Dorothy O'Haire called a point of information.

Council President VANTUNO explained that the process requires for a Republican candidate to be considered, since the vacant seat was that of a Republican.

Mr. Fernandez also questioned a resolution on this evening's agenda.

Dorothy O'Haire, Turnberry Road, added to Mr. Stafford's comments about the Highlands, explaining that the whole Passaic Basin is 935 square miles. She voiced her opinion that they cannot let anymore development take place. She also pointed out that most of the run-off comes through Little Falls and over Beattie's Dam. She said she is in favor of this resolution.

Brian Reynolds, 7 Notch Road, questioned two resolutions on tonight's agenda. Regarding the elimination of the second public portion, he hoped this would be reinstated, as it is a great form of communication with the residents. Regarding new ratables, he voiced his opinion that 24 new homes on Woods Road will not bring more into town. He suggested that the Council continue to consider cutting the spending in town.

No one further having come forward to be heard, it was moved by Councilmember Rento, seconded by Councilmember Fontana, that the meeting be and it was closed to the public.

Poll: Ayes: Fontana, Porter, Rento and President Vantuno
 Nays: None

The Council President declared the motion passed.

Mr. Macones said he is familiar with these houses on Woods Road and said he will look into the status of each one again. He was aware that there have been some foreclosure and property maintenance issues in that area, noting that there has been contact with the mortgage companies to keep the properties maintained. The only other way to remedy the situation is for the town to spend the money to do it. Council President VANTUNO recommended that Mr. Schumacher meet with Mr. Macones to discuss this further.

Mr. Lindsay explained that the Clove Road project was up for consideration by the Council for several reasons. He informed that there was an issue at the intersection of Clove and Long Hill Road and that there were proposals by the County, which were reviewed by the Township and residents. The plan to make Clove a one-way was the least impactful to the residents in that area. He elaborated on the project further, adding that the Council has approved this plan.

Mrs. Bergin said Mr. Schumacher should reach out to the Township Clerk, who will notify other departments regarding road name suggestions from Mr. Schumacher.

Mayor Post explained to Mr. Fernandez that according to the State Statute, the Council seat vacancy must be filled by a Republican, as it was vacated by a republican. The three candidates that were here this evening, presented themselves to the Republican Committee for consideration.

Mrs. Bergin provided a detailed explanation of the report on this evening's agenda from the Bond Counsel regarding bond anticipation notes.

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CONSENT AGENDA

All items on the Consent Agenda were considered to be routine and were enacted with a single motion. Any items under REQUISITIONS carried a Treasurer’s certification as to sufficiency of funds.

REPORTS

CERTIFICATE OF ISSUANCE FROM BOND COUNSEL FOR A \$3,333,000 BOND ANTICIPATION NOTE, A \$790,000 TAX APPEAL REFUNDING BOND ANTICIPATION NOTE AND A \$175,000 SPECIAL EMERGENCY NOTE

APPLICATIONS

NJ State Firemen’s Association – Lauren E. VanderKooy, Whippany Avenue, Woodland Park, Eagle Rescue Squad
- Michael J. Szewczyk, Woods Road, Little Falls Fire Department

Little Falls Fire Department Auxiliary – Steven Wojnicz, Woodland Drive, Woodland Park, Enterprise Fire Co. #2

Blue Light Permit – Paul Holzach, Viewmont Terrace, Little Falls Fire Department

Raffle – Fairfield Home & School Association, Off-Premise 50/50, 2/1/13-4/26/13, 6:00 p.m. – 11:00 p.m.
- Fairfield Home & School Association, Tricky Tray, 4/26/13, 6:00 p.m. – 11:00 p.m.

RESOLUTIONS

Refund of 2012 Property Taxes

RESOLUTION [A] 13-01-28#1

WHEREAS, there is a State Tax Court Judgment on Block 67 Lot 36, known as Curcio Family LLC of 440 Main St for the Year 2012 reducing the assessed value by \$406,700.00;

YEAR 2012

Original Assessment	\$1,138,800.00
STCJ	<u>900,000.00</u>
Difference	\$238,800.00
2012 Tax Rate	x <u>2.30%</u>
	\$5,492.40

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$5,492.40 for the Year 2012 payable to Alfred V. Acquaviva, Esq., and forwarded to Alfred V. Acquaviva, Esq., 100 Hamilton Plaza, Suite 1212, Paterson, NJ 07505; and

WHEREAS, the above monies **shall be refunded on or before February 14, 2013** as per the Stipulation of Settlement dated June 8, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was December 14, 2012);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney and taxpayer be refunded the total amount of \$5,492.40 for the overpayment of taxes due to a State Tax Court Judgment on Block 67 Lot 36.

RESOLUTION [B] 13-01-28#2

WHEREAS, there is a State Tax Court Judgment on Block 89 Lot 5.04, known as 175 Paterson Ave., L.L.C. NJ of 175 Paterson Ave for the Year 2012 reducing the assessed value by \$315,400.00;

YEAR 2012

Original Assessment	\$1,815,400.00
STCJ	<u>1,500,000.00</u>
Difference	\$315,400.00
2012 Tax Rate	x <u>2.30%</u>
	\$7,254.20

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$7,254.20 for the Year 2012 payable to Brach Eichler L.L.C. and 175 Paterson Ave, LLC NJ, and forwarded to Daniel J. Pollak, Esq., Brach Eichler LLC, 101 Eisenhower Parkway, Roseland, NJ 07068-1067; and

WHEREAS, the above monies **shall be refunded on or before February 14, 2013** as per the Stipulation of Settlement dated June 11, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was December 14, 2012);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney and taxpayer be refunded the total amount of \$7,254.20 for the overpayment of taxes due to a State Tax Court Judgment on Block 89 Lot 5.04.

RESOLUTION [C] 13-01-28#3

WHEREAS, there is a State Tax Court Judgment on Block 93 Lot 1, known as First Savings & Loan Assoc/VNB of 1 Center Ave for the Year 2012 reducing the assessed value by \$255,600.00;

YEAR 2012

Original Assessment	\$1,080,600.00
STCJ	<u>825,000.00</u>
Difference	\$255,600.00
2012 Tax Rate	x <u>2.30%</u>
	\$5,878.80

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$5,878.80 for the Year 2012 payable to Brach Eichler L.L.C. and First Savings & Loan Association c/o VNB, and forwarded to Daniel J. Pollak, Esq., Brach Eichler LLC, 101 Eisenhower Parkway, Roseland, NJ 07068-1067; and

WHEREAS, the above monies **shall be refunded on or before February 14, 2013** as per the Stipulation of Settlement dated June 4, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was December 14, 2012);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney and taxpayer be refunded the total amount of \$5,878.80 for the overpayment of taxes due to a State Tax Court Judgment on Block 93 Lot 1.

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RESOLUTION [D] 13-01-28#4

WHEREAS, there is a State Tax Court Judgment on Block 97 Lot 11, known as First Savings & Loan Assoc/VNB of 115 Main St for the Year 2012 reducing the assessed value by \$406,700.00;

YEAR 2012

Original Assessment	\$2,182,100.00
STCJ	<u>1,775,400.00</u>
Difference	\$406,700.00
2012 Tax Rate	x 2.30%
	\$9,354.10

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$9,354.10 for the Year 2012 payable to Brach Eichler L.L.C. and First Savings & Loan Association and/or Valley National Bank, and forwarded to Daniel J. Pollak, Esq., Brach Eichler LLC, 101 Eisenhower Parkway, Roseland, NJ 07068-1067; and

WHEREAS, the above monies shall be refunded on or before February 14, 2013 as per the Stipulation of Settlement dated June 4, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was December 14, 2012);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney and taxpayer be refunded the total amount of \$9,354.10 for the overpayment of taxes due to a State Tax Court Judgment on Block 97 Lot 11.

Refund of 2011 Property Taxes

RESOLUTION [E] 13-01-28#5

WHEREAS, there is a State Tax Court Judgment on Block 193 Lot 1, known as PAR3 LLC of Rose St for the Year 2011 reducing the assessed value by \$916,000.00;

YEAR 2011

Original Assessment	\$12,457,600.00
STCJ	<u>11,541,600.00</u>
Difference	\$916,000.00
2011 Tax Rate	x 2.145%
	\$19,648.20

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$19,648.20 for the Year 2011 payable to Lum, Drasco & Positan LLC, and forwarded to Steven J. Eisenstein, Esq., c/o Lum, Drasco & Positan LLC, 103 Eisenhower Parkway, Roseland, NJ 07068-1049; and

WHEREAS, the above monies shall be refunded on or before February 14, 2013 as per the Stipulation of Settlement dated July 17, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was December 14, 2012);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney be refunded the total amount of \$19,648.20 for the overpayment of taxes due to a State Tax Court Judgment on Block 193 Lot 1.

Refund of 2012 Property Taxes

RESOLUTION [F] 13-01-28#6

WHEREAS, there is a State Tax Court Judgment on Block 193 Lot 1, known as PAR3 LLC of Rose St for the Year 2012 reducing the assessed value by \$1,740,400.00;

YEAR 2012

Original Assessment	\$12,457,600.00
STCJ	<u>10,717,200.00</u>
Difference	\$1,740,400.00
2012 Tax Rate	x 2.30%
	\$40,029.20

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$40,029.20 for the Year 2012 payable to Lum, Drasco & Positan LLC, and forwarded to Steven J. Eisenstein, Esq., c/o Lum, Drasco & Positan LLC, 103 Eisenhower Parkway, Roseland, NJ 07068-1049; and

WHEREAS, the above monies shall be refunded on or before March 11, 2013 as per the Stipulation of Settlement dated July 17, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was January 11, 2013);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney be refunded the total amount of \$40,029.20 for the overpayment of taxes due to a State Tax Court Judgment on Block 193 Lot 1.

Refund of 2011 Property Taxes

RESOLUTION [G] 13-01-28#7

WHEREAS, there is a State Tax Court Judgment on Block 193 Lot 4, known as PAR3 LLC of 151 Browertown Rd for the Year 2011 reducing the assessed value by \$44,400.00;

YEAR 2011

Original Assessment	\$528,800.00
STCJ	<u>484,400.00</u>
Difference	\$44,400.00
2011 Tax Rate	x 2.145%
	\$952.38

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$952.38 for the Year 2011 payable to Lum, Drasco & Positan LLC, and forwarded to Steven J. Eisenstein, Esq., c/o Lum, Drasco & Positan LLC, 103 Eisenhower Parkway, Roseland, NJ 07068-1049; and

WHEREAS, the above monies shall be refunded on or before February 14, 2013 as per the Stipulation of Settlement dated July 17, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was December 14, 2012);

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NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney be refunded the total amount of \$952.38 for the overpayment of taxes due to a State Tax Court Judgment on Block 193 Lot 4.

Refund of 2012 Property Taxes

RESOLUTION [H] 13-01-28#8

WHEREAS, there is a State Tax Court Judgment on Block 193 Lot 4, known as PAR3 LLC of 151 Browertown Rd for the Year 2012 reducing the assessed value by \$79,000.00;

YEAR 2012

Original Assessment	\$528,800.00
STCJ	<u>449,800.00</u>
Difference	\$79,000.00
2012 Tax Rate	x 2.30%
	\$1,817.00

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$1,817.00 for the Year 2012 payable to Lum, Drasco & Positan LLC, and forwarded to Steven J. Eisenstein, Esq., c/o Lum, Drasco & Positan LLC, 103 Eisenhower Parkway, Roseland, NJ 07068-1049; and

WHEREAS, the above monies **shall be refunded on or before March 11, 2013** as per the Stipulation of Settlement dated July 17, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was January 11, 2013);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney be refunded the total amount of \$1,817.00 for the overpayment of taxes due to a State Tax Court Judgment on Block 193 Lot 4.

Refund of 2011 Property Taxes

RESOLUTION [I] 13-01-28#9

WHEREAS, there is a State Tax Court Judgment on Block 194 Lot 2.01, known as PAR5 LLC of 171 Browertown Rd for the Year 2011 reducing the assessed value by \$157,200.00;

YEAR 2011

Original Assessment	\$2,131,200.00
STCJ	<u>1,974,000.00</u>
Difference	\$157,200.00
2011 Tax Rate	x 2.145%
	\$3,371.94

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$3,371.94 for the Year 2011 payable to Lum, Drasco & Positan LLC, and forwarded to Steven J. Eisenstein, Esq., c/o Lum, Drasco & Positan LLC, 103 Eisenhower Parkway, Roseland, NJ 07068-1049; and

WHEREAS, the above monies **shall be refunded on or before February 14, 2013** as per the Stipulation of Settlement dated July 17, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was December 14, 2012);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney be refunded the total amount of \$3,371.94 for the overpayment of taxes due to a State Tax Court Judgment on Block 194 Lot 2.01.

Refund of 2012 Property Taxes

RESOLUTION [J] 13-01-28#10

WHEREAS, there is a State Tax Court Judgment on Block 194 Lot 2.01, known as PAR5 LLC of 171 Browertown Rd for the Year 2012 reducing the assessed value by \$298,200.00;

YEAR 2012

Original Assessment	\$2,131,200.00
STCJ	<u>1,833,000.00</u>
Difference	\$298,200.00
2012 Tax Rate	x 2.30%
	\$6,858.60

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$6,858.60 for the Year 2012 payable to Lum, Drasco & Positan LLC, and forwarded to Steven J. Eisenstein, Esq., c/o Lum, Drasco & Positan LLC, 103 Eisenhower Parkway, Roseland, NJ 07068-1049; and

WHEREAS, the above monies **shall be refunded on or before March 11, 2013** as per the Stipulation of Settlement dated July 17, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was January 11, 2013);

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney be refunded the total amount of \$6,858.60 for the overpayment of taxes due to a State Tax Court Judgment on Block 194 Lot 2.01.

RESOLUTION [K] 13-01-28#11

WHEREAS, there is a State Tax Court Judgment on Block 251 Lot 9, known as Mandelbaum & Krupnick LLC of 475 Route 46 East for the Year 2012 reducing the assessed value by \$314,100.00;

YEAR 2012

Original Assessment	\$2,514,100.00
STCJ	<u>2,200,000.00</u>
Difference	\$314,100.00
2012 Tax Rate	x 2.30%
	\$ 7,224.30

WHEREAS, the Tax Collector authorizes the Treasurer to refund the total amount of \$7,224.30 for the Year 2012 payable to Mandelbaum & Krupnick, LLC, Plaintiff and/or The Irwin Law Firm, P.A., as attorneys for to "Mandelbaum & Krupnick, LLC, Plaintiff" and forwarded to The Irwin Law Firm, P.A., 80 Main Street, Suite 410, West Orange, NJ 07052; and

WHEREAS, the above monies **shall be refunded on or before February 14, 2013** as per the Stipulation of Settlement dated October 9, 2012, states whereas statutory interest shall be waived if paid 60 days of the date of entry of the Tax Court Judgment (date of entry was December 14, 2012);

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NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the above attorney and taxpayer be refunded the total amount of \$7,224.30 for the overpayment of taxes due to a State Tax Court Judgment on Block 251 Lot 9.

NJ State Dept. Of Health – Dog License Fees

RESOLUTION [L] 13-01-14 - #12

BE IT RESOLVED by the Township Council of the Township of Little Falls, the Treasurer having certified to the availability of funds, that the Mayor, Clerk and Treasurer be and they are hereby authorized and directed to issue a check in the amount of:

\$243.60

payable to:

NJ State Dept. of Health

representing payment of State dog license fee, license Nos. 171 to 338 for the month of July 2012.

NJ Motor Vehicle Commission

RESOLUTION [M] 13-01-28 - #13

WHEREAS, the Little Falls Police Division has vehicles that require salvaged titles; and

NOW, THEREFORE, BE IT RESOLVED, the Treasurer is hereby authorized to issue two (2) individual checks in the amount of \$2.00 each to the New Jersey Motor Vehicle Commission to cover the cost of said salvaged titles: \$4.00

Reserve Account

RESOLUTION [N] 13-01-28 - #14

BE IT RESOLVED by the Township Council of the Township of Little Falls, the Treasurer having certified to the availability of funds therefor that the Mayor, Clerk and Treasurer be and they are hereby authorized and directed to issue a check in the amount of:

\$5,000.00

payable to:

Reserve Account

representing the replenishing of postage account maintained for telephone refill of the postage meter.

NJ Transit – Annual Occupancy Permit

RESOLUTION [O] 13-01-28 - #15

BE IT RESOLVED by the Township Council of the Township of Little Falls, the Treasurer having certified to the availability of funds therefor that the Mayor, Clerk and Treasurer be and they are hereby authorized and directed to issue a check in the amount of:

\$972.00

payable to:

NJ Transit

P.O. Box 1549

Newark, New Jersey 07101-1549

representing payment of Lease/Permit for 1/21/13 – 1/20/14 – Permit #P1607-1809-01.

Welfare

RESOLUTION [P] 13-01-28 - #16

BE IT RESOLVED by the Township Council of the Township of Little Falls, the Treasurer having timely certified to the availability of funds therefor, that the action of the Mayor, Clerk and Treasurer in issuing checks in the amount of:

\$2,398.00

payable to:

Welfare Client #73

representing payment of Living Expenses and Self-Care for the months of December 2012 and January 2013 be and the same is hereby authorized and ratified.

Little Falls Public Library – 1st Quarter 2013 Funds

RESOLUTION [Q] 13-01-28 - #17

BE IT RESOLVED by the Township Council of the Township of Little Falls, the Treasurer having certified to the availability of funds therefor that the Mayor, Clerk and Treasurer be and they are hereby authorized and directed to issue a check in the amount of:

\$147,858.00

payable to:

Little Falls Public Library

representing payment of 1st quarter 2013 funds.

It was moved by Councilmember Fontana, seconded by Councilmember Vantuno, that the Consent Agenda be approved as printed.

Poll: Ayes: Fontana, Porter, Rento and President Vantuno
 Nays: None
 Abstain: Maceri

The Council President declared the motion passed.

REGULAR AGENDA

The following items were individually considered.

INTERDEPARTMENTAL

Tax Collector – It was moved by Councilmember Fontana, seconded by Councilmember Porter, that the Council approve the following:

RESOLUTION [R] 13-01-28#18

WHEREAS, the Tax Collector has scheduled her 2013 Annual Tax Sale for 2012 unpaid taxes on Wednesday, April 17, 2013; and **WHEREAS**, certified funds are required at the conclusion of the tax sale from all successful bidders; and

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WHEREAS, the Tax Collector at the conclusion of the tax sale postpones the sale for a specified time so that the bidders return with certified funds; and

WHEREAS, the Tax Collector may accept if authorized by the Township Council wire transfers for payments at the close of tax sales which are considered an acceptable form of "cash" payment; and

WHEREAS, wired funds refers to direct deposit of funds from a payors bank account directly into an account controlled by the municipality; and

WHEREAS, the Tax Collector is seeking that the Council grant her the authority to accept wire transfers only from successful bidders at the conclusion of the tax sale; wire transfers would be limited to this practice only and not exercised for tax payments during the remainder of the calendar year; and

WHEREAS, the wire transfers would consist of tax monies and/or premium monies from successful bidders; and

WHEREAS, the Tax Collector should follow through with all of the required procedures dealing with bank wires with the purchasers (bidders); and

WHEREAS, the Tax Collector would consult with our CMFO/Treasurer regarding the banking information to be provided to the buyers planning to utilize wire transfers along with the viewing of the Township's bank accounts for all wired transfer deposits;

NOW, THEREFORE BE IT RESOLVED by the Township Council of Little Falls on this 28th day of January 2013 that the governing body authorizes the Tax Collector to accept bank wired funds for cash payments which include tax and premium payments at her 2013 Annual tax sale on April 17, 2013 from successful bidders only.

Poll: Ayes: Fontana, Porter, Rento and President Vantuno
 Nays: None
 Abstain: Maceri

The Council President declared the motion passed.

NEW BUSINESS

Authorizing Change Order to 4 Clean-Up for Morris Canal Roadway Improvements – It was moved by Councilmember Porter, seconded by Councilmember Fontana, that the Council approve the following:

RESOLUTION [S] 13-01-28 - #19

WHEREAS, the Township of Little Falls awarded a contract to 4 Clean-Up, North Bergen, NJ for Roadway Improvements - Morris Canal Bikeway in the amount of \$353,759.80; and

WHEREAS, two (2) earlier change orders increased the contact amount by a total of \$11,606.00; and

WHEREAS, the Township Engineer is hereby submitting a third change order reducing the cost by \$35,253.45,

NOW THEREFORE BE IT RESOLVED that the total of all change orders have resulted in a decrease in the contract price of \$23,647.45 and the final contract price shall be \$330,112.35,

BE IT FURTHER RESOLVED, a total of \$288,166.40 was previously billed and paid leaving a balance on the contract of \$41,945.95 which is hereby authorized for payment.

Mr. Lindsay provided an explanation of this resolution.

Poll: Ayes: Fontana, Porter, Rento and President Vantuno
 Nays: None
 Abstain: Maceri

The Council President declared the motion passed.

Ordinance No. 1167 – It was moved by Councilmember Fontana, seconded by Councilmember Porter, that there be introduced and the meeting of February 11, 2013 set as the date and time for public hearing on the following:

Ordinance No. 1167

AN ORDINANCE AMENDING §7-13 OF THE TOWNSHIP CODE

Chapter 7 of the Township Code of the Township of Little Falls is hereby amended to prohibit parking on the following streets as follows:

- a. Micklejohn Avenue, between Main Street and Woodcliff Avenue, on the westerly side;
- b. Mozart Avenue, between Clarence Avenue and Pleasant Avenue, on the southerly side;
- c. Pleasant Avenue, between Main Street and Woodcliff Avenue, on the westerly side;
- d. River Boulevard, between Main Street and the Passaic River, on the westerly side;
- e. Stinson Place, between Main Street and Woodcliff Avenue, on the westerly side;
- f. Taylor Avenue, between Main Street and Woodcliff Avenue, on the westerly side;
- g. Woodcliff Avenue, from Main Street to the Easterly dead-end, on the southerly side;
- h. Cherry Street, between Clarence Avenue and River Boulevard, on the northerly side;
- i. Garrabrant Avenue, from Woodcliffe Avenue to the Passaic River, on the easterly side;
- j. Riker Avenue, from Woodcliffe Avenue to the Passaic River, both sides of the street

In response to Council members RENTO and PORTER Chief Dmuchowski provided clarification of this ordinance. He explained that there are exemptions for someone who does not have a driveway and he is sure they will keep this in place moving forward. Mr. Lindsay informed that they looked at several areas in making a recommendation on the parking regulations with regard to emergency vehicles, etc. The Council is simply approving standard guidelines.

Poll: Ayes: Fontana, Maceri, Porter, Rento and President Vantuno
 Nays: None

The Council President declared the motion passed.

Ordinance No. 1168 – It was moved by Councilmember Porter, seconded by Councilmember Fontana, that there be introduced and the meeting of February 11, 2013 set as the date and time for the public hearing on the following:

ORDINANCE NO. 1168

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER VII, ARTICLE 1, SECTION 7-30 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF LITTLE FALLS REGARDING MID-BLOCK CROSSWALKS

Be it ordained by the Township Council of the Township of Little Falls in the County of Passaic, and State of New Jersey Chapter VII, Article 1, Section 7-30 of the Revised General Ordinances of the Township of Little Falls is hereby amended and supplemented to add a third Mid-Block Crosswalk.

**Section A - Add
Name of Street**

Location

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Clove Road
(aka Passaic County Route 620) southernmost signalized driveway for the NJ Transit garage to the north edge of the crosswalk having a width of approximately 10' and crossing Clove Road at approximately a right angle to the curb line

Along the eastern curb of Clove Road, beginning at a point 1,150 feet south of the

Section B - Add
The following sentence:

“In addition, the Clove Road crosswalk shall have flashing beacon signs installed on both the northbound and southbound lanes prior to the crosswalk.

Mr. Simone explained this ordinance, noting that MSU is looking to have a crosswalk with flashing lights. The County advised that this must be approved by Municipal Ordinance. The crosswalk will be fully maintained by the college with no impact to the Township.

Poll: Ayes: Fontana, Maceri, Porter, Rento and President Vantuno
Nays: None

The Council President declared the motion passed.

Ordinance No. 1169 – It was moved by Councilmember Fontana, seconded by Councilmember Porter, that there be introduced and the meeting of February 11, 2013 set as the date and time for the public hearing on the following:

**ORDINANCE NO. 1169
ORDINANCE OF THE TOWNSHIP OF LITTLE FALLS GRANTING PERMISSION TO UNITED FEDERAL DATA, LLC TO PLACE CERTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE TOWNSHIP OF LITTLE FALLS**

WHEREAS, United Federal Data has been approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State of New Jersey by Order of Approval in Docket No. TE12070645 dated September 13, 2012; and

WHEREAS, pursuant to such authority granted by the Board of Public Utilities, United Federal Data may locate, place, attach, install, operate and maintain facilities within public rights-of-way for purposes of providing telecommunications services; and

WHEREAS, United Federal Data proposes to attach or install its telecommunications fiber optic cable on existing poles owned by Verizon and Public Service Electric and Gas located in the public rights-of-way within the Township; and

WHEREAS, United Federal Data seeks the non-exclusive use of the public rights-of-way within the Township for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

WHEREAS, in accordance with N.J.S.A. 48:17-10, United Federal Data has requested the consent of the Township to use and occupy its public rights-of-way.

NOW THEREFORE BE IT ORDAINED, by the Municipal Council of the Township of Little Falls, in the County of Passaic, State of New Jersey, as follows:

Section 1. Grant of Permission.

The Municipal Council hereby grants permission and consents to the non-exclusive use of its rights-of-way for a period of 15 years by United Federal Data, which term may be extended for additional periods of five years each provided United Federal Data provides written notice to the Township prior to the expiration of the applicable period that it is confirming the further extension with the Township. Any extension shall be subject to any new regulations and/or restriction enacted by the State of New Jersey and/or Township ordinance. The non-exclusive grant shall in no way prevent or prohibit the Township from using any of its roads, streets or other public properties or affect its jurisdiction over them or any part of them, and the Township shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, and/or dedication of same as the Township may deem fit, including the dedication, establishment, maintenance, and improvement of all new rights-of-ways, thoroughfares and other public properties of every type and description.

Section 2. Condition of Grant of Public Street Rights-of-Way.

The grant of the Township’s public rights-of-way shall be solely for the purpose of providing telecommunications service.

Section 3. Location of Facilities.

The telecommunications facilities to be installed in the public rights-of-way shall be installed at the sole cost and expense of United Federal Data and shall be located within the Township as set forth by the company in their request to the Township.

Section 4. Work in the Rights-of-Way.

All work conducted by United Federal Data shall be in conformance with all applicable Federal, State, County and Township laws, ordinances, rules, regulations and requirements for use and safety of the public rights-of-way, and shall comply with all Federal , State, County and Township laws, ordinances, rules, regulations and requirements, requiring permits, inspections, and certificates prior to, during and at the completion of construction, all as specifically set forth in a Rights-of-Way Agreement to be executed by United Federal Data and the Township.

Section 5. Insurance and Indemnification.

United Federal Data shall maintain insurance coverage and provide indemnification to the Township as specifically set forth in a Rights-of-Way Agreement to be executed by United Federal Data and the Township.

Section 6. Abandonment and Removal of Telecommunication Facilities.

No part of the telecommunication system laid in the rights-of-way may be abandoned by United Federal Data without the express written consent of the Township. Any plan of abandonment or removal, must be first approved by the Township and all necessary permits must be obtained prior to such work.

Section 7. Payment of Reasonable Costs.

United Federal Data shall compensate the Township for its reasonable costs, not to exceed \$2,500, incurred for its professional, legal and engineering work and review and other reasonable costs and services rendered by the Township in connection with United Federal Data’s request pursuant to N.J.S.A. 54:30A-124.

Section 8. This Ordinance shall take effect in accordance with all applicable laws.

Mr. Northgrave provided an explanation of this ordinance.

Poll: Ayes: Fontana, Maceri and Porter
Nays: Rento and President Vantuno

The Council President declared the motion passed.

Appoint Tax Appeal Attorney – It was moved by Councilmember Rento, seconded by Councilmember Fontana, that the Council approve the following:

Meeting of January 28, 2013

RESOLUTION [T] 13-01-28 - #20
 AUTHORIZING THE AWARD OF FAIR AND OPEN CONTRACT FOR
 PROVISION OF SERVICES OF TAX APPEAL ATTORNEY FOR 2013

WHEREAS, the Township of Little Falls has a need to acquire the services of a Tax Appeal Attorney as a FAIR AND OPEN CONTRACT pursuant to N.J.S.A. 19:44A-20.5; and
 WHEREAS, it is expected that the value of the acquisition of these services will exceed \$17,500; and
 WHEREAS, the term of the contract is one year; and
 WHEREAS, Boggia & Boggia, LLC has submitted a response to the Township’s Request for Qualifications for provision of services of a Tax Appeal Attorney and the submission clearly details Boggia & Boggia, LLC’s qualifications and experience; and
 WHEREAS, the award is subject to the Availability of Funds and certification of same in the 2013 budget;
 NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Little Falls authorizes the Mayor to enter into a contract with Philip N. Boggia of the firm of Boggia & Boggia, LLC for the services as described herein; and
 BE IT FURTHER RESOLVED that the Township Clerk is authorized and directed to cause notice to be published in the newspaper once in accordance with the provisions of statute.
 BE IT FURTHER RESOLVED by the Township Council of the Township of Little Falls that, based on the recommendation of the Mayor, that Philip N. Boggia of the firm of Boggia & Boggia, LLC be and are hereby appointed for the services of Tax Appeal Attorney for the Township of Little Falls for a one-year term ending December 31, 2013.

Mrs. Bergin provided an explanation of this resolution.

Poll: Ayes: Fontana, Maceri, Porter, Rento and President Vantuno
 Nays: None

The Council President declared the motion passed.

Authorizing Transfers in the 2012 Budget – It was moved by Councilmember Fontana, seconded by Councilmember Vantuno, that the Council approve the following:

RESOLUTION [U] 13-01-28 #21

WHEREAS, Title 40:4-58 of the New Jersey Statutes provides that should it become necessary, during the first three months of the reserve year to expend for any of the purposes specified in the budget an amount in excess of the respective sums appropriated therefore and there shall be an excess in any appropriation over and above the amount claimed to be necessary to fulfill the purpose of such appropriation, the Governing Body may by resolution setting forth the facts (adopted by not less 2/3 vote of the full membership thereof), transfer the amount of such excess of those appropriations deemed to be insufficient.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Township of Little Falls, not less than 2/3 of the members thereof affirmatively concurring, that the Treasurer be and is authorized to make the following transfers in the 2012 Budget Appropriations:

<u>Current Fund</u>	<u>To</u>	<u>From</u>		
Legal O/E		\$47,000		
Water	315			
Planning Board O/E			6,000	
DPW S&W				1,815
Gas & Electric				7,000
Street Lighting			1,000	
Diesel				7,300
Gasoline			4,000	
Landfill/Solid Waste Disposal Costs			20,200	

				\$47,315
				\$47,315

Mr. Schaffner provided an explanation of this resolution.

Poll: Ayes: Fontana, Porter, Rento and President Vantuno
 Nays: None
 Abstain: Maceri

The Council President declared the motion passed.

PAYMENT OF BILLS

It was moved by Councilmember Fontana, seconded by Councilmember Rento, that the Council approve the following:

RESOLUTION [BL]

BE IT RESOLVED by the Township Council of the Township of Little Falls the Council having received the Treasurer’s certification of the availability of funds for payment of all bills presented, that payment of all bills approved by the Finance Committee be and is hereby authorized, subject to the availability of funds and subject to the appropriate and available appropriation in the line item.

Poll: Ayes: Fontana, Porter, Rento and President Vantuno
 Nays: None
 Abstain: Maceri

The Council President declared the motion passed.

There being no further business to come before the meeting, it was moved by Councilmember Rento, seconded by Councilmember Vantuno, that the meeting be and it was adjourned at 9:15 p.m.

 William E. Wilk
 Municipal Clerk

 Cynthia Kraus
 Deputy Municipal Clerk