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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

Minutes of: Township Council Workshop  
Date of Meeting: February 3, 2010  
Time of Meeting: 7:30 P.M.  
Minute Page No: Page 1 of 12

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The Workshop Meeting of the West Milford Township Council was called to order by Council President Joseph Smolinski.

**Adequate Notice Statement**

Council President Smolinski Bieri read the following statement:  
Please note that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this Workshop meeting was advertised in the Herald News in its issue of December 20, 2009; and January 10, 2010 copies were provided to the Suburban Trends, the Record, Star Ledger, and Greenwood Lake News and posted continuously on the bulletin board in the main corridor of the Town Hall and on file in the Office of the Township Clerk.

**Pledge of Allegiance**

Mayor Bieri led all in attendance in a salute to the flag.

**Roll Call**

Present: Councilmembers Joseph Smolinski, Michael Ramaglia, Robert Nolan,  
Marilyn Lichtenberg, Daniel Jurkovic, Mayor Bettina Bieri (arrived @ 7:40 p.m).  
Absent: Councilman Weisbecker.  
Also Present: Township Administrator Kevin Boyle, Township Clerk Antoinette Battaglia,  
Township Frederick Semrau arrived at 8:35 pm.

Agenda No. II

**Reading of or Approval of Unapproved Minutes**

Councilman Nolan moved to adopt the following Meeting Minutes as presented:

November 11, 2009 Executive Session	December 02, 2009 Executive Session
December 02, 2009 Workshop Meeting	December 16, 2009 Regular Meeting

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Moved: Nolan Seconded: Jurkovic  
Voted Aye: Smolinski, Ramaglia, Nolan, Lichtenberg, Jurkovic.  
Voted Nay: None.  
Motion carried.

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Agenda No. III

**Meetings**

Council President Smolinski noted the future meeting schedule:

February 16, 2010 Budget Meeting	February 17, 2010 Regular Meeting
February 24, 2010 Budget Meeting	March 3, 2010 Workshop Meeting

Agenda No. IV

**Presentations**

Autumn Lights Festival (ALF) Committee

Council President Smolinski invited Joyce Leinberger, the ALF Chairperson to address the Council. Rocky Hazelman, an ALF committee member joined Ms. Leinberger. Mayor Bieri arrived at the meeting and assumed the Chair.

Mr. Hazelman addressed the proposed Passaic County involvement in this festival stating that moving ALF to Jungle Habitat would provide for interactive activities. He stated that this would not give any authority, control or oversight to Passaic County. Its primary purpose is to bring an agricultural and 4H component to ALF and incorporate those groups into the local festival. Ms. Leinberger stated that there has been a lot of inaccurate information published in the local media in the past weeks and she thought it opportune to address some of these misstatements. She stated that the Committee is comprised of West Milford residents and they fully intent to continue to promote a local festival. The Committee recommends moving from Union Valley Road to Jungle Habitat because the event continues to grow and the Committee encounters greater difficulty in getting people and vendors off the street at 5 p.m. Local businesses are the first obligation for the Committee and they are offered first right of refusal to be vendors at this event. She stated that the Presbyterian Church favors moving to Jungle Habitat and members of Pinecliff Lake will serve on the Committee. She reviewed the various places ALF was hosted in West Milford. She read a letter from one of the ALF sponsors expressing appreciation for the event and the positive impact sponsoring ALF has had on his business. The letter also expressed support for the proposed move to Jungle Habitat.

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Council President Smolinski stated that he has reviewed the financial report submitted by the Committee and he questioned why they have chosen to discount the numbers proffered from municipal staff. Without those numbers, he expressed concern that the estimated deficit will only increase if these numbers are ignored. Ms. Leinberger stated that the Committee fully expects that sponsorship will be significantly higher than anticipated in the numbers presented to Council. Mr. Hazelman stated that the budget cannot be finalized until the Committee knows the venue. Council President Smolinski stated that he has heard from a great number of residents who have strong feelings about moving this event. For the most part, people are concerned that ALF will lose its local flair and local businesses will be overshadowed by those vendors brought in from the County. Mr. Hazelman stated that it is primarily the businesses along the festival route that currently benefit from the status quo but other businesses in town do not receive these benefits. Ms. Leinberger stated that local businesses will get greater exposure at Jungle Habitat because of increased traffic. Mr. Hazelman agreed adding that the intent of moving ALF was to address concerns expressed by business owners. Closing Union Valley Road, he said, has created ongoing issues. Additionally, a two-day event provides residents with more opportunities to participate. Council President Smolinski asked if any consideration was given to having the 4H and agricultural components housed at the local farms that are housed on Union Valley Road or at Camp Hope which is run by the County and located in the vicinity of the current street festival. Mr. Hazelman stated that ALF has outgrown the hub area. Council President Smolinski expressed concern, especially in this current economy, that the Township will lose valuable resources if this event does not realize the potential anticipated by the Committee. He asked if provisions have been made for inclement weather or other unforeseen occurrences. Ms. Leinberger stated that most of the revenue comes from sponsorship and vendors. She questioned the accuracy of the costs estimated by Township officials. She stated that Shop Rite has guaranteed a \$5,000 sponsorship if the event moves to Jungle Habitat and there is potential for them to double that contribution.

Councilman Jurkovic stated that more residents have approached him on this issue than any other issue since he took office in January. The consensus has not been positive with many people taking offense at the proposed move to Jungle Habitat. People, he said, believe that ALF is being co-opted into something it was never supposed to be. With the Township investing municipal funds in this event, he echoed the Council President's concerns that there is no contingency in place if the projections are not realized. Ms. Leinberger stated that people are being motivated by the inaccuracies that were printed in the local media and they do not understand the challenges being faced by the Committee. Councilman Jurkovic stated that the goal of ALF is to promote West Milford to West Milford residents and to support local business. Residents do not want this event moved. Ms. Leinberger and Mr. Hazelman disagreed stating that they have received positive feedback from residents and business-owners alike. When they explain the impetus behind the proposed move, people favor it. Councilman Jurkovic asked if they had researched event insurance to which the Committee members answered in the negative. Councilman Jurkovic stated that moving the event to Jungle Habitat changes the scale of the event and Ms. Leinberger countered that moving the event changes the types of sponsors that will contribute to a larger event.

Councilman Nolan stated that this event promotes West Milford and local business. He stated that the recent formation of the EDC falls in line with this proposal and he commended the Committee on the budget they presented. He asked if it is likely that people will pay \$5 for parking at an event such as ALF and what the vision is for the future. Ms. Leinberger stated that the Committee believes that people will pay for parking. Mr. Hazelman stated that if the Committee pulls off a successful, self-funding event, they will return to Council seeking to do likewise again next year. He stated that Jungle Habitat is the ultimate growth spot for ALF. The Committee will apprise the Council of the sponsorship two months before the event at which time the Council could still decide to change the venue. However, he could not assure the Council that the Committee would be capable of changing back to a street festival at that late date.

Mayor Bieri opened the meeting to the public to speak about this subject only.

Doris Aaronson, 19 Bearfort Road, West Milford stated that she is a Pinecliff Lake trustee and is speaking on behalf of the lake association. Pinecliff Lake Association cannot be involved in ALF if it is relocated to Jungle Habitat and ALF presents them an opportunity host their largest fundraiser each year. The trustees, she said, are very upset about the proposed move. She also expressed concern for local businesses who, she said, cannot afford to close shop for two days to participate at Jungle Habitat. If moved, ALF will have greater benefit to outsiders and local seniors and those with disabilities will have a very difficult time navigating through the difficult terrain at Jungle Habitat. ALF was initiated in West Milford to celebrate the traffic light in town. There are no traffic lights at Jungle Habitat.

Ms. Leinberger stated that Pinecliff was not actively involved in ALF prior to it being held on Union Valley Road and she stated that Pinecliff now makes money because of an event that is organized by the ALF committee. While local businesses may not close for the proposed two-day event at Jungle Habitat, she

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believes that they will participate in a satellite capacity. It is incumbent upon the Committee to represent all businesses in town not just those located on Union Valley Road.

Carla Horton, 132 Bearfort Road, West Milford stated that she would like ALF to remain on Union Valley Road adding that she worked at the Pinecliff carnival last year. In her career, she does a lot of fund raising seeking donations from corporate sponsors. ALF is unique in that both the municipality and local organizations such as Pinecliff Lake are invested in this community event. That type of participation benefits the community in many ways some of which may not be readily evident. If this festival goes in another direction, the West Milford taxpayer should not be asked to absorb the losses so that other entities benefit.

Both Ms. Leinberger and Mr. Hazelman asserted that they firmly believe that they will be able to obtain corporate sponsorship for ALF.

Bob Nicholson, 20 Hyde Road, Stockholm commended the passionate discussion about this event which he has watched grow over the years. ALF is a quirky event especially suited to the quirky character of West Milford. While he recognizes the benefit of the grandiose plans of the Committee, such a plan will result in the loss of the local flair that is ALF. This is a risk that the Township and West Milford taxpayers cannot afford to pay. If an event is to be held at Jungle Habitat, it should be an independent event that is not sponsored by the Township and West Milford taxpayers. He certainly does not want to see ALF replaced by the Passaic County fair.

Mr. Hazelman replied that ALF will remain a local festival with a Passaic County agricultural component. Jungle Habitat, he said, can be used to benefit West Milford.

Jim Novack, Larchmont Drive, West Milford asked what percentage of vendors typically come from West Milford and if West Milford vendors get a discount. He reminisced about prior ALF events going back to when the festival first started and was called Pride Day. He asked if vendors collect sales tax and expressed concern that the relocating the festival and having larger event will increase traffic.

Mr. Hazelman stated that local businesses do participate in ALF but a discount has not been considered. West Milford businesses are given first priority. He stated that it is now within the purview of the Committee to monitor the reporting or collection of sales tax but they do ensure that all vendors comply with local regulations and provide the necessary paperwork to participate.

James Warden, 199 Highcrest Drive, West Milford stated that this discussion was first broached because the ALF has continually grown with people coming to West Milford from other communities to participate in this event. He favors the proposal to move the venue to Jungle Habitat especially when one places the growth in context with Council's prior discussions about tourism and an Economic Development Committee. He stated that parking continues to be an issue because ALF is growing. He stated that if Council determines that ALF should be an event to promote tourism and the EDC, it should be moved to Jungle Habitat where it has the potential to grow. If Council decides that ALF should remain a local event, they should so decide and work to keeping it small.

There being no more comments from the public, Councilman Nolan made a motion to close the public portion of the meeting.

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Moved: Nolan Seconded: Jurkovic  
Voted Aye: Smolinski, Ramaglia, Nolan, Lichtenberg, Jurkovic.  
Voted Nay: None.  
Motion carried.

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Councilman Ramaglia stated that he has not received an information about parking at Jungle Habitat for ALF. He expressed a level of discomfort at not having a guarantee that it could be housed there especially if the alternative in July will be to cancel the event entirely. He recommended that the EDC be established first and then they be charged with planning for such an event at Jungle Habitat. Mr. Hazelman stated that he is confident that sponsorship is forthcoming and ALF can be moved to Jungle Habitat without any outlay for the Township unless the event takes place. Councilman Jurkovic reminded everyone that this portion of the meeting is to allow for Council to deliberate amongst themselves. He expressed concern with the financial components that have been presented to the Council and the exposure that the Township may be subject to. Councilman Nolan advised that the Township is being asked to contribute the \$8,000 balance in the 175<sup>th</sup> anniversary fund which does not reflect the labor costs incurred. He recognized that the Council has heard from Pinecliff and acknowledged that Valley View Pub will lose revenue if ALF is moved from Union Valley Road. Council President Smolinski stated that prior Council's rejected similar proposals because bigger is not always better. At the Senior Advisory Committee meeting earlier today, people expressed concern about ALF moving to Jungle Habitat. He

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commended the ALF committee members for their energy and passion expressing appreciation on behalf of the entire Council. However, in this economic climate the Council is being asked to take a chance and invest taxpayer funds on a concept that is risky. Councilman Jurkovic agreed adding that residents have repeatedly requested that Shop Rite participate in ALF and return something to this community that supports them all year. He asked that Shop Rite hear these pleas and embrace this event and the community that provides their revenue.

Mayor Bieri recognized that those involved in this event have a better understanding of the challenges they face than newspapers or people who sit on the sidelines. She recalled that people ridiculed the idea of ALF when it first started and opposed the notion of it being moved to Union Valley Road. The goal of the Committee is to promote local businesses and the current location favors certain businesses. She asked the Council to credit the Committee with the growth that has occurred as this event has evolved through the years. Thunder in the Highlands is hosted at Jungle Habitat and it has retained its local flair and she asked that Council give the Committee an opportunity to succeed. ALF, she said, has outgrown its current location and the Committee needs a commitment to a location in order to get sponsors.

Councilwoman Lichtenberg stated that she has heard a lot of negative comments because of the manner in which this matter was reported in the newspapers. She suggested that the Council afford the Committee time to get sponsors as requested. If, in three months, they have not realized their goals, the Council can then opt to return ALF to Union Valley Road. Councilman Jurkovic stated that he would rather have the Administrator provide more information and report on the possible ramifications so that Council can make an educated decision rather than guessing. He stated that the objective and need for self-sufficiency emanates from the proposed expansion of this event to people outside West Milford. In the past, the Township funded the event knowing that ALF benefited the West Milford community. If outside entities are to reap a benefit, it is only proper that the financial burden is not borne solely by West Milford taxpayers. Mr. Hazelman asked for Council consensus tonight to let the Committee proceed with planning for ALF at Jungle Habitat with a commitment that three months prior to the event the Committee must prove that the financial commitments are in place. Councilman Jurkovic asked that such a decision be deferred to the February 17<sup>th</sup> meeting to provide Mr. Boyle an opportunity to present Council with the requested information. Council President Smolinski agreed and encouraged residents and business owners to reach out to the Council with opinions about the proposed venue. He stated that West Milford residents are the priority with the most valuable opinions.

Agenda No. V

**Proclamations**

None.

Agenda No. VI

**Public Comments**

Mayor Bieri opened the meeting to the public after advising that there is a five-minute limit for each speaker.

James Foody, 2 Kushaqua Trail North, West Milford stated that, for a host of reasons, he did not prevail in the litigation between himself and Lakeside Development. However, he said, that represented a battle but the war has just begun. He was not allowed to present all the documents he had accumulated to the court. Henceforth, he will concentrate his efforts on gathering signatures requesting that the Township accept the dedication of the road and preparing to file a class action lawsuit against Lakeside Development Corp. These roads, he said, are dedicated public roads and he will work tirelessly to make the Council understand that significance. Lakeside Development has engaged in activities that negatively affect the residents in the area and they should be subject to government oversight.

Martin Shenkman, 47 Twin Oaks Trail, West Milford asked Council to reinstate the bus service through lakeside North because canceling this service will have a negative affect on people who need rides. Residents pay taxes which fund busing for school children. He requested that the bus service be restored to at least two days per week to provide service to taxpayers who don't drive.

John Kessler, 15 Norwood Lane, West Milford agreed that Lakeside Development should be subject to government oversight. He stated that they have installed drains that divert water to wetlands despite the fact that they never obtained permits. There should be a permitting process and engineering oversight. They plan on doing more work which includes felling a large number of trees.

Linda VanDyke, Mr. Foley & Mr. Gottlieb, Board of Education Members stated that they are here tonight from the BOE to expedite the Hillcrest Lease. They dropped off two executed copies of the lease and wished everyone a good night.

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Michael Siesta, Macopin Road, West Milford stated that he had his well pumped out this week which required a permit fee. He stated that this permit fee is an insidious tax and would like the tax repealed and a refund issued to him.

Doris Aaronson, 19 Bearfort Road, West Milford stated that, as Chairperson of the Cable TV Committee, she is concerned about the negotiations cautioning that it is imperative that the best deal be garnered for West Milford residents. She expressed concern that an associate from Mr. Semrau's office is representing the Township and requested that Mr. Semrau himself assume this role. She urged Councilman Jurkovic to remain involved.

Ada Erik, Macopin Road, West Milford gave a thumbs up to the ALF committee members who do so much work. She echoed the sentiments expressed by Ms. Aaronson with whom she served on the Cable TV Committee and reviewed some of the complaints the committee received. She urged the Council to assume a strong stance and devise penalty mechanisms in the new contract.

Andrew Gargano, 45 Apshawa Crossroad, West Milford expressed disappointment that the Risk Manager presentation was postponed tonight. He has been a member of the Insurance Committee since 1993 and has an insurance license. He reviewed the history of the Insurance Committee which culminated in them recommending the hiring of Mr. Vozza as Risk Manager a couple of years ago and the subsequent joining of the Morris County Joint Insurance Fund. He stated that he has no affiliation or relation with Mr. Vozza but commended him on the work he has done for West Milford which has exceeded the expectations and been very beneficial to the Township. This year, another person expressed interest in serving as West Milford's Risk Manager and the committee heard his presentation. Mr. Covelli did not propose expanding upon the work done and being done by Mr. Vozza and he did not appear to be bent on engaging in the level of due diligence we have come to expect from Mr. Vozza. The Insurance Committee made a unanimous recommendation to the Council in 2009 to renew Mr. Vozza's contract. He stated that he does not understand the delays. He asked the Council to appoint Mr. Vozza in accordance with the recommendation of the Insurance Committee because he has served West Milford well for the past two years.

Don Weiss, Pinecliff Lake Drive, West Milford stated that he is working for the Census Bureau and expressed appreciation to the Administration, Mayor, Council, Board of Education, and St. Joseph's school for assisting him and the entire census operation. Currently the Census is seeking to hire from the local community and tests are ongoing. This, he said, is a good opportunity for those seeking work and he advised that the pay begins at \$18.75 per hour. He encouraged any interested parties to contact the Census Bureau.

Bob Nicholson, 20 Hyde Road, Stockholm stated that the cable company pays a franchise fee to the municipality. However, this fee is simply another tax paid for by the residents. He thanked the Council for re-establishing the EDC and advised that he is interested in serving.

Jim Novack, Larchmont Drive, West Milford stated that he has heard rumors that there is a sewerage spill in Bald Eagle Village and Olde Milford Estates. He stated that the Council has received a letter from the DEP on this matter and he urged them to disclose the facts to residents. He asked what measures are being taken to resolve these problems.

There being no more comments from the public Councilman Ramaglia moved to close the public portion of the meeting.

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Moved: Ramaglia Seconded: Lichtenberg  
Voted Aye: Smolinski, Ramaglia, Nolan Lichtenberg, Jurkovic.  
Voted Nay:  
Motion carried.

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Agenda No. VII

**Council Comments**

Township Attorney Semrau stated that on January 15<sup>th</sup> the Township responded to the BOE expressing concerns about the Hillcrest Lease. This is a proposed 25-year lease under which the Township will potentially pay \$31 million and the document itself comprises 21 pages. There were two very compelling issues requiring answers from the Board. Those related to a provision regarding annual repairs of \$20,000 with a carry over clause in the contract. The second query asked for a list of proposed capital expenditures to be funded with the initial contribution of \$400,000. As of this date, the Township has not received a response and thus, he cannot recommend that this Council sign the lease received tonight which does not address these two matters. To receive a signed lease without answers avoids the questions and prolongs the process. From a legal perspective, he must have the questions answered prior to recommending the signing of the lease. Mayor Bieri stated that, in her opinion, members of the Board engaged in a pressure tactic tonight despite ongoing good faith negotiations for the rental of a

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public building which is and will continue to be funded with taxpayer monies. It would appear that the intent was to cast aspersions on the Council. Earlier today she spoke with Councilman Jurkovic and Mr. Semrau about the lack of response from the Board and the consensus of the subcommittee was to ask the Township Administrator to meet with the BOE Business Administrator. She subsequently spoke with Mr. Boyle who agreed to set up such a meeting. The Council has made every effort to move this process along.

Council President Smolinski explained that Councilman Weisbecker is absent tonight because he is unwell. He encouraged the person who had questions about the transportation program to contact the Department of Community Services & Recreation who oversees the program. He advised that an extensive study of ridership was undertaken before changes were made.

Councilman Nolan asked Mr. Semrau to address comments made about his associate working on the Cable TV negotiations. Mr. Semrau advised that Carolyn Maguire of his office has been working with the Committee and she has no past relationship or conflict. Negotiations are still underway and he is involved in the process. He commended the Committee for their work. Councilman Nolan recalled that the MUA Chairman promised last year that the MUA would engage in open communications with the Council. He expressed concern that the Council learned about sewage discharge from the DEP rather than from the West Milford MUA. If the treatment plant cannot handle the capacity, he questioned why the MUA ever considered hooking Valley Ridge up. He stated that Village on Ridge still wants to connect to that plant and cautioned against such an approval if the plant cannot handle the current capacity.

Councilwoman Lichtenberg asked if there is a required permitting process for private communities who engage in roadwork. Mr. Semrau advised that he conversed with the Township Engineer on this subject about eighteen months ago. The roads that were referenced in public comments tonight are not within the Township's jurisdiction. He said that Township officials did spend time in that community and found that the only conflict involved the DEP and that information was passed along to the proper authorities. He advised that the residents of the association have the power to address the concerns expressed but the Township cannot act on those matters.

Mayor Bieri stated that the Council would be remiss to approve execution of the Hillcrest Lease agreement as presented by the BOE members tonight because that would be akin to a renter signing a lease with a landlord who has made commitments to repairs without any specifics. The Township cannot commit to a long-term lease without knowing where the money is going and she expressed frustration at the process that has lingered so long. She confirmed that Township officials were copied on a letter from the DEP to the MUA administration whereby the MUA was instructed to immediately address problems at Bald Eagle.

Agenda No. VIII

**Discussion Items**

1)	<del>Establish a Charter Study Commission</del>
2)	Possible Topics for Consideration at the 2010 Annual League Conference – Mr. Boyle reminded the council that they had requested a discussion of these proposed topics early in the 2010-year to be prepared with resolutions for the November conference. Due to the late hour, Mayor Bieri asked for and received Council consent to defer this discussion to a later date.
3)	2010 United States Census Complete Count Committee – the Council instructed the Administrator to have staff handle these matters rather than establish a committee at this late date.
4)	Pfeiffer Dam – Mr. Semrau directed Council to a December 8, 2009 memorandum which provided a status update on this project. He stated that he has confirmed with the DEP that no funds have been drawn on this loan. The engineer overseeing this project has indicated that about 70% of the work is complete. However, it has come to light that there is an issue whereby the owner has been residing at this property without obtaining the necessary certificate of occupancy (CO) from the building department. Mr. Boyle confirmed that to be true and advised that the code enforcement official has issued summonses after trying to work this out with the property owner. The property owner indicated that he was unable to complete all the work necessary for the CO because of the economy but is now moving along to achieve compliance. He stated that there is an inherent deficiency in the construction code process which is monitored by the State of New Jersey which does not provide a mechanism for following up on outstanding permits. Councilman Nolan stated that the bigger issue here is that there may be innumerable instances where people are living in homes that have not been deemed satisfactory by virtue of a CO. Discussion ensued about the need for better monitoring, and the BOCA & construction code processes. Mr. Boyle stated that the specific loan issue with Pfeiffer Dam is a policy matter. He will provide Council with a report outlining options and specific information about this loan process.
5)	Highlands Policy – Mr. Boyle asked Council to defer this discussion to a later date as some

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	responses just came into his office today. Mr. Semrau stated that he has reviewed those comments from the Land Use Administrator and the additions appear fine. The Council gave consensus for a resolution approving the policy for the next meeting.
6)	Bubbling Springs Septic System – Mr. Boyle stated that he has requested that Mayor Bieri send a letter to DEP seeking consideration for an exemption to proceed with a long-term solution to the septic issues at Bubbling Springs. The proposed solution would be to tie into the MUA’s Olde Milford sewage treatment plant. Mayor Bieri suggested that this letter may not be well received at a time when DEP is dealing with issues at this particular plant as evidenced in the letter they sent to the MUA administration and discussed earlier in the meeting. Mr. Boyle stated that the problems at the plant are related to the current adverse weather conditions and not linked to capacity. Bubbling Springs would have a minimal impact because they would engage in nominal summer use and he stated that this is the most effective long-term solution for Bubbling Springs. Councilman Ramaglia asked Administrator Boyle to get information from the MUA and report back to Council.
7)	2010 Temporary Budget – Mr. Boyle stated that he is seeking consensus to have a resolution adopted at the next Council meeting and directed the Council to the draft prepared by the CFO. This temporary budget represents 16.25% of the 2009 budget and will allow the Township to pay bills through April. He stated that it is difficult to track the temporary budget because the Edmunds system does not allow tracking until the budget is adopted. Council President Smolinski stated that the Council needs to see a tracking report to understand the expenditures. Councilman Jurkovic cautioned that if temporary budgets are repeatedly adopted at this rate, the Council will have approved expenditures up to 97% of last year’s budget. The Council gave consensus to proceed.
8)	Ordinance – Amend Chapter 135 “Fees” – the Council stated that the information provided to justify some fee increases is insufficient and they asked Administrator Boyle to obtain more detail. Council President Smolinski stated that he would like to see significantly more detail especially for proposed increases to recreation fees. He expressed concern that the fees are being increased to cover budget transfers later in the year.
9)	Resolution – Authorize Property Sale – the Council gave consensus to proceed.
10)	Resolution – Authorize Purchase of Police Vehicles – the Council gave consensus to proceed and asked Mr. Boyle to provide a report about the rotation of retired police vehicles into the municipal fleet.
11)	Resolution - Authorize Purchase of Cameras for Police Vehicles - the Council gave consensus to proceed with Councilman Nolan noting that the funding authorized in 2007 and 2008 is being expended now.
12)	Contract – Professional Services for Valley Ridge Development Appeal – Mr. Semrau reviewed the history of this tax appeal which is intended to raise the Valley Ridge property assessment. This property was appraised at over \$5 million and he is seeking to retain the services of Chuck McGroarty to provide a professional opinion about this property value. Council President Smolinski commended Mr. Semrau for his work on this appeal.
13)	Contract – Shared Services – Registrar Services Bloomingdale – Mr. Boyle reviewed the renewal of this contract for registrar services advising that the primary change is that there will not be an escape clause allowing either party to terminate the agreement with 60 days notice. This will be beneficial to the Township based on the proposed restructuring of the Health Department. The contract reflects a 4% increase. Council gave consensus to proceed.
14)	Contract – 2010 Paving Materials – Council gave consensus to proceed.
15)	Contract – 2010 Maintenance of Ballfields – Council gave consensus to proceed.
16)	Contract – GIS Services – Council gave consensus to proceed.

Agenda No. IX

**Action Items**

The Township Council took action on the following items:  
 Agenda No. IX 1

~ Resolution No. 2010- 055~

**NUMBER NOT USED**

The following resolutions were moved as one 2010-075, 2010-076, 2010-077, 2010-078.

Moved: Nolan Seconded: Jurkovic  
 Voted Aye: Smolinski, Ramaglia, Nolan, Lichtenberg, Jurkovic.  
 Voted Nay: None.  
 Motion carried.

Agenda No. IX 2

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**~ Resolution No. 2010- 075 ~**

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE SETTLEMENT OF A FEE APPLICATION IN THE MATTER OF O'SHEA v. WEST MILFORD TOWNSHIP**

**WHEREAS**, the Township of West Milford was named as a defendant in the matter of O'Shea v. West Milford, Passaic County Superior Court bearing Docket No. L-1843-08; and

**WHEREAS**, the plaintiff sought Use of Force Reports which the Superior Court declared that, notwithstanding a Government Records Council decision which was consistent with the position of the Township of West Milford, the reports were in fact considered public records; and

**WHEREAS**, the fee application was made by the plaintiff's attorney seeking compensation up to \$82,000 for said services; and

**WHEREAS**, the law provides that the successful plaintiff in a Government Records Council case is entitled to recover fees at an enhanced rate or premium for such litigation; and

**WHEREAS**, the Township has negotiated a settlement that it believes to be fair and reasonable under the circumstances and will bring the matter to a conclusion; and

**WHEREAS**, this case is an exception to the Township of West Milford as the municipality responds to over 100 OPRA requests per year; and

**WHEREAS**, in 2008, the Township was successful in an action filed by the plaintiff in Passaic County Superior Court challenging costs for copies as the case was dismissed by the Superior Court in favor of West Milford Township and was dismissed by the Appellate Division; and

**WHEREAS**, in 2009, the Township was successful in an action filed by the same plaintiff in Passaic County Superior Court as to the production of minutes as that matter was dismissed by the Superior Court in favor of West Milford Township; and

**WHEREAS**, in 2008, the Township was sued by the same plaintiff seeking personnel records in Passaic County Superior Court which matter was dismissed by the Superior Court in favor of West Milford Township; and

**WHEREAS**, in December, 2009, the Government Records Council released two decisions relating to cases filed by the same individual and which ruled in favor of West Milford Township; and

**WHEREAS**, in 2007 the same plaintiff filed a GRC complaint to which the Township of West Milford had to respond and for which the Township of West Milford had to obtain legal advice, which complaint was subsequently voluntarily withdrawn by plaintiff; and

**WHEREAS**, in 2007 the same plaintiff filed a three-part GRC complaint seeking notes, memoranda, and objecting to the Township's OPRA request form wherein the Township prevailed in all but the issue pertaining to the request form; and

**WHEREAS**, in 2009 the Township of West Milford prevailed when the GRC ruled on a complaint filed by the same plaintiff regarding a request for contractual records; and

**WHEREAS**, notwithstanding the accurate responses to OPRA requests and the successful defense of no less than five legal proceedings initiated by the same plaintiff, the law provides that the Township must reimburse the plaintiff for fees in connection with the Use of Force decision; and

**WHEREAS**, the Mayor and Council urge the Legislature to review the "fee shifting" mechanisms as to OPRA which provides that a municipality must pay enhanced legal fees to a citizen that succeeds in a Government Records Council challenge, as it is unfortunate that the taxpayers fund such litigation; and

**WHEREAS**, the Township Attorney recommends that the Mayor and Council settle the fee application litigation.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of West Milford, in the County of Passaic and State of New Jersey, that the Mayor is hereby authorized to execute a Final Settlement Agreement calling for the payment of \$39,360 to Richard Gutman, Esq., attorney for plaintiff Martin O'Shea.

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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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**BE IT FURTHER RESOLVED**, that the Township may offset all or a portion of this settlement as it has made application for reimbursement through its insurance carrier.

**BE IT FURTHER RESOLVED**, that a copy of this Resolution shall be forwarded by the Township Clerk to Governor Christopher Christie, the Legislative representatives of the 26<sup>th</sup> Legislative District and Senator Joseph Pennacchio requesting that fee shifting in OPRA cases be eliminated except in cases where a municipality has been found to be willful in the denial of such records.

Adopted: February 3, 2010

Agenda No. IX 3

**~ Resolution No. 2010- 076 ~**

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO CHARLES MCGROARTY TO SERVE AS PLANNING CONSULTANT FOR AN AMOUNT NOT TO EXCEED \$5,000 AS AMENDED**

**WHEREAS**, the Township filed a tax appeal against Valley Ridge Development Company in the Tax Court of New Jersey; and

**WHEREAS**, there is a need to retain a Professional Planner as an expert witness in connection with said litigation; and

**WHEREAS**, the retention of said expert will be as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 et seq.; and

**WHEREAS**, Charles McGroarty has submitted a proposal indicating that he will provide the professional planning services as sought by the Township of West Milford as outlined in his attached proposal dated January 19, 2010; and

**WHEREAS**, the Township wishes to retain Charles McGroarty for the purpose of providing the professional planning services sought by the Mayor and Township Council; and

**WHEREAS**, the total amount of the contract shall not exceed \$5,000.00; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available for this purpose said funds to be encumbered from account # 0-01-20-100-281; and

**WHEREAS**, Charles McGroarty has completed and submitted both a Political Contribution Disclosure Form and a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee in the Township of West Milford with the elected officials in the previous one year, and that the contract will prohibit Charles McGroarty from making any reportable contributions through the term of the contract, but same shall be placed on file as soon as possible; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "professional services" without competitive bid and the contract itself must be made available for public inspection.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of West Milford, County of Passaic and State of New Jersey as follows:

1. The Township Council hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Chuck McGroarty of Banisch Associates, Inc. with offices located at 111 Main Street, Flemington, New Jersey, 08822 as and expert witness in the matter of Township of West Milford v. Valley Ridge Development Company in an amount not to exceed \$5,000.00. The agreement is on file in the office of the Township Clerk.
2. The Political Contribution Disclosure Form, Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
3. Notice of this action shall be published once in the Township's official newspaper as required by law.
4. A copy of this resolution shall be provided to Arthur Magnotti, Treasurer, and Chuck McGroarty of Banisch Associates, Inc., 111 Main Street, Flemington, New Jersey, 08822.

Adopted: February 3, 2010

**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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Agenda No. IX 4

~ Resolution No. 2010- 077 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE TERMINATION OF A LEASE BEFORE USEFUL LIFE FOR VEHICLE #16-1064, VIN #1FDXE45F73HA82234**

**WHEREAS**, the Township of West Milford is the lessee of New Jersey Transit vehicle which was totaled as a result of an accident on October 30, 2009; and

**WHEREAS**, the Morris County Joint Insurance Fund is prepared to make payment for the loss of said property on behalf of the Township of West Milford in the amount of \$17,931 to New Jersey Transit; and

**WHEREAS**, as a condition of such payment, the Township is required to execute a Termination of Lease/Before Useful Life Agreement for the aforementioned vehicle which has been deemed as "un-repairable".

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of West Milford, in the County of Passaic and State of New Jersey, that the Mayor is hereby authorized to execute the attached Termination of Lease/Before Useful Life Agreement for a vehicle identified as #16-1064, 2003 Ford Eldorado bearing VIN #1FDXE45F73HA82234 to effectuate payment being made by the Morris County Joint Insurance Fund to New Jersey Transit for the loss of said property.

Adopted: February 3, 2010

Agenda No. IX 5

~ Resolution No. 2010- 078 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE RELEASE OF A CASH BOND POSTED FOR BLOCK 6002, LOT 44.03 IN THE TOWNSHIP**

**BE IT RESOLVED**, that, upon the report and request of the Township's Land Use Administrator, the following Cash Bond - Block 6002 Lot 44.03, posted by Ernie Oakes be refunded:

<b>Name &amp; Address</b>	<b>Receipt No.</b>	<b>Amount Refunded</b>	<b>Page No.</b>
Ernie Oakes P.O. Box 692 Newfoundland, New Jersey 07435	489561	\$6,650.00	77

Adopted: February 3, 2010

**Approval of Expenditures**

Agenda No. X

~ Resolution No. 2010- 079~

**RESOLUTION APPROVING THE PAYMENT OF BILLS**

**WHEREAS**, the Township Treasurer has submitted to the members of the Township Council a report listing individual disbursement checks prepared by his office in payment of amounts due by the Township.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Treasurer's report of checks prepared by him be approved and issued as follows:

<b>Acct #</b>	<b>Account Name</b>	<b>Amount</b>
1	Current Account . . . . .	\$111,590.68
2	Reserve Account . . . . .	240,523.24
3	Animal Control Trust	9,580.31
6	Capital. . . . .	357,964.86

**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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7	Grants. . . . .	9,644.00
8	Refuse. . . . .	191,614.87
9	Refunds. . . . .	36,356.00
12	General Ledger. . . . .	4,883,504.80
16	Heritage Trust. . . . .	0.00
14	Open Space Trust	975.00
17	Trust . . . . .	76,210.03
18	Development Escrow. . . . .	2,099.50
19	LOSAP	0.00
20	Special Reserve	0.00
Total		\$5,920,063.29
\$Less Refund Resolution		<u>-\$36,356.00</u>
<b>Actual Bill List</b>		<b>\$5,883,707.29</b>
Other Payments		0.00
Less Refund Resolution		
<b>Total Expenditures</b>		<b>\$5,883,707.29</b>

Approved: February 3, 2010

Discussion: Councilman Jurkovic stated that this bill list reflects a payment of \$2,600 to replace carpeting at Hillcrest. He requested that Administrator Boyle advise the BOE Business Administrator that the Township incurred this expense.

Moved: Nolan Seconded: Smolinski  
 Voted Aye: Smolinski, Ramaglia, Nolan, Lichtenberg, Jurkovic.  
 Voted Nay: None.  
 Abstain: Councilman Jurkovic abstained on Mr. Glatt's bills only.  
 Motion carried.

Agenda No. XI

**Reports of Mayor, Administrator, Council Members, Attorney and Clerk**

Councilwoman Lichtenberg – encouraged interested parties to seek employment with the Census Bureau.

Councilman Jurkovic – asked for a future workshop discussion of a possible resolution opposing the recent proposed amendments to the time of decision rule which is before the legislature. Councilman Nolan agreed and he cited the related Assembly and Senate bills.

Township Administrator – Mr. Boyle advised that there will be a job meeting for the Cozy Lake Road bridge on February 11, 2010. He has received reports dating back to 1999 on the Davenport Road Bridge which he will distribute to Council. He will schedule a workshop discussion about seeking support to eliminate the 4% levy CAP as well as proposed legislation to consolidate certain municipal services in the County.

Township Attorney – Mr. Semrau advised that he has been working with the Clerk on a request to have certain budget information made available to residents. While these records are deliberative & not finalized and they not subject to disclosure under the Open Public Records Act, he recommends, with Council consent, that at each budget meeting, records pertaining to the anticipated discussion for that particular meeting be made available. This would be considered an accommodation to assist members of the public to follow the Council discussion. The Council gave consent.

Agenda No. XII

**Appointments and Resignations**

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**TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY**

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**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY RECOGNIZING A VACANCY ON THE RECYCLING ADVISORY COMMITTEE**

**BE IT RESOLVED**, by the Township Council of the Township of West Milford that they do hereby posthumously recognize the service and contributions made by Alice Hart to the Township of West Milford by virtue of her service on the Recycling Advisory Committee; and

**BE IT FURTHER RESOLVED**, that the Township Council hereby makes it known that a vacancy exists on this committee for the unexpired term of Alice Hart, said term to expire on December 31, 2010.

Adopted: February 3, 2010

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Moved: Nolan Seconded: Ramaglia  
Voted Aye: Smolinski, Ramaglia, Nolan, Lichtenberg, Jurkovic.  
Voted Nay: None.  
Motion carried.

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Agenda No. XIII

**Executive Session**  
None.

**Adjournment**

Agenda No. XIV

There being no further business to come before the Council, the Township Council adjourned the meeting.

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Moved: Nolan Seconded: Ramaglia  
Voted Aye: Smolinski, Ramaglia, Nolan, Lichtenberg, Jurkovic.  
Voted Nay: None.  
Motion carried.

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Approved: April 7, 2010

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MAYOR BETTINA BIERI  
PRESIDING OFFICER

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ANTOINETTE BATTAGLIA  
TOWNSHIP CLERK