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

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Councilwoman Lichtenberg recused from this subject stating that as a realtor she previously handled a listing for this property. Mr. Semrau advised that Mr. Pipes is seeking assistance from the Council because HUD will only transfer title to a government entity thus ensuring that affordable housing needs are monitored and also that deed restrictions are in place. The Council thanked Mr. Pipes for his presentation tonight.

Agenda No. III

**Proclamations**

None.

Agenda No. IV 1

**Unfinished Business, Final Passage of Ordinances**

~ Ordinance No. 2009- 001~

**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 33, "PERSONNEL" OF THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF ARTICLE XI, ENTITLED "CRIMINAL HISTORY BACKGROUND CHECKS OF EMPLOYEES AND VOLUNTEERS OF YOUTH SERVING ORGANIZATIONS" AS AMENDED**

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

**SECTION 1.** Chapter 33, Personnel, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of Article XI, "Criminal History Background Checks of Employees and Volunteers of Nonprofit Youth Serving Organizations", to read as follows:

ARTICLE XI Criminal History Background Checks of Employees and Volunteers of Nonprofit Youth Serving Organizations

**§ 33-32. Definitions.**

As used in this section, the following terms shall have the meanings indicated:

**CRIMINAL HISTORY RECORD BACKGROUND CHECK** — A determination whether a person has a criminal record by cross-referencing that person's individual data with those on file with the Federal Bureau of Investigation, Identification Division, and the State Bureau of Identification of the Division of State Police.

**EMPLOYEES** — All full-time, part-time and seasonal employees of the West Milford Township Recreation.

**SPONSORED PROGRAM** — Recreation programs run directly and jointly by the Township, including oversight, control and/or fiscal contribution.

**STATE BUREAU OF IDENTIFICATION** — The entity located within the New Jersey State Police responsible for retrieving criminal background information on individuals as requested by state, local or private entities.

**VOLUNTEER** — A person who has direct, non-supervised and ongoing interaction in the course of his/her service with minors. This includes, but is not limited to, a coach, assistant coach and manager of a team.

**VOLUNTEER REVIEW OPERATION ("VRO")** — The unit located within the State Bureau of Identification that is responsible for administering criminal background checks for volunteer coaches as specified in this article.

**YOUTH-SERVING ORGANIZATION** - Any corporation, association or other organization which provides recreational, cultural, charitable and social activities for persons younger than 18 years of age.

**§ 33-33. Request for criminal background check; costs.**

(A) The Township of West Milford requires that all employees and volunteers of youth-serving organizations involved in sponsored programs and/or utilizing the Township's recreational facilities request through the West Milford Township Police Department that the State Bureau of Identification and the Federal Bureau of Investigation ("FBI") conduct a criminal history record background check on each prospective and current coach of nonprofit youth-serving organizations in accordance with N.J.A.C. 13:59-1.1 et seq. and

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- with the procedures and guidelines adopted by the VRO. No person will be permitted to act as an employee or volunteer until the results of the background checks have been received and reviewed by the Administrator of the Township.
- (B) The West Milford Township Police Department shall conduct the criminal history record background check(s) only upon receipt of the written consent to the check(s) from the prospective or current employee or volunteer or from the organization itself.
  - (C) The VRO shall advise the Township Police Department of the eligibility of the prospective or current coach. Any information received by the Township Administrator shall be confidential.
  - (D) The organization shall bear the costs for conducting such checks for prospective or current coaches participating in cosponsored programs in accordance with the regulations established by the VRO.

**§ 33-34. Conditions under which person is disqualified from service.**

A person may be disqualified from serving as an employee or volunteer of a nonprofit youth serving organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

- (A) In New Jersey, any crime or disorderly persons offense:
  - (1) Involving danger to the person, meaning those crimes and disorderly persons offenses as set forth in N.J.S.A. 2C:11-1, et seq., such as criminal homicide; N.J.S.A. 2C:12-1, et seq., such as assault, reckless endangerment, threats, stalking; N.J.S.A. 2C:13-1, et seq., such as kidnapping; N.J.S.A. 2C:14-1, et seq., such as sexual assault; or, N.J.S.A. 2C:15-1, et seq., such as robbery;
  - (2) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq., such as endangering the welfare of a child;
  - (3) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes.
  - (4) Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except Paragraph (4) of Subsection (a) of N.J.S.A. 2C:35-10.
- (B) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in Subsection 33-34(A) of this section.

In addition, a person may be disqualified from serving as an employee or volunteer of a nonprofit youth serving organization if such individual fails to consent to submit to a criminal history record background check pursuant to this Article.

**§ 33-35 Submissions; exchange of background check information.**

- (A) Prospective or current employees and volunteers of youth-serving organizations for sponsored programs and/or for utilizing Township recreational facilities shall submit their names, addresses, fingerprints, written consent, and any other necessary information to the organization for the criminal history record background check to be performed. The organization shall submit this documentation to the West Milford Township Police Department, who shall coordinate the background check and refer the information to the State Bureau of Investigation for the background check. Thereafter, the Township shall conduct periodic background checks after the date of the initial background check, but not less than every 36 months.
- (B) The West Milford Township Police Department shall act as a clearinghouse for the collection and dissemination of information obtained as a result of conducting criminal history record background checks pursuant to this section.

**§ 33-36. Limitations on access and use of criminal history record information.**

- (A) Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to authorized personnel of the youth serving organization, on a need-to-know basis, as authorized by federal or state statute, rule or regulation, executive order, administrative code, local ordinance or resolution regarding obtaining and dissemination of criminal history record information obtained under this section.
- (B) Such persons or organizations shall limit their use of criminal history record information solely to the authorized purpose for which it was obtained, and criminal history record information furnished shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. Any person violating the federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

**§ 33-37. Determination by Township Police Department; appeal process.**

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- (A) The VRO shall make a recommendation based on the provisions of N.J.S.A. 15A:3A-1 et seq. as to whether the prospective or current volunteer coach is being recommended. The VRO will provide the West Milford Township Police Department with a letter of recommendation or nonrecommendation for each individual for whom the VRO completed a background check.
- (B) The Police Department shall promptly notify a prospective or current employee or volunteer who receives a letter of nonrecommendation from the VRO. Individuals who receive a letter of nonrecommendation from the VRO will not be permitted to participate as an employee or volunteer. Such individuals may obtain a copy of their criminal history record by contacting the VRO in writing. The individuals shall then have 30 days from the receipt of notification from the West Milford Township Police Department to petition the appeals committee consisting of the Director of the Township Recreation Department, the Township Administrator and the Township Police Chief for a review and to cite reasons substantiating the review.
- (C) Individuals who receive a letter of nonrecommendation from the VRO may be permitted to serve as an employee or volunteer if they affirmatively demonstrate rehabilitation to the appeal committee. In determining whether a person has affirmatively demonstrated clear and convincing evidence of rehabilitation, the appeals committee may consider the following factors in conjunction with the provisions of N.J.S.A. 15A:3A-1 et seq.:
  - (1) The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
  - (2) The nature and seriousness of the offense;
  - (3) The circumstance under which the offense occurred;
  - (4) The date of the offense;
  - (5) The age of the person when the offense was committed;
  - (6) Whether the offense was an isolated or repeated incident;
  - (7) Any social conditions which may have contributed to the offense; and
  - (8) Any evidence of rehabilitation, including good conduct in prison or the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs or the recommendation of those who have had the person under their supervision.
- (D) In all instances, the final determination of whether an individual will be permitted to serve as an employee or volunteer utilizing the Township's recreational facilities will lie in the sole discretion of the appeals committee, who must vote unanimously.
- (E) The appeals committee shall promptly advise the prospective or current employee or volunteer whether he or she is qualified.
- (F) When the Township Police Department receives a letter of nonrecommendation from the VRO, the Police Department shall file that letter within its Department and it shall keep the written notification on file for three years from the date it was issued.
- (G) The Department of Recreation may request the Police Department to review its files to determine if there is written notification on file stating whether a criminal history record background check of a current or prospective employee or volunteer reveals a disqualifying offense or stating that the person has affirmatively demonstrated rehabilitation under this act.

**§ 33-38. Exemptions.**

The Township shall only permit the following exemptions under this Article:

- (A) Any person who, by virtue of their occupation, is required by statute to undergo a Federal and State criminal history record background check similar in nature to the requirements contained herein, and who can provide proof of the results of such background check, is exempt from the requirement hereunder if such check was conducted within the past year. After such demonstration of proof of compliance, such individual shall then be subject to subsequent checks pursuant to Section 33-35(A).
- (B) If the organization already utilizes a different means for obtaining criminal history record background checks, such as Little League baseball, then such organization may annually submit its own certification certifying the names of the individual employees and/or volunteers and providing proof that such criminal history record background check was performed for that year. In addition, the organization must also submit to the Department of Community Services and Recreation and the Township Police Department, the guidelines and parameters of such independent background check company for the conducting of its background checks. In the event the Police Department determines that the independent background check company's guidelines and parameters are insufficient, then the Township reserves the right to not grant the exemption under this Subsection to the organization.

**§ 33-39. Remedies for breach by youth-serving organizations.**

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Any violation of this chapter by a youth-serving organization is considered a serious threat to the health and life of the youth of the Township. As a result, upon violation, the Township may suspend or terminate use of Township facilities, and the youth-service organization and the officer who executed the affidavit shall be subject to fines and other penalties. In determining the remedy such factors as whether the breach was intentional, the severity of the noncompliance, and the good-faith steps taken to cure the violation should be considered.

**SECTION 2.** All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 3.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**SECTION 4.** This Ordinance may be renumbered for purposes of codification.

**SECTION 5.** This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

INTRODUCED: January 28, 2009  
ADOPTED: February 11, 2009  
EFFECTIVE DATE: September 1, 2009

Mayor Bieri noted that this Ordinance was introduced on January 28, 2009 and is scheduled for public hearing tonight. She opened the meeting to the public to speak on this issue only.

Doris Aaronson, 19 Bearfort Road, West Milford expressed concern that this ordinance would negatively affect private associations such a Pinecliff Lake.

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

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

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Discussion: Mr. Semrau advised that this ordinance applies to Township sponsored programs utilizing Township facilities and thus neither Pinecliff Lake nor any similar organizations would be affected. Councilwoman Lichtenberg asked that the effective date of the ordinance be changed to September to allow organizations to comply and the language in 33-36b be changed to remove language pertaining to records retention. The Council concurred.

Motion to amend Ordinance 2009-001 as discussed and adopt the amended ordinance.

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

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Agenda No. IV 2

~ Ordinance No. 2009- 002~

**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY CONCERNING SALARIES AND COMPENSATION FOR ADMINISTRATIVE, CONFIDENTIAL AND UNAFFILIATED EMPLOYEES**

**ORDINANCE DEFEATED  
4 NAYS, 1 AYE, 1 ABSENT**

Mayor Bieri noted that this Ordinance was introduced on January 28, 2009 and is scheduled for public hearing tonight. She opened the meeting to the public to speak on this issue only.

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

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Moved: Nolan Seconded: Smolinski  
Voted Aye: Smolinski, Schimmenti, Nolan, Lichtenberg, Jurkovic.

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Voted Nay: None.  
Motion carried.

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Discussion: Councilman Nolan stated that he voted "no" to this ordinance at introduction and plans to do likewise tonight.

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Moved: Jurkovic Seconded: Bieri  
Voted Aye: Schimmenti.  
Voted Nay: Smolinski, Nolan, Lichtenberg, Jurkovic.  
Absent: Weisbecker  
Motion defeated.

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Agenda No. V

**Public Comments**

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

Doris Aaronson, 19 Bearfort Road, West Milford stated that the Cable TV Committee shall be submitting their report to the Governing Body in the near future. During the process, members of the Committee have learned that cable companies have increased foreign language programs thus causing a reduction in programming being offered to English speaking viewers. She encouraged those on fixed incomes and senior citizens to call the number on their cable bills to determine if they qualify for discounts on their billing. She stated that she recently read in the local paper that if the Board of Education (BOE) utilizes space at Hillcrest they would pay a proportionate share of the upkeep. She opined that such usage may change from time to time and thus this provision should be monitored and revisited regularly. Noting that a provision has not been made on the agenda for Council to give "thumbs-up" to residents, she gave the Council a thumbs up and a special thanks to Councilman Jurkovic.

Blanche DeSimone, 24 East Park Drive, West Milford wished everyone a Happy New Year and welcomed Mr. Boyle to the Township. She stated that she is here tonight to get a definitive date as to when the sedimentation basins will be installed in Gordon lakes.

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

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

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Agenda No. VI

**Council Comments**

Administrator Boyle stated that there was a memo in Council's packets addressing the sedimentation basins. He stated that the work is on the list of projects forthcoming for the engineering department and the work will be done as the weather and workload allows.

Councilwoman Lichtenberg stated that she will look into the potential for senior discounts with the cable company and asked that relevant information on this subject be forwarded to Bald Eagle Commons.

Councilman Jurkovic stated that those seniors who qualify for pharmacy discounts may be eligible for discounts on basic cable services.

Mayor Bieri stated that the labor attorney will be attending tonight to discuss certain matters with the Council in executive session. When he arrives the Council will convene in executive but will continue with new business until then.

Agenda No. VIII

**New Business, Introduction of Ordinances, Resolutions**

Agenda No. VIII 1

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**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, AND STATE OF NEW JERSEY ACCEPTING THE DEDICATION OF LAUREL HOLLOW ROAD FOR USE AS A PUBLIC STREET**

**BE IT ORDAINED**, by the Mayor and Township Council of the Township of West Milford, in the County of Passaic and State of New Jersey, as follows:

1. The following street having been dedicated to the Township of West Milford by the making and filing of maps is hereby accepted as a public street:  
Laurel Hollow Road, as shown on field Map #3479 dated December 21, 2001 and filed Map #3528 dated March 3, 2005 for the Final Subdivision of Phase 1 and 2 of Laurel Hollow Final Subdivision.
2. The Township Clerk is hereby authorized and directed to publish notice of the adoption of this Ordinance as provided by law and to file a certified copy of this Ordinance in the Office of the Passaic County Clerk as provided by law.
3. In accordance with applicable law, the owner has posted a maintenance bond in an amount and terms acceptable to the Township.
4. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.
5. This Ordinance shall take effect after publication and passage according to law.

INTRODUCED: February 11, 2009

Mayor Bieri advised that this ordinance is being introduced tonight. Second reading and public hearing for this ordinance is scheduled for March 4, 2009 and it shall be advertised as required by law.

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

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Agenda No. VIII 2

~ Ordinance No. 2009- 004~

**AN ORDINANCE SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY WITH THE ADDITION OF CHAPTER 100, ENTITLED "CERTIFICATE OF HABITABILITY (COH)"**

**BE IT ORDAINED** by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

**SECTION 1.** The aforesaid Revised General Ordinances is hereby supplemented to establish a newly created chapter, chapter 100, "Certificates of Habitability" to read as follows:

**§ 100-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

Enforcement Officer – The Fire Marshal of the Township of West Milford or such other officer designated by the governing body to enforce the provisions of this chapter.

Multiple Dwelling – any building or structure containing two or more rented or leased dwelling units occupied or intended to be occupied by two or more persons, together with all appurtenant land, buildings and structures.

Occupancy – The lawful possession of a residential dwelling unit, commercial or industrial space.

Owner – The person, persons or entity holding a legal or equitable fee simple interest in a commercial, industrial or residential building or, in case of premises held in the cooperative form of ownership, the person or persons holding legal or equitable title to the cooperative share allocated to a dwelling unit.

Residential Building – Includes one, two and three-family homes, multiple family dwellings and units therein and individual condominium cooperative units.

**§ 100-2. Certificate of Habitability.**

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No person shall occupy or use any portion of a commercial, industrial or residential building after such building or portion thereof has been vacated or sold or when there has been a change in use or occupancy of such building or any portion thereof until the owner or landlord thereof shall have applied for and secured a certificate of habitability subject to the requirements of § 100-3 herein. Such certificate shall be granted upon a general inspection of the visible parts of the building and the portion thereof that has been vacated or sold or in which there has been a change in use and occupancy providing there are no imminent hazards and the premises in question are in compliance with applicable building, health, safety and fire codes, regulations, ordinances and statutes of the Township of West Milford and the State of New Jersey.

**§ 100-3. Certificate required for occupancy.**

A Certificate of Habitability must be issued by the Township of West Milford prior to the rental, sale or lease of any commercial, industrial property, residential building, or any individual unit in a multiple-family dwelling involving a new occupancy in accordance with the standards set forth in §100-2 of this chapter.

**§ 100-3.a. Exceptions.**

A Certificate of Habitability will be deferred providing that an application is made with the Building Department which indicates that the property in question will not be occupied. The applicant must submit an Affidavit attesting that the property is either abandoned or about to be demolished and that no one will be occupying the premises until such time that a Certificate of Habitability is issued. The applicant must place a sign on the front door of the premises on 8 ½ by 11 paper at all times indicating that pursuant to this Section of the West Milford Township Code the property owner has agreed not to occupy the property. Anyone who attempts to occupy the premises without obtaining a Certificate of Habitability from the Township of West Milford will be in violation of the law and any and all appropriate penalties shall apply.

**§100-4. Prerequisites for Issuance.**

- A. No certificate of habitability shall be issued for a structure unless the condition of the same complies with all health, safety, fire and departmental regulations established pursuant to said ordinances or laws and the Property Maintenance Code of the Township of West Milford (Chapter 285 of the Code of the Township of West Milford).
- B. Once a certificate of habitability has been issued, it shall be valid until the dwelling changes tenancy, is resold or title to the dwelling is transferred.

**§ 100-5. Resale/Re-occupancy Inspection.**

All structures registered for a certificate of habitability inspection will be assigned a date and time for an inspection by the enforcement officer concurrent with the required smoke detector, carbon monoxide and fire extinguisher certification inspection. Thereafter the structure and its units will require inspections and certificates of habitability once the structure changes tenancy, is resold or title is transferred.

**§ 100-6. Smoke Detectors required in residential buildings.**

No certificate of habitability may be issued to a residential building or any portion thereof unless an approved smoke detector, carbon monoxide detector and fire extinguisher have been installed, as required by applicable state statute N.J.A.C. 5:70-4.19 et. seq., and local ordinances.

**§ 100-7. Higher standards to prevail.**

In any case where there may be a conflict in the provisions of the codes of the Township of West Milford or in the regulations of the State of New Jersey, the higher standards for the promotion and protection of the safety and health of the people shall prevail.

**§ 100-8. Application for Certificate of Habitability and Fees.**

- A. Application. Prior to any rental, lease or sale of any building or any portion thereof, as set forth in §100-3, the owner thereof shall apply to the Building Department on the appropriate form for a certificate of habitability.
- B. Fees. The fee for a certificate of habitability shall be paid in full at the time the application for such certificate is filed. The following fee schedule shall be used, and said fees shall be paid prior to inspections being made:
  - (1) If the request is made at least ten (10) business days prior to change of occupancy, the fee for the inspection of each dwelling unit shall be \$140.00 and the fee for the re-inspection of each dwelling unit shall be \$70.00.
  - (2) If the request is made less than ten (10) business days but more than four (4) business days prior to change of occupancy, the fee for the inspection of each dwelling unit shall be \$180.00 and the fee for the re-inspection of each dwelling unit shall be \$90.00.

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- (3) If the request is made less than four (4) business days prior to change of occupancy, the fee for the inspection of each dwelling unit shall be \$200.00 and the fee for the re-inspection of each dwelling unit shall be \$100.00.

**§ 100-9. Time limit for issuance or denial of certificate.**

The enforcement officer shall conduct an inspection of said commercial, industrial, or residential building or portion thereof which is to be sold, rented, or leased within a reasonable time, not exceeding 7 business days after completion of said application, and the Construction Official shall issue a certificate of habitability, provided that the standards set forth in § 100-3 of this chapter have been satisfied, and in the case of residential building, that the premises are in compliance with the requirement of installation of smoke detector, carbon monoxide detector and fire extinguisher as per N.J.A.C. 5:70-4.19 et. seq. Violations of the foregoing codes and ordinances or noncompliance therewith shall be grounds for denial of the certificate of habitability.

**§ 100-10. Failure to comply.**

If after inspection by the enforcement officer, a certificate of habitability may not be issued to the commercial, industrial or residential building or portion thereof because of the existence of a violation of any code or failure to comply with the standards set forth in § 100-2 of this chapter, notice shall be given by the enforcement officer to the applicant and the appropriate Township Departments detailing the violations of applicable laws, regulations or ordinance. The enforcement officer shall have the authority to issue any notice to the department responsible for enforcing any ordinance, statute or regulation against the owner and/or occupant of the commercial, industrial, or residential building or portion thereof wherein the violation exists. In the event that any violations are found to exist, there shall be no new occupancy or use for the premises until the criteria has been satisfied for the issuance of a certificate of habitability.

**§ 100-11. Correction of deficiencies; number of dwelling units.**

In the event that, upon inspection of the enforcement officer, a violation exists which reveals that the property is being utilized in violation of local ordinances regarding the number of separate dwelling units, the following shall be required in order to satisfy the enforcement officer that said condition has been abated:

- A. If separate and distinct utility services are installed at the premises for the illegal units, these utility services must be removed to the satisfaction of the enforcement officer.
- B. The present owner and contract purchaser, if any, must execute a statement, under oath, acknowledging that they are aware that the premises are to be used in a manner which is consistent with all local and state laws and they are further aware that all providers of municipal services and other municipal officials shall be obligated to report any violation of this chapter to any other ordinances of the Township of West Milford and that they will be subject to fines and other penalties consistent with law in the event of said future violation.

**§ 100-12. Powers and duties of Enforcement Officer; inspection; report.**

- A. The enforcement officer, of the Township of West Milford shall have such powers as may be necessary to carry out the intent and purposes of this chapter, including but not limited to the following enumerated powers:
  - (1) To enter upon said premises for the purposes of making examinations incidental to his duties.
  - (2) To delegate any of the functions and powers to the employees of the Township of West Milford as the enforcement officer may designate or as may be designated by the Council of the Township of West Milford.
- B. Upon application of a property owner, the enforcement officer shall make an inspection of said house, dwelling or other structure for which there has been an application for a certificate of habitability, as set forth in § 100-6, B or (5) days whichever is less.
- C. The enforcement officer shall make a report promptly after such inspection and advise the applicant and the appropriate departments of any violations of the International Building Codes, the property maintenance code in Chapter 285 of the Town Code, and the Health Department rules and regulations of the Township of West Milford.

**§ 100-13. Right to appeal.**

Any person affected by a decision rendered by the Code Enforcement Officer in connection with the enforcement of this chapter of the Code shall have the right to a hearing on the same before the applicable Appeals Board.

**§ 100-14. Applicability.**

The provisions of this chapter shall not apply to hotels, motels or other residential units, which are generally occupied, by tenants or guests for less than 30 successive days. However such hotels, motels or other residential units shall remain subject to the State required and mandated inspections per statute and/or regulation.

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**§ 100-15. Violations and penalties.**

Any individual person, group of persons, associations, partnerships or corporations, or any combination thereof, violating any of the terms of this chapter shall, upon conviction thereof, be subject to a fine or imprisonment as provided in Chapter 1, General Provisions, Article III, General Penalty.

**§ 100-16. Escrow.**

If a violation exists whereas, the seller and buyer negotiate an escrow agreement to satisfy any violations, the amount of such escrow shall be established by the Construction Official, at his discretion based upon the estimated cost of construction and with the concurrence of all other officials that may be affected by such outstanding item(s) or violation(s). The amount of escrow determined by the Township officials shall then be posted with an attorney licensed to practice law in the State of New Jersey. In addition, the escrow agreement shall establish a definite timetable acceptable to the Construction Official as to when the work shall be completed. Once this document has been executed and a copy has been provided to the Building Department, a temporary Certificate of Habitability can be issued. When the work is complete and passes inspection within the timetable designated in the escrow agreement, a Certificate of Habitability will be issued in accordance with this Chapter.

**§ 100-17. Township non-liability.**

The Township shall not, by the performance of inspections and reinspections required hereby, become or be considered to be a guarantor to any owner, purchaser, tenant or other person as to the condition of any building, unit or premises inspected or a participant in any contractual relationship between any persons or parties as to same.

**SECTION 2.** All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 3.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**SECTION 4.** This Ordinance may be renumbered for purposes of codification.

**SECTION 5.** This Ordinance shall take effect ninety (90) days upon final passage, approval and publication as required by law.

INTRODUCED: February 11, 2009

Mayor Bieri advised that this ordinance is being introduced tonight. Second reading and public hearing for this ordinance is scheduled for March 4, 2009 and it shall be advertised as required by law.

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

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The following resolutions were moved as one 2009-106, 2009-092, 2009-093, 2009-094 2009-095, 2009-096, 2009-097, 2009-098 and 2009-099.

Agenda No. VIII 3

**~ Resolution No. 2009- 106~**

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF THE TEMPORARY CONSTRUCTION EASEMENT AGREEMENT BETWEEN THE TOWNSHIP OF WEST MILFORD AND THE COUNTY OF PASSAIC FOR THE REPLACEMENT OF THE UNION VALLEY ROAD BRIDGE OVER GREEN BROOK**

**WHEREAS**, the County of Passaic has planned to undertake a project identified as the Replacement of the Union Valley Road Bridge over Green Brook located in the Township of West Milford; and

**WHEREAS**, the undertaking of such a project requires that the County of Passaic obtain easements from certain parties, including the Township of West Milford; and

**WHEREAS**, the County of Passaic has formally requested that the Township of West Milford grant it a temporary construction easement to allow the County to go on his property with the necessary labor, equipment, vehicles and material at any and all times for the purposes of facilitating the replacement of the Union Valley Road Bridge over Green Brook; and

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

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**WHEREAS**, the Township of West Milford has agreed to enter into such temporary construction easement agreement, and, under the recommendation of the Township Engineer, the Township desires to enter into such temporary construction easement agreement for the aforementioned purposes, subject to the terms and conditions set forth in the temporary construction easement agreement, attached hereto and made a part hereof.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey that the Township shall execute and enter into the attached temporary construction easement agreement with the County of Passaic pursuant to the terms and conditions as stated in the attached agreement.

Adopted: February 11, 2009

Agenda No. VIII 5

~ Resolution No. 2009- 092~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY REGARDING REPAIR/RESTORATION OF THE ROUTE 23 AT PEQUANNOCK RIVER AND NYSW RAILROAD BRIDGE**

**WHEREAS**, the New Jersey Department of Transportation has begun a process to determine the need for repair and/or restoration of the Route 23 at Pequannock River and NYSW Railroad Bridge. This structure is commonly known to the area residents and others as the "High Crest Bridge"; and

**WHEREAS**, a meeting was held on January 12, 2009 at the Kinnelon Municipal Building as a pre-project information session for D.O.T. representatives' benefit; and

**WHEREAS**, the meeting was substantially and enthusiastically attended by Morris and Passaic County Engineering, officials from Kinnelon, Butler and West Milford Police and Fire; and

**WHEREAS**, a lengthy, lively and healthy discussion took place exploring all aspects and ramifications of this structure now and well into the future; and

**WHEREAS**, Route 23 is a critical major artery for vehicular traffic between the north west and north east sectors of our state providing connection with other highway system routes such as Route 287, Route 80 and Route 46, eventually to the George Washington Bridge and the Lincoln Tunnel; and

**WHEREAS**, the DOT is offering options that include replacement of the current span with another span of equal size; and

**WHEREAS**, the consensus of the meeting attendees was overwhelmingly in support of the total replacement of this structure with the provision for six lanes; three northbound and three southbound, not withstanding cost and other related issues.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Township Council of the Township of West Milford hereby go on record in support of replacing this most critical structure in the Route 23 Highway System Corridor; and

**BE IT FURTHER RESOLVED** that this resolution shall be sent to the Governor of the State of New Jersey, the Director of the State of New Jersey Department of Transportation, Senator Pennachio, and Assemblymen DeCroce and Weber; and

**BE IT FURTHER FIRMLY UNDERSTOOD** this action is taken with the best interests in mind for all concerned.

Adopted: February 11, 2009

Agenda No. VIII 6

~ Resolution No. 2009- 093~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY APPOINTING THE TOWNSHIP TAX COLLECTOR TO SERVE AS THE TAX SEARCH OFFICER FOR THE MUNICIPALITY**

**WHEREAS**, N.J.S.A. 54:5-11 provides that every municipality in New Jersey must designate a person to act as the Tax Search Officer for the municipality; and

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

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**WHEREAS**, in accordance with the statute the Tax Search Officer shall be designated to examine records and certify unpaid municipal liens without being subject to personal liability; and

**WHEREAS**, the Township's Tax Collector is the person historically appointed to serve as the municipal Tax Search Officer for the Township of West Milford; and

**WHEREAS**, performance of the functions related to the position of Tax Search Officer shall not result in any additional compensation above the compensation received in the title of Tax Collector.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Township Council of the Township of West Milford hereby appoints the Township Tax Collector to serve as the Tax Search Officer for the municipality.

Adopted: February 11, 2009

Agenda No. VIII 7

~ Resolution No. 2009- 094~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE REGISTRATION OF THE TOWNSHIP OF WEST MILFORD AS A PARTICIPANT IN THE SUSTAINABLE JERSEY PROGRAM**

**WHEREAS**, Sustainable Jersey is an initiative of the New Jersey State League of Municipalities – Mayors' Committee for a Green Future, the Municipal Land Use Center at the College of New Jersey, The New Jersey Sustainable State Institute at Rutgers University, and a coalition of NJ non-profits, state agencies, and experts in the field (including the NJ Department of Environmental Protection and the Rutgers Center for Green Building); and

**WHEREAS** West Milford is a New Jersey municipality that wishes to become a Sustainable Community, control costs and save money, and take steps to sustain quality of life over the long term; and

**WHEREAS** participation in the Sustainable Jersey program provides access to grants, technical assistance, and identifies existing and new incentives for municipalities to make progress taking actions towards becoming a Sustainable Jersey Certified Community; and

**WHEREAS** if successful in becoming a "certified" Sustainable Community, the township may receive recognition, prestige, and additional grant dollars; and

**WHEREAS**, the Township of West Milford Environmental Commission wishes to work in conjunction with the Township Governing Body in participating in this program, now

**NOW, THEREFORE, BE IT RESOLVED**, that the Township Council of the Township of West Milford, County of Passaic, State of New Jersey hereby directs and authorizes the Township's Environmental Commission to register West Milford township as a participant in the program.

Adopted: February 11, 2009

Agenda No. VIII 8

~ Resolution No. 2009- 095~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING CHANGE ORDER NO. 1 TO THE ROCK SALT CONTRACT AWARDED TO CARGIL INC. DEICING TECHNOLOGY**

**WHEREAS**, the Township awarded a contract to Cargil Inc. - Deicing Technology on October 8, 2008 by virtue of resolution # 2008-373 in the amount of \$578,000.00; and

**WHEREAS**, the Township Engineer has recommended approval of a change order to the aforementioned contract in an amount not to exceed \$115,260; and

**WHEREAS**, the increased cost recommended in the approval of the change order is less than 20% of the original contract amount; and

**WHEREAS**, the change is recommended due to the number and type of storms experienced this winter, and in order to be prepared for additional storms this season; and

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

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**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds for this change order, said funds to be paid from account number 8-01-26-294-363.

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

1. The Township Council hereby approves a change order to the contract with Cargil Inc. Deicing Technology in an amount not to exceed \$115,260.00, representing an increase to the original approved amount of less than 20%.
2. The Township's Chief Financial Officer has certified as to the availability of funds for same.
3. This resolution and contract shall be available for public inspection in the office of the Township Engineer.

Adopted: February 11, 2009

Agenda No. VIII 9

**~ Resolution No. 2009- 096~**

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING CHANGE ORDER NO. 1 TO THE ICE CONTROL AGGREGATE CONTRACT AWARDED TO VAN ORDEN SAND & GRAVEL OF RINGWOOD**

**WHEREAS**, the Township awarded a contract to Van Orden Sand & Gravel on October 8, 2008 by virtue of resolution # 2008-402 in the amount of \$161,500; and

**WHEREAS**, the Township Engineer has recommended approval of a change order to the 2008 Ice Control Aggregate Contract previously awarded to Van Orden Sand & gravel of Ringwood in the amount of \$30,510; and

**WHEREAS**, the increased cost recommended in the approval of the change order is \$30,510.00 which is less than 20% of the original contract amount; and

**WHEREAS**, the change is recommended due to the number and type of storms experienced this winter, and in order to be prepared for additional storms this season; and

**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds for this change order, said funds to be paid from account number 8-01-26-294-348 - 2009 Temporary Budget.

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

1. The Township Council hereby approves a change order to the contract with Van Orden Sand & gravel of Ringwood in an amount not to exceed \$30,510.00, representing an increase to the original approved amount of less than 20%.
2. The Township's Chief Financial Officer has certified the availability of funds for same.
3. This resolution and contract shall be available for public inspection in the office of the Township Engineer.

Adopted: February 11, 2009

Agenda No. VIII 10

**~ Resolution No. 2009- 097~**

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE PURCHASE OF PAVING MATERIALS THROUGH THE MORRIS COUNTY COOPERATIVE PURCHASING COUNCIL, CONTRACT #5, PAVING MATERIALS TO TILCON NEW YORK, INC.**

**WHEREAS**, the Township of West Milford is a member of the Morris County Cooperative Purchasing Council (State ID # 6-MoCCP); and

**WHEREAS**, the Morris County Cooperative Purchasing Council has awarded Contract #5, Paving Materials, for District #2, for the 2009 year to Tilcon New York, Inc. and said contract was awarded

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

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through the open competitive bidding process and in accordance with N.J.S.A. 40a:11 et seq., Local Public Contracts Law; and

**WHEREAS**, the Township of West Milford anticipates a need for Paving Materials in 2009; and

**WHEREAS**, the Township Engineer has reviewed the Morris County Cooperative Purchasing Council's contract and related specifications and has submitted a written recommendation that the Township of West Milford purchase paving materials through the Morris County Cooperative Purchasing Council, Contract #5, Paving Materials in an amount not to exceed \$100,000; and

**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds for these purchases, said funds to be encumbered from account number 9-01-26-290-362.

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

1. The Township Council hereby authorizes the Township Engineer to purchase Paving Materials, in an amount not to exceed \$100,000, through the Morris County Cooperative Purchasing Council, contract #5, Paving Materials awarded to Tilcon New York, Inc.
2. The Township's Chief Financial Officer has certified the availability of funds for same.
3. This resolution and contract shall be available for public inspection in the office of the Township Engineer.

Adopted: February 11, 2009

Agenda No. VIII 11

~ Resolution No. 2009- 098~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE PURCHASE OF GASOLINE THROUGH THE 2008 MORRIS COUNTY COOPERATIVE PURCHASING COUNCIL, CONTRACT #1, ALLIED OIL, LLC.**

**WHEREAS**, the Township of West Milford is a member of the Morris County Cooperative Purchasing Council (State ID # 6-MoCCP); and

**WHEREAS**, the Morris County Cooperative Purchasing Council has awarded Contract #1, Gasoline, for the 2009 year to Allied Oil, LLC and said contract was awarded through the open competitive bidding process and in accordance with N.J.S.A. 40a:11 et seq., Local Public Contracts Law; and

**WHEREAS**, the Township of West Milford anticipates a need for Gasoline in 2009; and

**WHEREAS**, the Township Engineer has reviewed the Morris County Cooperative Purchasing Council's contract and related specifications and has submitted a written recommendation that the Township of West Milford purchase gasoline through the Morris County Cooperative Purchasing Council, Contract #1, Gasoline in an amount not to exceed \$200,000; and

**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds for these purchases, said funds to be encumbered from account number 9-01-31-460-315.

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

1. The Township Council hereby authorizes the Township Engineer to purchase Gasoline, in an amount not to exceed \$200,000, through the Morris County Cooperative Purchasing Council, Contract #1, Gasoline awarded to Allied Oil, LLC
2. The Township's Chief Financial Officer has certified the availability of funds for same.
3. This resolution and contract shall be available for public inspection in the office of the Township Engineer.

Adopted: February 4, 2009

Agenda No. VIII 12

~ Resolution No. 2009- 099~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY PROVIDING FOR AN AGREEMENT FOR PROFESSIONAL SERVICES WITH**

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

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**CHILTON MEMORIAL HOSPITAL**

**WHEREAS**, there exists a need for certain Community Health Education services to the West Milford Health Department; and

**WHEREAS**, the Township received a proposal to provide these services from Chilton Memorial Hospital; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, *et seq.*) requires that a resolution authorizing the award of a contract be available for public inspection; and

**WHEREAS**, the Chief Financial Officer has certified the availability of funds for this contract, said encumbrances to be taken from account number 9-01-27-330-200.

**NOW, THEREFORE, BE IT RESOLVED** by the Township of West Milford, New Jersey as follows:

1. That the proper Township Officials are hereby authorized and directed to execute a contract in a total amount not to exceed \$7,640.00 for community health education services with:  

CHILTON MEMORIAL HOSPITAL  
97 West Parkway, Pompton Plains, New Jersey 07444
2. This contract is awarded without competitive bidding as a "Professional Service" in connection with N.J.S.A. 40A: 11-5 (1) (a).
3. That a notice of this action shall be published once in the *Herald News*.

Adopted: February 11, 2009

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

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Agenda No. VIII 4

**~ Resolution No. 2009- 045~**

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING EXECUTION OF AN AGREEMENT WITH SUSANNE PAPPAS AS CARETAKER FOR WESTBROOK PARK**

TABLED TO FEBRUARY 25, 2009 COUNCIL WORKSHOP MEETING

Discussion: Councilman Jurkovic asked if Ms. Pappas has agreed to the terms of the agreement. Mr. Semrau advised that he spoke with her attorney on Thursday last but missed his call today. Councilman Jurkovic stated that he feels it would be prudent to wait until that is clarified and continue to operate under the 2008 contract. Councilman Nolan stated that that this resolution has been continually carried since the reorganization meeting in January and, in his opinion, it is time to determine if anyone else is interested in this contract. In response to Council President Smolinski's query, Mr. Boyle advised that Ms. Pappas received the contract about 3 to 4 weeks ago.

Councilman Jurkovic made a motion to table this resolution to the February 25<sup>th</sup> workshop meeting and to extend the current contract until that time.

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

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Agenda No. IX

**Consent Agenda**

**~ Resolution No. 2009- 100 ~**

**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 AUTHORIZING PASSAGE OF CONSENT AGENDA**

**WHEREAS**, the Mayor and Township Council of the Township of West Milford has reviewed the Consent Agenda consisting of various proposed Resolutions and Applications.

**NOW, THEREFORE, BE IT RESOLVED**, that the following Resolutions and Applications on the Consent Agenda are hereby approved:

**Resolutions:**

- a. **Resolution 2009-101** – Recreation Refund
- b. **Resolution 2009-102** – Refund Liquor License Application Fees
- c. **Resolution 2009-103** – Refund Performance Guarantee

**Applications:**

- a. **Application for Tricky Tray Raffle** by the Macopin Middle School PTA.
- b. **Application for On Premise 50/50 Raffle** by the Macopin Middle School PTA.
- c. **Application to Amend Raffle License No. 2009-11** – change of date to 2/13/2009.
- d. **Application to Amend Bingo License No. 2009-10** – change of date to 2/13/2009.

Adopted: February 11, 2009

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

The following resolutions were included in the consent agenda:

Agenda No. IX a

~ Resolution No. 2009- 101 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF RECREATION FEES**

**BE IT RESOLVED**, that the following Recreational fees upon the report of the Director of Community Services and Recreation be refunded:

Name & Address	Reason	Amount Refunded
Nicole Klosz 84 Bergen Drive West Milford, NJ 07480	Refund for withdrawal of enrollment in Chess Program	\$45.00

Adopted: February 11, 2009

Agenda No. IX b

~ Resolution No. 2009- 102 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF LIQUOR LICENSE TRANSFER FEES**

**BE IT RESOLVED**, by the Township Council of the Township of West Milford that, based upon the report and request of the Township Clerk the following liquor license transfer fees be refunded:

Name & Address	Purpose	Amount Refunded
Tom McGurr P.O. Box 1057 Hewitt, NJ 07421	N.J. ABC License Transfer Fee N.J. ABC Bulk Sale Fee	\$200.00 <u>\$75.00</u>
<b>Total Amount of Refund</b>		<b>\$275.00</b>

Adopted: February 11, 2009

Agenda No. IX c

~ Resolution No. 2009- 103 ~

**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 AUTHORIZING REFUND OF PERFORMANCE GUARANTEE**

**BE IT RESOLVED**, by the Township Council of the Township of West Milford that, upon the report and request of the Township's Engineering Department, the following Performance Guarantees be refunded:

<u>Name &amp; Address</u>	<u>Block &amp; Lot</u>	<u>Amount Refunded</u>	<u>Pg. No.</u>
Carmen Bastante 425 Pinebrook Road Lincoln Park, NJ 07035	12901/56	\$ 400.00	76

Adopted: February 11, 2009

Agenda No. X

**Approval of Expenditures**

~ Resolution No. 2009- 104 ~

**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. . . . .	\$532,028.67
2	Reserve Account . . . . .	77,567.80
3	Animal Control Trust	1,519.10
6	Capital. . . . .	81,791.95
7	Grants. . . . .	9,496.40
8	Refuse. . . . .	76,528.36
9	Refunds. . . . .	45.00
12	General Ledger. . . . .	4,836,125.16
16	Heritage Trust. . . . .	201.88
14	Open Space Trust	
17	Trust . . . . .	900.00
18	Development Escrow. . . . .	6,004.50
19	LOSAP	
20	Special Reserve	
<b>Total</b>		<b>\$5,622,208.82</b>
Less Refund Resolution		(45.00)
<b>Actual Bill List</b>		<b>\$5,622,163.82</b>
Other Payments		\$10,000.00
Less Refund Resolution		
<b>Total Expenditures</b>		<b>\$5,632,163.822</b>

Approved: February 11, 2009

Councilman Nolan made a motion to place resolution 2009-104 on the table for discussion. Seconded by Council President Smolinski.

Discussion: Councilman Jurkovic noted that Medicare reimbursements are included on this bill list. In reviewing them he noted that the payments are for six months but some amounts would indicate that the payment is actually for one year. Mayor Bieri advised that she posed the same question last year and

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

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was advised at that time that these payments are for spousal coverage and thus the payments are for two persons for a six-month period each. Councilman Jurkovic asked that these payments be pulled pending verification that the Mayor's recollection is correct. He noted that this bill list reflects a \$90,000 payment to Passaic County for open space. This is in addition to the state and municipal open space taxes residents' pay. West Milford is in the Highlands and he believes that the Township should reconsider open space taxation. Councilman Nolan stated that County open space funds are used for grants for local projects and he listed some projects for which West Milford received such funding. The open space taxes are mandated by law and, in his opinion, West Milford has received value for this money.

Councilman Nolan amended his motion to exclude the Medicare payments questioned by Councilman Jurkovic on pages 20 and 22 from the bill list.

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Moved: Nolan Seconded: Smolinski  
Voted Aye: Smolinski, Schimmenti, Nolan, Lichtenberg, Jurkovic.  
Voted Nay: None.  
Abstain: Councilman Nolan abstained from the Valley Health payments only.  
Councilman Jurkovic abstained from Mr. Glatt's payments only.

Motion carried.

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Agenda No. XIII

**Executive Session**

~ Resolution No. 2009- 105~

**MOTION FOR EXECUTIVE SESSION**

**BE IT RESOLVED** by the Township Council of the Township of West Milford on the 11<sup>th</sup> day of February, 2009 that:

1. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
  - ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
  - ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
  - ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
  - ( ) b. (4) A collective bargaining agreement including negotiations.
  - ( ) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
  - ( ) b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
  - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
    - Contract Negotiations – Program Facilities + Hillcrest Lease
  - ( ) b. (8) Personnel matters.
  - ( ) b. (9) Deliberations after a public hearing that may result in penalties.
2. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: February 11, 2009

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

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The Council convened in executive session at 8:26 p.m. and returned to the public portion of the meeting at 9:00 p.m. with all present as before.

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

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Mayor Bieri advised that the Council discussed program facilities and the Hillcrest lease in executive session. The Council has agreed to submit a proposed agenda to the BOE for the upcoming joint meeting. She conveyed the outline of the agenda and advised that it shall be posted on the Township's website tomorrow. The Council plans to present four proposals to the BOE for their consideration which will be synopsisized on the agenda.

Agenda No. VII

**Executive Session**

Mayor Bieri advised that Mr. Giacobbe, Labor Attorney, and Police Chief Costello are in attendance to meet with the Council in executive session. Mayor and Council went into Executive Session at 10:05 p.m.

**~ Resolution No. 2009- 091~**

**MOTION FOR EXECUTIVE SESSION**

**BE IT RESOLVED** by the Township Council of the Township of West Milford on the 11<sup>th</sup> day of February, 2009 that:

3. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
  - ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
  - ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
  - ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
  - ( ) b. (4) A collective bargaining agreement including negotiations.
  - ( ) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
  - ( ) b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
  - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
    - Contract Negotiations – Hillcrest Lease
  - (X) b. (8) Personnel matters.
    - Personnel – Czuj v. Township of West Milford (OAL Docket No. CSVLW-3814-2008N)
    - Personnel – Hardin Matter
  - ( ) b. (9) Deliberations after a public hearing that may result in penalties.
4. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: February 11, 2009

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

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The Council reconvened in public at 10:51 p.m. with all present as before.

Agenda No. XI

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

Councilman Nolan advised that the Township has been awarded \$183,000 in CDBG funding to construct a sidewalk from Lincoln Village to Shop Rite. He advised that he attended the CDBG meeting yesterday and he picked up an application for this year's funding round. He recommended that additional funding be sought to complete this sidewalk project and he asked Mr. Boyle to have staff develop more ideas for CDBG applications and return with same to Council for a workshop discussion. He advised that the school board election is scheduled for April 21<sup>st</sup> and petitions are available at the school. The deadline

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

Minutes of: Township Council Regular  
Date of Meeting: February 11, 2009  
Time of Meeting: 7:30 P.M.  
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for filing is March 2<sup>nd</sup> and three seats are up for election. He recently read an opinion piece drafted by Senator Pennachio wherein the Senator opined that the State of New Jersey should be posting financial information on their website. Some municipalities have adopted resolutions supporting this position and Councilman Nolan asked for a workshop discussion of this subject. He also stated that West Milford should post more financial information on our website. He noted that Mr. Boyle copied Council on a letter he sent to the Township's former labor attorney addressing September 2008 billing wherein Mr. Knapp exceeded appropriations. The letter advised Mr. Knapp that the Administrator was enforcing the limit on the contract and he commended Mr. Boyle for this stance. He stated that Mr. Boyle sent a memorandum to Council outlining the work done by the engineering department. Councilman Nolan expressed surprise at the volume of work produced by this department and Mr. Boyle echoed those sentiments.

Councilwoman Lichtenberg recalled that, when the Township offered the Wallisch property to the Audobon Society, they rejected the offer. She requested consensus to allow Sustainable West Milford to make a presentation to Council detailing a concept they wish to propose for utilizing that property. She stated that the food pantries in town are in need of donations and the census bureau is currently hiring for the 2010 census. She advised that tomorrow is Abraham Lincoln's birthday and he will be at the museum on Saturday. She gave a thumbs up to the residents who meet with her on Thursdays when she is a town hall between 10 a.m. and noon. She wished everyone a Happy Valentine's Day this coming Saturday.

Councilman Jurkovic stated that the cable TV committee met with representatives from the cable company last night. As a result of the new agreement, the Township may be eligible for grant opportunities. They discussed having cameras in place in Town Hall and school facilities for all municipal meetings. The concept includes working with the high school media center, having more air time, and a dedicated channel for West Milford. This and all other issues will be addressed in the report that the committee will present to the Council.

Council President Smolinski stated that West Milford High School students, including Councilwoman Lichtenberg's son, have formed a group called Model UN which plans to debate BOE candidates this year. He advised that West Milford submitted a list of projects totaling approximately \$4 million dollars to the State for stimulus funding. He stated that the upcoming joint meeting with the BOE about the Hillcrest lease will be conducted fairly. He is recused from this subject but will be in attendance because, like all residents, he is very interested in this community based subject. The options Council is proposing all seem fair and the meeting is on April 18<sup>th</sup> at the Westbrook media center at 8 p.m.

Councilman Schimmenti stated that Mr. Novack advised members of the ADA committee yesterday that there are a significant number of businesses in West Milford that are not compliant with ADA regulations. He asked for consensus to have Mr. Semrau research this matter to determine what the Township can do to ensure and enforce compliance. He congratulated the High School wrestling coach for his 300<sup>th</sup> victory and thanked Andrew Taylor and Joseph Smolinski for their attendance as first aid volunteers at the High School wrestling match on Sunday. The district tournament is scheduled for February 22<sup>nd</sup>.

Mayor Bieri advised that volunteer night is scheduled for April 22<sup>nd</sup> and she outlined the process. She attended a breakfast meeting this past Saturday at which Governor Corzine was also in attendance. She spoke with him about many issues including the fiscal crisis being faced by New Jersey. The Governor made it clear that as a result of this crisis aid will be cut. She advised that she, Mr. Semrau, and the Planning Board Engineer, Mr. Ferraro, went to Trenton to meet with the DEP for a pre-approval hearing on Random Woods. There is a lot to be done and the next step will be to seek Highlands waivers to utilize part of the property to accommodate municipal needs. She attended a mayors meeting on Tuesday which was also attended by Senator Pennachio and Assemblymen DeCroce and Weber. They discussed COAH and binding arbitration among other issues.

Administrator Boyle stated that, in accordance with a directive from Council, he contacted the Township's insurance provider and has learned that there is no coverage for the ice storm in Upper Greenwood Lake. He is working on purchasing and installing thermostat covers in Town Hall and he has authorized the rebidding of trucks in March. He has requested Mr. Semrau's legal opinion on an RFP for changes to the transportation system. He advised that he will be approaching the Council at a future workshop to discuss possible video showcasing with a link to the Township's website. He advised that he is working on the issues with grits on Township roads. To remedy the situation going forward he has discussed recalibrating the sanders with the DPW Superintendent and the street sweeper will be out throughout the Township within the week, weather permitting. They will continue sweeping as the weather allows. Since October 28, 2008, there have been over forty-two weather events in West Milford. He advised that he is meeting with Tennessee Gasline and Dewberry Goodkind within the next week to discuss their respective West Milford projects.

Township Attorney Semrau reminded Council of a court matter wherein Mr. O'Shea filed suit opposing the charges for copies. Judge Brogan found in the Township's favor and Mr. O'Shea took the matter to the appellate division. The Township's insurance provider agreed to provide coverage and a hearing was

