

The Regular Meeting of the West Milford Township Council was called to order by Township Clerk Kevin J. Byrnes. In the absence of Mayor Joseph DiDonato and Council President William Gervens, Township Clerk Byrnes asked for a motion to elect a member from the Township Council to preside over the meeting. A motion was made by Councilman Carmelo Scangarello for Councilman Dennis Kirwan to preside over the meeting.

Moved: Scangarello Seconded: Lotz-Moore

Close/Confirm: Bailey

Voted Aye: Bailey, Elcavage, Kirwan, Lotz-Moore, Scangarello

Voted Nay: None

Motion carried.

Councilman Kirwan advised that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this regular meeting was advertised in the Aim Community News in its issues of December 14, 2003 and December 21, 2003; copies were provided to the Record, North Jersey Herald & News, Greenwood Lake News and Suburban Trends 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

Invocation

Reverend Janet MacGregor-Williams, West Milford Presbyterian Church

Roll Call

Present: Township Councilmen Paul Bailey, Joseph Elcavage, Dennis Kirwan, Patricia Lotz-Moore, and Carmelo Scangarello.

Absent: Councilman William Gervens and Mayor Joseph DiDonato.

Also Present: Acting Township Administrator Kevin J. Byrnes, Township Attorney William DeMarco and Tonya E. Cubby, Office of the Township Clerk

Reading of or Approval of Unapproved Minutes

Councilman Elcavage moved to adopt the minutes of the February 4, 2004 Regular Meeting, the February 4, 2004 Executive Session #1, and the February 4, 2004 Executive Session #2.

Moved: Elcavage Seconded: Scangarello

Voted Aye: Bailey, Elcavage, Kirwan, Lotz-Moore, Scangarello

Voted Nay: None.

Motion carried.

Bids & Awards

None.

Proclamations

None.

Presentations

West Milford PBA President Joseph Nevin and Vice President John Calabrese
Eagle Scout presentations to Thomas Kafafian, Timothy Cedrone, John Sandve
and William Cytowicz

Unfinished Business, Final Passage of Ordinances

None.

New Business, Introduction of Ordinances, Resolutions

The Township Council proceeded to take action on the following resolutions and ordinances:

Agenda No. **F 1**
RESOLUTION NO. 2004 - 62

**RESOLUTION AUTHORIZING PLACE TO PLACE TRANSFER OF LIQUOR
LICENSE
OF JAMES ANTHONY DELI RESTAURANT, INC. TO EXPANDED PREMISES
AT
2019 GREENWOOD LAKE TURNPIKE**

WHEREAS, an application has been received for a Place to Place transfer of 2003 - 2004 Plenary Retail Consumption License No. 1615-33-021-002 presently held by James Anthony Deli & Restaurant, Inc. in the Township of West Milford to expanded premises at the same location, 2019 Greenwood Lake Turnpike; and

WHEREAS, the Township Council has conducted a public investigation of the applicant as stipulated in the guidelines of the Director of the Division of Alcoholic Beverage Control dated April 14, 1980; and

WHEREAS, as a result of that investigation the Township Council has determined the following:

1. The submitted application in complete in all respects.
2. The applicant is qualified to be licensed according to all statutory, regulatory and local governmental A.B.C. Laws and regulations.

WHEREAS, the Township Clerk has received a memo from the Chief of the West Milford Police Department that there is no objection to the plan as submitted and approval is recommended;

NOW, THEREFORE, BE IT RESOLVED that the application is hereby approved.

Adopted: February 18, 2004

Agenda No. **F 3**
RESOLUTION NO. 2004 - 64

**RESOLUTION PROVIDING FOR THE ASSIGNMENT OF TAX SALE
CERTIFICATE AT PRIVATE SALE**

WHEREAS, the Collector of Taxes has reported to the Township Council the offer of Erich & Carol Kuhles to acquire by assignment the following tax lien certificate, held by the Township of West Milford;

**LIEN CERTIFICATE NO. SALE DATE BLOCKLOT AMOUNT DUE ON
CERTIFICATE**

97-50 5/15/1997 2512 11 \$ 1,774.07

WHEREAS, the said Erich & Carol Kuhles has paid to the Collector of Taxes the sum of \$1,774.07 representing the amount due on said Certificate, together with subsequent liens thereon:

BE IT RESOLVED that March 3, 2004, at 7:30 P.M. prevailing time at the West Milford Town Hall, be set as the date, time and place when and where the Township Council shall take action on the said offer of Erich & Carol Kuhles;

BE IT FURTHER RESOLVED, that the Collector of Taxes be and hereby is directed, pursuant to N.J.S.A. 54:5-114, to publish such notice in the Aim Newspaper, mail such notice and post such notices as shall be required by law prior to any action as shall be taken by the Township Council on said offer.

Adopted: February 18, 2004

Moved: Lotz-Moore Seconded: Bailey
Voted Aye: Bailey, Elcavage, Kirwan, Lotz-Moore, Scangarello.
Voted Nay: None.
Resolution adopted.

Agenda No. **F 4**
RESOLUTION NO. 2004 - 65

**RESOLUTION AUTHORIZING ISSUANCE OF A RECREATION GROUP USE
PERMIT
(BROWN'S POINT - PAL CARNIVAL)**

WHEREAS, the Township's Director of Parks and Recreation has received a request for the use of Brown's Point for May 24, 2004 through May 31, 2004 for a Carnival being sponsored by the West Milford PAL; and

WHEREAS, this event is of an extraordinary nature requiring the approval of the Township Council of the Township of West Milford; and

WHEREAS, the Township Council has reviewed the application and the report

Voted Nay: None.
Resolution adopted.

Agenda No. **F 5**
RESOLUTION NO. 2004 - 66

**RESOLUTION OF THE MAYOR AND TOWNSHIP COUNCIL
REGARDING THE CONSTRUCTION OF ROADS AT FOREST HILL PARK**

WHEREAS, the Township of West Milford entered into a contract dated July 15, 1999 with John Garcia Construction Co., Inc., 183 Friar Lane, Clifton, New Jersey (hereafter "Garcia") whereby the said Garcia was to perform certain work and services with respect to the improvements of various roads in the Forest Hill Park community in the Township of West Milford; and

WHEREAS, the said Garcia was required and did post a certain maintenance bond issued by International Fidelity Insurance Company (Bond no. HOIFSU0322855) to guarantee that it would repair, rectify and remediate any defects or deficiencies in materials and/or workmanship occurring or resulting within a two (2) year period commencing November 20, 2001; and

WHEREAS, inspections conducted by representatives of the Township of West Milford indicated and disclosed defects and deficiencies in materials and workmanship resulting or occurring within the said two (2) year period; and

WHEREAS, notice of the said defects and deficiencies were communicated to the said Garcia and the said International Fidelity Insurance Company; and

WHEREAS, the said Garcia has refused to repair, rectify or remediate the said defects and deficiencies;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford as follows:

1. The aforesaid recitals are incorporated herein as factual determinations as if set forth at length.
2. The said Garcia is hereby determined to be in breach of contract with respect to its obligations to repair, rectify and remediate any defects and deficiencies in the aforesaid work and materials occurring or resulting on or after November 20, 2001.
3. The Township Administrator is authorized and directed to make an immediate demand on International Fidelity Insurance Company to perform the work necessary and provide the required materials to correct the said defects and deficiencies or to provide adequate monetary compensation to the Township for the cost of said performance.

(docket no. PAS-L-1675-03) which challenged the validity of the 2003 Ordinances and sought a Court order restraining the sale of the property; and

WHEREAS, as a result of this Action an Order was entered temporarily restraining the conveyance of the property to the State of New Jersey pending further Order of the Court. This Action continues to be pending in the Superior Court and the Sale to the State continues to be restrained by the Court Order; and

WHEREAS, the term of office of the current Mayor and Township Council began on January 1, 2004 and among the responsibilities of the Mayor and Council is the responsibility to review the pending sale of the redevelopment property and the status of the pending litigation challenging the sale; and

WHEREAS, the Mayor and Council have reviewed the actions which were taken by their predecessors and have concluded the actions taken by former Council majority concerning the redevelopment property seriously compromised the public interest.

The former Council majority, in their desperation to conclude a sale of the property before the expiration of their terms of office, refused to responsibly negotiate and allowed the terms of the sale, including price, to be dictated by the State and the Redeveloper. The former Council majority further compromised the public interest by rushing to action without obtaining a conclusive determination on the issue of the alleged conflict of interest of Councilman Gargano and the legal issue raised by the Township Planning Board concerning the propriety of amendment to the redevelopment plan.

WHEREAS, the Mayor and Council are convinced that the actions of the former Council majority were not in the best interest of the Township of West Milford and were it not for the impact on the rights of third parties, particularly the State of New Jersey and the Redeveloper, this Council would repeal the 2003 Ordinances concerning the redevelopment property adopted by the former Council majority. The Mayor and Council regret that the actions of the former Council majority have left the Township in a position where the future of the redevelopment property is now in the hands of the Court; and

WHEREAS, the Mayor and Council have reviewed the pending litigation and have concluded that the issues raised in the litigation have substantial merit and have decided that the interests of the Township would not be best served by defending the validity of the 2003 ordinances;

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 Special Counsel for the Township of West Milford is hereby directed that the position of the Township of West Milford in the *Hannon et.al. v. Mayor and Council of the Township of West Milford* (docket no. PAS-L-1675-03) matter shall be that the Township of West Milford does not defend the validity of the 2003 redevelopment property Ordinances; and

RESOLVED, that upon the report and request of the Township's Planning Director the following Escrow monies be refunded:

| <u>Name & Address</u> | <u>App. No.</u> | <u>Escrow Amount</u> | <u>Amount Refunded</u> |
|--|------------------------|------------------------|------------------------|
| Michael Abood 44 McKinley Place West Milford, NJ 07480 | 9930-0388 | \$ 250.00 | \$ 61.20 |
| Angela Wilson 29 Northwood Drive West Milford, NJ 07480 | 0030-0445 | \$ 250.00 | \$ 91.01 |
| Thomas Alois 229 Union Blvd. Totowa, NJ 07512 | 9930-0391 0130-0485 | \$ 150.00 \$ 250.00 | \$ 81.45 \$ 10.30 |
| Hanna and Jan Siarek 13 Albert Street Garfield, NJ 07026 | 0230-0597 | \$ 850.00 | \$ 410.99 |
| Thomas Scala 203 Stephens Road West Milford, NJ 07480 | 9910-1580C | \$ 550.00 | \$ 412.86 |

Adopted: February 18, 2004

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 Agenda No. **G1 c**  
 RESOLUTION NO. 2004 - 73

**RESOLUTION AUTHORIZING REFUND OF OVERPAYMENTS**

**WHEREAS**, there appears on the tax records overpayments as shown below;  
 and

**WHEREAS**, the overpayments were created by reasons stated below and the Collector of Taxes recommends the refund of such overpayments; and

**NOW, THEREFORE, BE IT RESOLVED** that the proper officers be and they are hereby authorized and directed to issue checks refunding such overpayments as shown below:

- REASONS: 1. Incorrect Payment                      4. Homestead Rebate  
 2. Duplicate Payment                                5. Tax Appeal  
 3. Senior Citizen/Veteran Deduction

| <b>Block/LotName</b>                                                                                          | <b>Amount</b> | <b>Year</b> | <b>Reason</b> |
|---------------------------------------------------------------------------------------------------------------|---------------|-------------|---------------|
| 1812-8 Philip F. Blanch, Esq.<br>Fairfield Professional Building<br>193 Fairfield Road<br>Fairfield, NJ 07004 | \$ 855.00     | 2004        | 2             |
| 1812-12 First American Tax Service                                                                            | 1,252.31      | 2003        | 1             |

1201 Elm Street Ste #400  
Recoveries Department  
Dallas, Texas 75270

|            |                                                                                                                 |             |      |   |
|------------|-----------------------------------------------------------------------------------------------------------------|-------------|------|---|
| 3405-15    | William H. Mulder, Esq.<br>15 Main Street Suite 201-202<br>Hackensack, NJ 07601                                 | 2,319.00    | 2004 | 2 |
| 4901-22    | Terry & Louise Zielinski<br>120 Kitchell Lake Drive<br>West Milford, NJ 07480                                   | 2,172.00    | 2004 | 2 |
| 7401-13    | Crawford and Halligan<br>Counsellors at Law<br>Three University Plaza<br>Hackensack, NJ 07601                   | 808.00      | 2004 | 2 |
| 7610-3     | Provident Funding Association LP<br>Disbursement Clearing Account<br>PO Box 5914<br>Santa Rosa, CA 95402        | 1,501.66    | 2004 | 2 |
| 7801-37.01 | Susan & John Montgomery<br>37A Salem Alley<br>West Milford, NJ 07480                                            | 1,453.00    | 2004 | 2 |
| 8802-3     | David & Laura Koblitz<br>11 Morris Road<br>PO Box 118<br>Ringwood, NJ 07456                                     | 1,524.00    | 2004 | 2 |
| 8802-5     | West Milford MUA<br>Township of West Milford<br>1480 Union Valley Road<br>West Milford, NJ 07480                | 820.32      | 2004 | 1 |
| 11202-8    | Nurik, Lefkowitz and Accardi<br>Attorneys at Law<br>207 Wanaque Avenue<br>PO Box 289<br>Pompton Lakes, NJ 07442 | \$ 1,115.00 | 2004 | 2 |
| 13402-7    | Richard H. Webber<br>577 Macopin Road<br>West Milford, NJ 07480                                                 | 1,358.00    | 2004 | 2 |
| 14701-52   | Columbia Savings Bank<br>19-01 Route 208 North<br>Fair Lawn, NJ 07410                                           | 2,110.00    | 2003 | 1 |
| 14701-53   | Columbia Savings Bank<br>19-01 Route 208 North<br>Fair Lawn, NJ 07410                                           | 2,160.00    | 2003 | 1 |



RESOLUTION NO. 2004 - 76

**RESOLUTION AUTHORIZING REINSTATEMENT OF TAXES**

**WHEREAS**, there appears on the tax records receipt of payment of taxes; and

**WHEREAS**, the Collector of Taxes recommends the cancellation of receipt and reinstatement of taxes due to reasons stated below; and

**NOW, THEREFORE BE IT RESOLVED**, that the proper officers be and they are hereby authorized and directed to reinstate as listed below:

REASON

- 1. Insufficient Funds

| <u>Name</u>             | <u>Block/Lot</u> | <u>Amount</u> | <u>Year</u> | <u>Reason</u> |
|-------------------------|------------------|---------------|-------------|---------------|
| Chopra, Sunil & Savitri | 10102-034        | \$1,829.00    | 2004        | 1             |

Adopted: February 18, 2004



Agenda No. **G1 g**

RESOLUTION NO. 2003 - 77

**RESOLUTION AUTHORIZING CANCELLATION OF TAX**

**WHEREAS**, there appears on the tax records balances as listed below; and

**WHEREAS**, the Collector of Taxes recommends the cancellation of taxes due to reasons listed below;

**NOW, THEREFORE, BE IT RESOLVED** that the proper officers be and they are hereby authorized and directed to cancel as hereafter listed below:

REASON

- 1. Reduced Assessment 2. Property Sub-divided 3. Property Tax Exempt

| <b>BLOCK &amp; LOT</b> | <b>NAME</b>         | <b>AMOUNT</b>            | <b>YEAR</b> | <b>REASON</b> |
|------------------------|---------------------|--------------------------|-------------|---------------|
| 2202-001               | Daniel Lanza        | \$3,698.00<br>First Half | 2004        | 2             |
| 6504-013               | Frank J. Mondschein | 440.00<br>First Half     | 2004        | 1             |

|              |                             |                    |      |   |
|--------------|-----------------------------|--------------------|------|---|
| 14113-019    | Gabriela Bednarczyk         | 758.00             | 2004 | 1 |
|              | First Half                  |                    |      |   |
| 14701-052    | Strengthen Our Sisters Inc. | 2,110.00           | 2003 | 3 |
|              | First Half                  |                    |      |   |
| 14701-053    | Strengthen Our Sisters Inc. | 4,320.00           | 2004 | 3 |
|              | First Half                  |                    |      |   |
| 14701-053    | Strengthen Our Sisters Inc. | 938.00             | 2004 | 3 |
|              | First Half - Added          |                    |      |   |
| <b>TOTAL</b> |                             | <b>\$12,264.00</b> |      |   |

Adopted: February 18, 2004

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 Agenda No. **G1 h**
 RESOLUTION NO. 2004 - 78

RESOLUTION AUTHORIZING REFUND OF OTHER LIENS

Pursuant to the facts as stated therein, I respectfully request the adoption of the following resolution:

WHEREAS, the Collector of Taxes has reported receiving the amounts shown below for the redemption of the respective lien, and

NOW, THEREFORE, BE IT RESOLVED that the proper officers be and they are hereby authorized and directed to pay the indicated amount to the holder of the lien certificate as hereinafter shown below:

| For the | Received | Redemption of | Date | Pay to the |
|---------------|--------------|---------------|-----------|-------------------------|
| From | Lien Cert. # | of Sale | Block/Lot | Amount |
| | | | | Lienholder |
| James O'Leary | 01-050 | 4-23-01 | 2706-005 | \$10,801.86 |
| | | | | Sunset Fund II, LLC |
| | | | | 244 Fifth Avenue Ste |
| | | | | 2446 |
| | | | | New York, New York |
| | | | | 10001 |
| Carol Berry | 93-152 | 5-13-93 | 7303-001 | \$11,238.29 |
| | | | | National Data Materials |
| | | | | Inc. |
| | | | | 2952 Seneca Street |
| | | | | West Seneca, New York |
| | | | | 14224 |

| For the | Received | Redemption of | Date | Pay to the |
|---------|--------------|---------------|-----------|------------|
| From | Lien Cert. # | of Sale | Block/Lot | Amount |
| | | | | Lienholder |

Celentano, 02-087 4-08-02 14113-043 \$25,293.73 Michael Mastellone
 Stadtmauer & Premium P.O. Box 109
 Walentowicz \$ 100.00 Cedar Knolls, New Jersey 07927

TOTAL \$47,433.88

Adopted: February 18, 2004

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**Approval of Expenditures**

Agenda No. H 1  
 RESOLUTION NO. 2004 - 79

**RESOLUTION APPROVING THE PAYMENT OF BILLS**

**WHEREAS**, the Township Treasurer has submitted to the members of the Mayor and 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:

Acct. ID #

|    |                                     |                  |
|----|-------------------------------------|------------------|
| 01 | Current Account .....               | \$ 141,699.31    |
| 02 | Reserve .....                       | \$ 36,094.78     |
| 03 | Dog Tax .....                       | \$ 65.00         |
| 04 | Recycling .....                     | \$ 0.00          |
| 05 | Recreation .....                    | \$ 0.00          |
| 06 | Capital .....                       | \$ 122,511.60    |
| 07 | Grants .....                        | \$ 4,178.53      |
| 08 | Refuse .....                        | \$ 120,854.64    |
| 09 | Refunds.....                        | \$ 75,214.17     |
| 10 | Neighborhood Preservation .....     | \$ 0.00          |
| 12 | General Ledger .....                | \$ 0.00          |
| 16 | Heritage Trust .....                | \$ 0.00          |
|    | Open Space Trust .....              | \$ 0.00          |
| 17 | Trust .....                         | \$ 1,500.00      |
| 18 | Development Escrow .....            | \$ 1,444.81      |
| 19 | LOSAP .....                         | \$ 0.00          |
| 20 | Special Reserve .....               | \$ 1,462.35      |
|    | <i>Total</i> .....                  | \$ 505,025.19    |
|    | <i>Less Refund Resolution</i> ..... | - \$ (75,214.17) |
|    | <i>Actual Bill List</i> .....       | \$ 429,811.02    |
|    | <i>Other Payments</i> .....         | \$ 0.00          |
|    | <i>Less Refund Resolution</i> ..... | - \$ (0.00)      |

**TOTAL Expenditures..... \$ 429,811.02**

Adopted: February 18, 2004

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 Moved: Bailey

Seconded: Lotz-Moore

Voted Aye: Bailey, Elcavage, Kirwan, Lotz-Moore, Scangarello.  
Voted Nay: None.  
Resolution adopted.

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

The Members of the Council commented on various Municipal and Government matters pending.

Acting Township Administrator Kevin J. Byrnes reported that the Municipal Utilities Authority is an independent entity and pays for its own vehicle insurance.

Councilman Paul Bailey reported that he had attended a water management meeting with Councilman Dennis Kirwan. Councilman Bailey also noted that he had had a positive interview with New Jersey cable channel 12 regarding tourism in West Milford.

Councilman Dennis Kirwan commented on environmental issues and the highlands protection act.

Councilman Joseph Elcavage commented on watershed aid, garbage pickup issues being monitored by the DPW, and the Township website.

Councilwoman Lotz-Moore commented on the wonderful job that the Township Museum is doing for local organizations and a reminder that the Township needs to prepare to bid for Fire Department ventilation systems which have been provided for in a grant the Township received.

Councilman Scangarello commented on the Parks & Recreation Art Show on March 27th.

Township Attorney William DeMarco had no report.

### **APPOINTMENTS**

#### **MAYOR AND COUNCIL APPOINTMENT**

##### Municipal Alliance Committee

Councilman Joseph Elcavage nominated **Kathleen Knapp, Eric Renfors, John Frank** and **Thomas Malone** to serve as **Citizen Members** of the **Municipal Alliance Committee** for terms ending December 31, 2005.

Councilman Dennis Kirwan endorsed the nomination.

There being no further nominations, nominations were closed and confirmed.

Moved: Bailey

Seconded: Lotz-Moore

Voted Aye: Bailey, Elcavage, Kirwan, Lotz-Moore, Scangarello.

Voted Nay: None.

Motion carried.

Councilman Kirwan announced the appointment of **Kathleen Knapp, Eric Renfors, John Frank** and **Thomas Malone** to serve as **Citizen Members** of the **Municipal Alliance Committee** for terms ending December 31, 2005.

##### Planning Board



