
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Special Meeting
Date of Meeting: February 18, 2009
Time of Meeting: 8:00 P.M.
Minute Page No: Page 1 of 5

This special meeting was a joint meeting of the West Milford Township Council and the West Milford Board of Education (BOE). The purpose of this meeting was to discuss the Hillcrest facility. This meeting is being held at the Westbrook School Media Center, 55 Nosenzo Pond Road, West Milford, NJ 07480.

The BOE convened in the public after completing an executive session meeting they had advertised prior to the beginning of the joint meeting. BOE President Michele Fenwick read a statement for the public in which she stated that the BOE is fiscally responsible for the Hillcrest building and property. They also have a fiduciary responsibility to this community and any choices made will have a far-reaching impact. At this time, the 1983 lease is still in full force and effect and Council has not signed the contract agreed to in August 2008. The BOE has been very considerate in that they have allowed the lease to be carried from month to month. Therefore, on behalf of the BOE members she expressed hope that the Council will consider the BOE's position and options they will present tonight for consideration. The BOE wishes to discuss three options. They will consider a continuation of the current lease for a short term, a joint-ownership venture with the Township or entering into a new long-term lease with the Township. She stated that the BOE cannot simply transfer title of this property to another entity but will consider the viable proposals from the Council.

Mr. Semrau advised that the Township Council must properly begin their meeting to engage in this conversation with the BOE. Mayor Bettina Bieri called the Special Meeting of the West Milford Township Council to order.

Adequate Notice Statement

Mayor Bieri read the following statement:

Please note that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this special meeting was transmitted to the Herald News on February 8, 2009; copies were provided to the Record, Star Ledger, Suburban Trends and Greenwood Lake News and posted continuously on the bulletin board in the main corridor of the Town Hall and on file in the Office of the Township Clerk.

Pledge of Allegiance

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

Roll Call

Present: Councilmembers Philip Weisbecker, Joseph Smolinski, Salvatore Schimmenti, Robert Nolan, Marilyn Lichtenberg, Daniel Jurkovic, Mayor Bettina Bieri.
Absent: None.
Also Present: Township Administrator Kevin Boyle, Township Clerk Antoinette Battaglia, Township Attorney Fred Semrau.

Purpose

Mayor Bieri advised that this is a joint meeting with the West Milford Board of Education to discuss the Hillcrest School. Mr. Semrau advised that although Council President Smolinski is in attendance tonight, he is recusing from participation in this discussion. His only participation shall be as a member of the public. Mayor Bieri stated that the goal of the Mayor & Council is to provide taxpayers of West Milford with a community center on a long-term basis. The residents have spoken and issued a mandate that every effort be made to retain Hillcrest to serve this purpose. For a host of reasons, time is now of the essence; it is unfair to drag this out. Both entities, the BOE and the Council, represent the same taxpayers and each member should be mindful of that fact.

Presentations

From the public, a member of the petition group to save Hillcrest advised that they do not have a speaker for the presentation.

Public Comments

Councilman Jurkovic asked that the Council and public be allowed to hear the BOE proposals prior to opening the meeting to the public. The Council, with visual assent from the public, concurred.

BOE President Fenwick stated that, if the Council and the BOE are unable to reach a resolution, the BOE wishes to continue the preschool program. If this should transpire and Hillcrest is not longer available to the Township, the BOE will find a location for the preschool program. She deferred to the BOE attorney, Vito Gagliardi.

Mr. Gagliardi stated that he has been authorized by the Board to present the following information. In August 2008, the BOE proposed a multiple-year lease option but the Township Council opted for a lease of no more than one year. At that time, the Council agreed to do certain capital improvements. Since then, the Township has continued to occupy the building but they have not done the repairs as promised nor have they committed to the agreement. In his opinion, the current arrangement is still in flux and yet the Council now proposes four options, two propose that the BOE sell the building and two propose lease

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Special Meeting
Date of Meeting: February 18, 2009
Time of Meeting: 8:00 P.M.
Minute Page No: Page 2 of 5

agreements. The BOE has discussed all the proposals and have reached consensus to discuss lease arrangements with the Township. They have determined that it would not be responsible to the school district for the BOE to sell the Hillcrest facility to any entity, including the Township, for a nominal fee. The BOE is willing to commit to programs if there is an enforceable lease arrangement in place which would compel the municipality to the terms of the agreement. This cannot be productively discussed this evening and he asked that the Township discuss the potential of a lease agreement and agree to form a committee to work toward an agreement. After such agreement has been drafted by the respective committees it can be ratified by the respective public bodies and ultimately this would result in the continuance of the programs at Hillcrest and use of the facility by the Township. Mr. Semrau recalled that that the Township had submitted four proposals for the BOE to consider. He asked if Mr. Gagliardi's statements mean that the BOE is rejecting the proposal to sell Hillcrest to the Township for \$300,000 with a provision that the BOE would have lifetime use of three rooms. Mr. Gagliardi replied that the BOE is declining proposals 1 and 3 submitted by the Township by virtue of the agenda promulgated for this meeting. Both proposals seek to have the BOE sell the Hillcrest property to the Township.

Mayor Bieri recalled that she had previously asked what the BOE plans to do with the building if it is vacated by the Township and she requested an answer to that question tonight. Board Member Midge Touw stated that the State of New Jersey will be promulgating future mandates for kindergarten and preschool. West Milford is located within the Highlands and thus the BOE will be precluded from constructing facilities to house such programs in the future. Anticipating a possible need for this space in the future, the BOE believes it best to retain ownership. Additionally, she stated, parents have objected in the past to any mention of the BOE selling this facility. However, despite the potential for future needs, the BOE does not anticipate having such needs in the foreseeable future and thus can lease the facility to the Township.

Councilman Jurkovic noted that the BOE has referred to two possible leasing scenarios. One is for a short-term and one for a long-term arrangement. He stated that any commitment to repairs must be linked to the length of the lease. The BOE cannot have an expectation of the Township expending tremendous sums for repairs without a long-term commitment to the community. Any arrangement must be based on a quid pro quo understanding. He supported the idea of forming committees to work on the specific terms but suggested that both entities should agree on the details tonight. Discussion ensued wherein members of the BOE expressed exceptions taken to comments made in the newspaper by Council members which implied that the BOE sought to evict the Township and were not being reasonable throughout this process. The members stated that they have a fiduciary responsibility to the school district and they cannot surrender ownership to this property in light of the potential for future needs. Certain members believe the BOE has been too lenient with the Township thus far and they expressed their concern for the community at large and the children of this community in particular. Board member Wayne Gottlieb stated that the Council agreed to invest \$80,000 into capital improvements in that building. In his estimation, this property has greater value now than it did pre-Highlands. \$80,000 equates to \$2.34 per square foot yet the Township has said they will pay fair market value to rent this property. Fair market value is currently about \$10 per square foot. If this building is not maintained, it will simply fall down. If the Township had been paying fair market value rent all along, the BOE would have invested in the structure because that is exactly what landlords do. Councilman Jurkovic replied that the Township will abide by commitments made but the goal tonight is to determine what will transpire beyond August. Mr. Gottlieb stated that he favors negotiating a short-term lease with the Township and Mr. Gagliardi added that the BOE cannot enter into a lease arrangement for longer than five years without first obtaining approval from the State of new Jersey. The Council asked if the BOE would consider a one-year holdover of the existing lease through August 2010 to afford the Township the ability to find locations for all the programs currently run out of Hillcrest. Ms. Fenwick stated that the BOE has been allowing continual holdovers without any proof of good faith from the Township. As some point, she stated, the relationship must be challenged.

Board member Drew Murray recalled that at a joint meeting held in 2008 a Council member stated that certain programs would be housed in the Johner building and Westrbook Park. He asked for the status of those plans. Mayor Bieri responded that the Council has had a number of public meetings where those plans were discussed including a public meeting about plans for the Johner building. While that information is public and available to Board members she asked that the focus tonight remain on the proposals before the BOE and use of Hillcrest as a community center. She acknowledged that the Council is learning from the BOE tonight for the first time that they are precluded from entering into a long-term lease without State approval and she expressed concern that a short-term lease is contrary to Council's goal to provide long-term plans for a community center to service the needs of West Milford residents. Additionally, Council has other long-term options to consider which may not be available if they execute a short-term agreement. Councilman Nolan stated that, in his opinion, a short-term lease is not an option. Councilwoman Lichtenberg agreed noting that whichever body spends money on the Hillcrest building, the funds emanate from the taxpayers. Board member Midge Touw expressed frustration that the BOE has allowed the Township to continue using the facility with no lease in place and yet the Council continues to imply that the Board is at fault. BOE President Fenwick stated that neither party is seeking to make the other look bad. The intent of this public meeting is to provide transparency to the process and she favors the concept of moving forward.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Special Meeting
Date of Meeting: February 18, 2009
Time of Meeting: 8:00 P.M.
Minute Page No: Page 3 of 5

Mr. Gagliardi advised that the BOE would consider a long-term lease and added that such a lease would require State approval. He stated that the BOE would seek such approval from the State. He stated that the BOE would not interfere with the continuance of the programs while the parties were engaging in good-faith negotiations. The programs could and would remain in place while the BOE seeks approval from the Commissioner. Board member Mr. Foley stated that Hillcrest has been utilized as a community center for years and the BOE has never desired to evict the program participants. However, the members of the Board do wish to fulfill their individual fiduciary responsibilities to the West Milford populace. Therefore, he recommended that the Township execute the agreement negotiated last year as a good-faith gesture before proceeding with negotiating a new agreement.

Mr. Semrau thanked the BOE for devoting time outlining their position. He stated that other Township facilities were discussed at the last joint meeting because the Mayor & Council were being asked to make a considerable investment in capital improvements to Hillcrest. In the meantime, residents have expressed concern about the long-term plans for programs. The Governing Body currently has three proposals under consideration for alternate sites which cannot be discussed here. Residents have clearly indicated that they do not wish to see a change in the location for the programs. The Mayor & Council wish to fully understand and ascertain tonight if Hillcrest can be utilized as a community center for a long term because a short-term arrangement will not meet the needs of the community. They wish to exhaust all options to make that happen in deference to the wishes of the residents before they proceed with any other options. If the BOE were to consider a long-term lease, what would the general parameters be? Mr. Gagliardi stated that the Council does not have to look elsewhere because the BOE wishes to continue this relationship. However, unless terms are discussed the BOE cannot commit to a specific term. In his estimation, this is the 26th year of a lease wherein the Township has not abided by the terms. The BOE wishes to negotiate a long-term lease but requires State approval to do so. BOE member Mr. Gottleib recommended a two-step solution. He recommended that the Council put together a written proposal to the BOE outlining the terms they wish to see in the lease, the amount of money they wish to invest in the property, and the amount of space they wish to use. Upon submittal of these details to the BOE, he will commit to a swift response from the Board.

Councilman Nolan stated that the Council is willing to outline those terms here tonight so that the matter can be handled swiftly. He recommends a traditional landlord/tenant relationship wherein the Township pays rent and the BOE is responsible for the maintenance of the facility. If the lease were negotiated in a fashion similar to the current lease, the Township will never be able to satisfy the demands of the BOE. He asked for a long-term lease wherein the Township pays fair market rent. Councilman Schimmenti recommended hearing from the public in attendance tonight before proceeding further. Board member Murray stated that the BOE agreed to listen to the Council's proposals but they need a proposal in writing before proceeding. Mr. Gagliardi agreed adding that the BOE did not envision negotiating a lease in this manner. Board member Mr. Foley stated that the BOE submitted proposals in 2006 wherein matters involving both Wallisch and Hillcrest would be resolved. He stated that the Wallisch property should be added to the negotiations and the proposals submitted in 2006 should be reconsidered. Councilman Nolan disagreed noting that the Wallisch property has so many environmental constraints that the Audobon Society rejected it when it was offered to them. The Council is here tonight, he said, to move forward and not to rehash the past. Board President Fenwick stated that it appears that Board and Council appear to have progressed as far as they can.

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

Tracy Clarke, 7 Belmar Court, West Milford stated that she is very upset. While she appreciates the Board and Council coming together in this public forum this evening she stated that each member should be ashamed that this matter is not already resolved. Neither party moved on this important issue until the public pushed them to do so. Both bodies should be communicating better and moving forward. She expressed disappointment at the demeanor and body language of the elected officials here tonight. She asked that those who sit in their elected seats with animosity step down and surrender those seats to those who have the interests of the community at heart. The focus henceforth should be on what needs to be done not what was done in the past. The residents of West Milford want Hillcrest as a community center. While the BOE may have title to the building, the taxpayers own it and they have spoken.

Ada Erik, Macopin Road, West Milford commended everyone for being here tonight. As a resident and taxpayer, she is a shareholder in Hillcrest. She expressed disappointment at the facial expressions of BOE members during the discussion noting that such behavior would not be tolerated from children. The taxpayers do not want to buy a building they already own. The Council has reviewed all available options and they have done their jobs well. The BOE must cease to harbor negative feelings. She stated that the Wallisch property has been a sore point for many years and should not have been broached tonight.

Joe Whalen, Orleans Lane, West Milford stated that the meeting tonight reminded him of the Vietnam war when months were spent arguing over things like the shape of a table while people died. Not much is being done. Everyone keeps dredging up the past but the past is gone. If the BOE will not cooperate the Township should take the five year lease and start planning for the future. Work it out. In a

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Special Meeting
Date of Meeting: February 18, 2009
Time of Meeting: 8:00 P.M.
Minute Page No: Page 4 of 5

tenant/landlord relationship the landlord is responsible for the building. Enter into traditional landlord/tenant relationship. The public must know what the viable plans are but the elected officials are making a simple matter very complicated. He asked them to understand that the residents own Hillcrest.

Debbie Hewitt advised that her son attends the PRIDE program at Hillcrest. Tonight she has listened to all the discussions and everything appears to be centered around money. The Hillcrest facility is about more than programs. It is about more than money. PRIDE is about adults with special needs who are treated with dignity and respect. They intermingle with other groups from the community. At 21 there is nothing for these people. Reviewed the history of her son's time in PRIDE noting that he has been very happy there. Everyone there makes the place safe and fun. There are many activities. It is more than money. It is lives. Her son will always need a place like this even when he is 80. She has chosen a social setting where her son is valued. If PRIDE were not available her son would miss out. She pays \$11 per day and the staff is very caring showing dignity and respect for all the participants in the program. Her tax money is going to good use. She thanked everyone for listening and expressed hope that this can be worked out.

Doris Osterhoudt, 2 Richmond Road, West Milford thanked the preschool and daycare people for coming forward just as seniors did in the past about the use of Hillcrest. Hillcrest has become a bouncing ball and is scheduled to close in August 2009. This facility meets many of our community needs and is occupied by various groups five days every week. This environment allows for interaction between various groups and sectors of this community. Every surrounding town offers their residents a community center and both boards should be working for the best interests of the West Milford taxpayers. She expressed hope that this can be addressed tonight. She proposed that Council gets full ownership and responsibility for Hillcrest and the BOE should obtain full ownership and responsibility for Wallisch. Hillcrest would be a community center operated by the Township Council. Wallisch could be used for educational and extra-curricular activities for school children. It would be the perfect location for science projects, industrial art classes, cross country running, and perhaps even a small golf course. An archery field could be installed and even a bowling alley in the barn. As an active and involved member of this community, she wants to see the programs continue at Hillcrest.

Tara Donohue, 98 Riverside Road, West Milford stated that it is shameful that all the conversation tonight centered around money. A community center is not intended to make a profit, it is supposed to serve the needs of the communities. She has been a resident of West Milford for 34 yrs and nothing has changed. It is disgraceful that people run for office, get elected and then don't represent the taxpayers. She urged the elected officials to forget their personal agendas. She promised to campaign for any new candidates because of this issue. Residents in New Jersey pay the highest property taxes in nation with 60% of tax dollars going to the school system. It is a shame that residents must come out to force elected officials to serve voters. This matter should be resolved tonight. The BOE should focus on improving test scores, and the Council should be working on the budget. Hillcrest should not be an issue.

Marilyn Schultz, 18 Laurel Hollow, West Milford is a taxpayer and a shareholder. Regardless of the pocket, the funds used for Hillcrest are taxpayer dollars. She stated that she cannot understand the animosity that is evident in this room tonight. Voters elected each Council and Board member and it is clear that everyone agrees Hillcrest is and should be a community center. There are proposals on the table, and they should be given due consideration. Residents want assurances because they are concerned about the long term viability of programs.

Tom Cibanko, 19 Cooley Lane, Hewitt stated that he has been a West Milford resident for a long time also. He stated that minutes are produced after every public meeting which means that minutes of the joint meeting last year exist. These minutes reflect the events of that evening and he questioned why copies of those minutes were not available to residents tonight. That would provide transparency and clear up any misunderstandings about who said what. He asked the Council and the BOE to resolve this matter, agree to the terms of a lease agreement and instruct the attorneys to work out the details.

Gary Montana, 224 Longpond Road, West Milford stated that he has been a West Milford taxpayer since 1966 and has been involved in this community. He expressed appreciation for tonight's discussion and commended both entities for communicating in a public forum. He believes that the groundwork has been laid tonight for a successful conclusion of this matter and he urged both bodies to recognize that and move forward with a lease agreement.

Charlie Casella stated that he has been attending Hillcrest for a long time. He likes to cook and learn and has good friends and teachers in the PRIDE program. Hillcrest has been part of his life for a long time so please don't close it down. Everyone keeps talking about the past but he wants to look to the future.

James Warden, 199 Highcrest Drive, West Milford stated that those in elected office are often subject to criticism. It is easy to criticize actions from the past and he commended all elected officials here tonight for what has and is being done. While there are always differing opinions, it is clear that there is consensus that Hillcrest should serve as a community center for West Milford residents. West Milford has much to be proud of but the Township is lacking a community center. Hillcrest is in a state of disrepair but

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Special Meeting
Date of Meeting: February 18, 2009
Time of Meeting: 8:00 P.M.
Minute Page No: Page 5 of 5

residents and elected officials appear to agree that it should serve as a community center. Therefore, the building should be renovated and space allocated for such purposes. The BOE may need space in the future which places the Council in an unenviable position of being asked to invest millions of dollars in a building that may not be available for the long term. He urged the BOE to make a long term commitment to the Township and the residents of West Milford.

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

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

Mayor Bieri thanked all of those who spoke here tonight. She agreed that there is no need to revisit the history between former Councils and former Boards. The Council is here tonight because they wish to provide for the future needs of this community. Minutes are available of all meetings and the videos are being posted on-line at www.municipaltv.tv. She stated that a five-year lease would not provide for a long term solution to meet the needs of residents and neither she nor the Council wishes to spend the next five years revisiting this subject only to be in a similar situation in 2014. She urged the BOE to work with the Council to end the stress and ambiguity surrounding this subject. She asked the Council to provide suggestions and ideas here tonight to provide a basic guideline to move forward on this subject.

Councilwoman Lichtenberg agreed adding that if the focus remains on scheduling back and forth meetings, time will run out. She asked for an open discussion. Councilman Jurkovic recommended a traditional landlord/tenant agreement and suggested that the Township offer the Board rent that equates to the amount currently expended on maintenance and repairs. Councilman Nolan agreed with that proposal adding that a clause could be inserted which would allow for annual increases linked to an inflation-based index. This would allow the Council to adequately budget for this expense on an annual basis. He stated that, in his opinion, long-term means 25 years or more.

Board President Fenwick offered the Council a room if they wish to discuss terms in executive session. The Council declined noting that they have no objection to discussing these matters in a public forum. Ms. Fenwick noted that the BOE attorney has left the meeting and therefore the Board cannot take any action. Councilman Nolan stressed that the Council wishes to convey clearly to the BOE specifics of their proposal before this meeting ends. At this time, it would appear that there is consensus from Council to request a 25 year lease based on a traditional landlord/tenant relationship based on the Township's current expenditures on the facility and linked to an inflation index for future increases. Board President Fenwick, noting that the meeting was productive, stated that the BOE is willing to enter into an agreement. She asked that the Council submit the details in writing so that the Board may consider the proposal and respond accordingly. The Council agreed to work on the matter at their special meeting scheduled for tomorrow evening. They stated that the attorney will have the proposal to the Board the next day and asked the Board to respond in a timely fashion.

The Council thanked the Board for meeting with them this evening.

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 9:55 p.m.

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

Approved: May 13, 2009

MAYOR BETTINA BIERI
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK