
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council
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vendors. Council President Gervens stated that the Council has previously discussed the need to standardize fire equipment. The fire chief is not here at the moment and Mr. Gervens recommends that the Council defer action until they have had a chance to discuss this matter with the fire chief.

Council President made a motion to table action on this resolution until later in the evening.

Moved: Gervens Seconded: Warden
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. II 2

- Resolution 2006-065 -

RESOLUTION AWARDING A CONTRACT TO CAMPBELL FOUNDRY COMPANY FOR THE PURCHASE OF METAL CASTINGS

WHEREAS, the Township of West Milford solicited bids on February 10, 2006 at 10:45 a.m. for Drainage Materials; and

WHEREAS, the above referenced bid was divided into two sections titled Contract "A" and Contract "B"; and

WHEREAS, Contract "A" was for the purchase of Metal Castings; and

WHEREAS, in response to the "Notice to Bidders" the Township received one (1) bid for Contract "A" from *Campbell Foundry Company*; and

WHEREAS, said bid has been duly reviewed and analyzed by the Township Engineer and the Township Attorney; and

WHEREAS, the bid received from *Campbell Foundry Company* has been found to be in proper form and in compliance with the provisions of N.J.S.A. 40A:11-23.5 and the specifications as written; and

WHEREAS, the Township Engineer has submitted a written recommendation for the award of this contract to *Campbell Foundry Company*; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds and encumbrances for these services shall come from account numbers C-04-04-943-622 and C-04-04-943-624; and

WHEREAS, after careful consideration the Governing Body has found it to be in the best interest of the Township to award a contract to *Campbell Foundry Company* for the purchase of Metal Castings for Township Road Reconstruction and Drainage Projects.

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 awards a contract to *Campbell Foundry Company* in an amount not to exceed \$106,478.00 for the purchase of Metal Castings.
2. The Mayor or Administrator be and is hereby authorized and directed to execute a contract with *Campbell Foundry Company* in accordance with its bid for the purchase of said Metal Castings.
3. The Township's Chief Financial Officer has certified the availability of funds for same.
4. This resolution and contract shall be available for public inspection in the office of the Municipal Clerk.
5. Notice of the award of this contract shall be published in the official newspaper of the Township within ten (10) days.

Adopted: March 1, 2006

Administrator Kunze noted that these purchases will be funded through previous capital appropriations.

Moved: Weisbecker Seconded: Scangarello

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Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. II 3

- Resolution 2006-066 -

RESOLUTION REJECTING AWARD OF CONTRACT FOR PURCHASE OF PRECAST CONCRETE INLETS AND MANHOLES

WHEREAS, the Township of West Milford solicited bids on February 10, 2006 at 10:45 a.m. for Drainage Materials; and

WHEREAS, the above referenced bid was divided into two sections titled Contract "A" and Contract "B"; and

WHEREAS, Contract "B" was for the purchase of Precast Concrete Inlets and Manholes; and

WHEREAS, in response to the "Notice to Bidders" the Township received one (1) bid for Contract "B" from *Dunbar Concrete Products*; and

WHEREAS, the Township Engineer and the Township Attorney have reviewed the aforementioned bid to ensure compliance with the Local Public Contracts Law; and

WHEREAS, the Township Attorney had determined that the bid submitted by *Dunbar Concrete Products* is deficient in that the bidder failed to submit a Consent of Surety.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Milford, County of Passaic, State of New Jersey, that the bid received from *Dunbar Concrete Products* for the purchase of Drainage Materials Contract "B" Precast Concrete Inlets and Manholes be and is hereby rejected due to a material defect in the bid documents submitted.

Adopted: March 1, 2006

Administrator Kunze advised the Council that the rejection of this bid is based on the fact that the bidder failed to include a consent of surety with his bid packet.

Moved: Weisbecker Seconded: Nolan
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. II 4

- Resolution 2006-067 -

RESOLUTION AWARDING A CONTRACT TO JOHN JOSEPH INC. FOR HYDRAULIC HAMMER SERVICES

WHEREAS, the Township of West Milford solicited bids on February 10, 2006 at 10:00 a.m. for Hydraulic Hammer Services; and

WHEREAS, in response to the "Notice to Bidders" the Township received one (1) bid for from *John Joseph, Inc.*; and

WHEREAS, said bid has been duly reviewed and analyzed by the Township Engineer and the Township Attorney; and

WHEREAS, the bid received from *John Joseph, Inc.* has been found to be substantially in proper form and in compliance with the provisions of N.J.S.A. 40A:11-23.5 and the specifications as written; and

WHEREAS, the Township Attorney has submitted a written recommendation for the award of this contract to *John Joseph, Inc.* subject to *John Joseph, Inc.* obtaining a Certificate of

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Insurance from the Contractor containing the contractual "Hold Harmless Liability Coverage" language that is set forth in paragraph 19, subsection 4 contained in the Instructions to Bidder.

WHEREAS, the Township Engineer has submitted a written recommendation for the award of this contract to *John Joseph, Inc.*; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds and encumbrances for these services shall come from account numbers C04-03-943-539 and C-04-04-943-539 and C-04-05-943-539; and

WHEREAS, after careful consideration the Governing Body has found it to be in the best interest of the Township to award a contract to *John Joseph, Inc.* for the provision of Hydraulic Hammer Services.

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 awards a contract to *John Joseph, Inc.* in an amount not to exceed \$50,000.00 for the provision of Hydraulic Hammer Services.
2. *John Joseph, Inc.* shall provide a Certificate of Insurance containing the contractual "Hold Harmless Liability Coverage" language that is set forth in paragraph 19, subsection 4 contained in the Instructions to Bidder prior to the commencement of work.
3. The Mayor or Administrator be and is hereby authorized and directed to execute a contract with *John Joseph, Inc.* in accordance with its bid for Hydraulic Hammer Services.
4. The Township's Chief Financial Officer has certified the availability of funds for same.
5. This resolution and contract shall be available for public inspection in the office of the Municipal Clerk.
6. Notice of the award of this contract shall be published in the official newspaper of the Township within ten (10) days.

Adopted: March 1, 2006

Administrator Kunze noted that the hydraulic hammer is a rock hammer which will be used for road improvements at a daily rate of \$2,000 based on use. It is anticipated that this equipment will be needed for Weaver Road and Cherry Ridge Road.

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Presentations

Mayor DiDonato expressed, on behalf of the Council, delight that tonight four people will be honored for giving their time, energy, and talents to the community. Volunteer of the Year and Mary Haase Lifetime Achievement Awards will be presented for 2004 and 2005. Mayor DiDonato asked Council President Gervens to join him at the podium to make the presentations.

2004 Mary Haase Lifetime Achievement Award – James Van Hooker

Mayor DiDonato asked Mr. Van Hooker to join him at the podium with his family and friends. Mayor DiDonato read a biography of Mr. VanHooker's life focusing on his many contributions to West Milford. Mr. Van Hooker thanked everyone for their applause and for this award.

2004 Volunteer of the Year Award – Jim Gilligan

Mayor DiDonato asked Mr. Gilligan, his family and friends to join him at the podium. Mayor DiDonato read a biography of Mr. Gilligan's life with emphasis on the many contributions he has made to West Milford and commended him for his role in making the blood drives in our community such a success. Mr. Gilligan thanked the Mayor and Council for this honor. He thanked his family, Maryann and Ada and reminded everyone that there is a blood drive on Sunday at Marshall Hill and the regular blood drive for this month will be on March 19th. He thanked Queen of Peace and the First Aid and Ambulance Squad. Maria Elena Grant thanked Mr. Gilligan for his leadership and vision. His efforts have caused a significant increase in the quantity of blood collected at the blood drives in recent years. She noted that blood donations in

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West Milford exceed all other communities and that the blood drive is a life saving gift that Mr. Gilligan has given our community.

2005 Volunteer of the Year Award – Mark Lynch

Mayor DiDonato invited Mr. Lynch to join him at the podium with his family and friends. Mayor DiDonato read Mr. Lynch’s biography and noted his many and diverse contributions to the Township of West Milford. Mr. Lynch thanked everyone for this award and expressed how much he appreciates it.

2005 Mary Haase Lifetime Achievement Award – Marilyn Lichtenberg

Mayor DiDonato invited Mrs. Lichtenberg to join him at the podium and also invited her family and friends to join them. He read Mrs. Lichtenberg’s biography with specific attention to the many years and areas of service given to this community. Mrs. Lichtenberg thanked the committee comprised of former mayors for selecting her for the 13th Mary Haase award. She expressed pride at being honored with the other award recipients tonight who she noted are great guys. Mrs. Lichtenberg read a poem she learned in the tenth grade in West Milford that expressed the satisfaction received from a job well done.

Mayor DiDonato noted that, in the past, the Council has set aside a meeting night to honor volunteers. This year, in conjunction with National Volunteer Week, they are hoping to host a breakfast to honor our volunteers. More information will be forthcoming soon. On behalf of the Council, Mayor DiDonato thanked everyone for coming to tonight’s very special meeting.

Presentation – West Milford Lions Club

Elsbeth Moore from the West Milford Lions Club came forward to address the Council. Ms. Moore congratulated all the volunteers honored tonight. She noted that each recipient has influenced the Lions Club and advised that the Lions Club will be celebrating its 50th anniversary in October this year. Ms. Moore asked everyone in attendance to mark their calendars for March 26th. On that evening, the Lions Club will showcase local talent by virtue of their production called “Broadway In The Highlands”. The funds raised at this event will go to the creative playground. It is time to rebuild this playground which was known in the past as a community area for residents to come, share, and relax. The variety show on March 26th will include a West Milford magician, routines from students at Precision Dance Academy, a Polish brass ensemble, graduates and current members of West Milford High School and two vocalists who also graduated from West Milford High. Tickets can be purchased in advance or at the door. Ms. Moore gave the Council complimentary tickets to this event and stated that the Lions Club thanks the community and this is one way they can give back to West Milford. Ms. Moore advised that, for their fiftieth anniversary, the Lions Club will be selling pins later in the year with the Town emblem on them. She thanked the Council for the time they gave to this presentation tonight.

Proclamations

None.

Unfinished Business, Final Passage of Ordinances

Agenda No. V

~ Ordinance 2006-001 ~

AN ORDINANCE CONCERNING SALARIES AND COMPENSATION FOR ADMINISTRATIVE, CONFIDENTIAL AND UNAFFILIATED EMPLOYEES

BE IT ORDAINED, by the Township Council of the Township of West Milford, in the County of Passaic, New Jersey that pursuant to Chapter IV entitled Personnel of the Revised General Ordinances of the Township of West Milford, New Jersey, 1976, the following Officers and Employees here below stated shall be classified by job title with the corresponding pay ranges;

1. ADMINISTRATIVE, CONFIDENTIAL AND UNAFFILIATED EMPLOYEES		
DEPARTMENT AND OFFICE HEADS		
JOB TITLE	MINIMUM	MAXIMUM
Township Administrator	\$70,000.00	\$125,000.00

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Director of Public Safety (Police Chief)	\$70,000.00	\$124,500.00
Township Engineer	\$65,000.00	\$120,000.00
Planning Director	\$65,000.00	\$115,000.00
Chief Financial Officer (Treasurer)	\$55,000.00	\$100,000.00
Township Clerk	\$55,000.00	\$92,500.00
Director of Parks & Recreation	\$55,000.00	\$80,000.00
Court Administrator	\$45,000.00	\$75,000.00
<u>DIVISION HEADS</u>		
Tax Assessor	\$50,000.00	\$92,000.00
Tax Collector	\$50,000.00	\$93,500.00
Director of Public Works	\$55,000.00	\$92,500.00
Construction Official	\$45,000.00	\$85,000.00
Fire Commissioner	\$3,000.00	\$6,000.00
<u>CONFIDENTIAL AND UNAFFILIATED EMPLOYEES</u>		
Assistant Public Works Superintendent	\$45,000.00	\$75,000.00
MIS Coordinator	\$35,000.00	\$70,000.00
Personnel Coordinator	\$35,000.00	\$70,000.00
Administrative Analyst	\$45,000.00	\$62,500.00
Chief Custodian	\$25,000.00	\$59,500.00
Recreation/Pool Coordinator	\$25,000.00	\$42,500.00
Judge	\$15,000.00	\$55,000.00
Prosecutor	\$10,000.00	\$25,000.00
Fire Marshal	\$3,000.00	\$6,500.00
Emergency Management Officer	\$3,000.00	\$6,500.00
Director of Welfare	\$3,000.00	\$6,000.00
Telecommunications Systems Analyst	\$2,500.00	\$5,000.00
Deputy Fire Commissioner	\$1,500.00	\$3,500.00
Veteran Officer	\$500.00	\$1,500.00
Secretary Board/Commission Secretary P/T (A) –General	\$130 per mtg.	\$200 per mtg.
Secretary Board/Commission Secretary P/T (B)–Zoning Bd.	\$250 per mtg.	\$500 per mtg.

2. The aforelisted Officers and Employees shall be compensated in accordance with the preceding Salary Range.
3. **BENEFITS:** Benefits relating to vacation, sick days, personal days, longevity, holidays, bereavement leave and medical insurance shall be those as contained in the contract between the West Milford Municipal Employees Guild and the Township of West Milford and any employment agreement consistent with applicable law.
4. **OVERTIME:** If not otherwise eligible for overtime compensation by contract or law, each full-time department and division head, in lieu of overtime compensation as provided in the Guild contract, shall receive three (3) vacation days and up to 35 compensatory hours annually, the latter earned hour for hour for hours worked above forty per week. All other full-time employees listed in this ordinance if not otherwise eligible for overtime compensation by contract or law, shall receive 21 compensatory hours annually, plus one half hour for each hour worked above thirty-five or forty hours per week depending on the applicable contract for the employee’s department. Vacation and compensatory time may be used or accumulated as follows: vacation days may be carried for up to one year from January 1 following the year earned, and compensatory hours may be taken no later than April 1 of the year following the year earned.
5. This Ordinance is effective retroactive to January 1, 2006.

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Any ordinance or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to such extent as they are in conflict or inconsistent. This ordinance shall take effect 20 days after its final passage by the Township Council.

Councilman Weisbecker motioned to open the meeting to the public on this subject only.

Moved: Weisbecker Seconded: Nolan
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

There being no comments from the public, Councilman Weisbecker moved to close this public portion of the meeting.

Moved: Weisbecker Seconded: Smolinski
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Mayor DiDonato opened the discussion to the Council on this ordinance. Councilman Warden asked Administrator Kunze how this ordinance will affect the Police Chief's benefits. Administrator Kunze noted that there is no change to benefits from the ordinance that was adopted last time by Council. Generally, non-union employees are granted benefits pursuant to the Guild contract. Employment letters and contracts take precedence over this ordinance. The primary difference between this ordinance and the police contract can be found in holidays and vacations. Councilman Warden stated that the Police Chief is not in favor of being placed in the Guild. Administrator Kunze advised that this ordinance does not put him in the Guild. Councilman Nolan clarified that this is the same ordinance that was acted on last year with the exception that the board secretaries are now included. It does not change the benefits to the Police Chief or any other employee. The rates for the secretaries were estimated by calculating the time it takes to prepare for, attend, and follow up on meetings. The minimum is roughly fourteen hours.

Councilman Weisbecker moved to adopt this ordinance as presented.

Moved: Weisbecker Seconded: Smolinski
Voted Aye: Weisbecker, Smolinski, Gervens, Scangarello.
Voted Nay: Nolan, Warden.
Motion carried.

Public Comments

Mayor DiDonato opened the meeting to the public.

Patty Lotz-Moore, Westbrook Road expressed concern about the end of Ridge Road going on to Westbrook Road. She advised that there is a farm at that location and a guardrail on the corner that has been hit many times. It is not a safe situation and she is concerned for animals, riders, and drivers. The guardrail is broken and is not attached at the base. At a minimum, she urged the Council to insist on a band-aid fix.

Martin O'Shea, 22 Greenbrook Drive, West Milford stated that the public should have an opportunity to review ordinances in advance of the public hearings so that they can comment on them. He expressed that posting an ordinance is not enough for people to give it some thought and speak to the matter. He would like to know more about the part-time zoning board secretarial position. He stated that, while some of the discussion about the ordinance tonight was related to personnel, the discussion should be conducted in the public forum and is not an executive session item.

Joseph Affinito, West Milford Public Defender advised that he has served the Township as public defender for the past eight years. A couple of weeks ago, he received a formal document from the court clerk advising of his reappointment and requesting that he file the appropriate documents with the town. Shortly thereafter, he went on vacation. He came to Town Hall on Monday and provided the Clerk with the executed paperwork. He expressed surprise that the Council is considering terminating his services for filing the document late and asked if anything can be done about this. Mayor DiDonato advised that this discussion can be continued when the resolution is being considered later in the agenda.

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Paul Bailey, Tourism Commissioner, Macopin Road, West Milford stated that he is humbled to follow the volunteers tonight. He noted that we are all here for one reason; to do something good for the town. At the budget meeting on Saturday last, the Council discussed a bill for advertising for the Tourism Commission. At Monday's Tourism Commission meeting, the contractor gave a presentation and gave the Commission a draft of the newsletter. Mr. Bailey noted that this document has not been paid for and is under copyright. He showed the Council a mock-up of the document and passed it among the Council for their review. He noted that the final product will be printed on a lighter weight stock and that the text in the mock-up will be modified in the final version. The center will have a map of the Township. He will have a listing of all the volunteer groups within a fifty-mile radius of West Milford. Mr. Bailey noted that this is the best marketing tool we ever had and is a vehicle to promote and market West Milford.

Ada Erik, Macopin Road, West Milford noted that March will be the 8th month since she asked for enforcement of the State's bicycle helmet law. She noted that there is an official bike path being used by bikers, roller skaters, and skateboarders in West Milford and we have zero enforcement of the helmet law. She asked how we can protect our kids if we do not enforce the law. She noted that the amendment to the Statute bringing the age from fourteen to seventeen passed in the State legislature. While education is a great tool for younger children, we need enforcement of the law to have an impact on the older kids.

Jim Novack, 53 Larchmont Drive, Hewitt, noted that he and Councilman Weisbecker attended the project meeting for Deadman's curve at the County recently. The work was supposed to start on Monday and the signs were scheduled to be posted two weeks before the start of work. He advised that there are no signs on Greenwood Lake Turnpike. He asked the Council to speak with the Freeholders to have the signs erected. Mr. Novack stated that the price of \$10,000 that the Administrator quoted for breakaway poles seems exorbitant. He advised that he would like to see that in writing and stated that we should install our own poles so that we can post banners on Union Valley Road in front of the municipal building. He noted that he attended the budget meeting on Saturday. He stated that we have to rent a new backhoe because our backhoe is not working. He noted that we paid well over \$100,000 for this equipment and he would like a report on its age and maintenance schedule.

Jason Stillman, West Milford Fire Chief stated that he is here tonight to discuss the resolution rejecting the bid for the fire truck. He advised that the bid came in over the estimate and noted that, if it had been bid in September, it would have cost \$454,000. After the first of the year the prices rose sharply and they will go up again if we wait any longer. He has reviewed the specifications and has tried to reduce some options. If we were to change the generator size and take the trans retarder off, we could probably save \$8,500. Other changes would alter the truck itself into something that is no good for West Milford. The bid was originally supposed to go out in September and the actual bid opening was on February 10th. Administrator Kunze noted that the ordinance for funding was adopted in September, then the specifications contained legal deficiencies that required amendments. When the specifications were satisfactorily amended, the Township advertised and scheduled the bid opening. Chief Stillman noted that he sent the Township a letter recommending that the bid be awarded to Pierce. If we wish to standardize our trucks, we are locked into one manufacturer. Standardization allows for better maintenance. The manufacturer in question is familiar with West Milford's needs and he helps prepare specifications that meet those needs. Chief Stillman stated that the only reason he agreed to modify the specifications and go out to bid again is because that was the only option the Administrator provided. He stated that four other manufacturers will bid on this truck. However, the fire department wishes to standardize for safety issues and to allow the use of equipment from one company to another. He noted that time is money. Council President Gervens noted that, if we delay, prices could go up again. The Council reviewed the numbers and the anticipated increases for this equipment as provided by the manufacturer.

Ed Steines of the fire department came forward to discuss this matter. He noted that, in the four years he has served in the fire department, they have been striving for standardization on apparatus, turnout gear, and packs. He understands the Administrator's position and he agreed to try to cut the costs. With the upcoming replacement of tankard 1, the fire department is trying to get more companies to bid on our specs and they want to be fair to the taxpayers. He reviewed those items that can be transferred from the existing truck to the new truck. Councilman Warden noted the need for standardization but remarked that such policy may be contrary to bidding practices and statutes. Councilman Nolan asked if the Township could realize any funds from a trade-in of the old vehicle. Mr. Steines noted that this is not factored into this price. If we accept the \$489,000 bid, additional funds would have to come from the Town. Administrator Kunze noted that there are not sufficient funds available in the capital budget. We

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could consider amending and/or supplementing a bond ordinance or take the funds from this year's operating budget. He also noted that not many vendors offer Pierce equipment and cautioned that we must be careful as to how the specifications are written. This particular apparatus is one of only two in this community and is replacing a 1985 used fire truck from New York City. The Township Attorney, Fred Semrau, noted that public bidding is difficult for this type of apparatus. For example, the specifications were really given to us from the ultimate entity that bid. This is a very fine line that should be factored into the discussion. The company may be able to guarantee price increases knowing who will or will not bid. If you want multiple bids, you must have the specifications drafted in a manner that is conducive to other bidders. Council President Gervens noted that the difference between the bid and the estimate is \$22,250. He recommended approving the bid. Mr. Semrau noted that we have until April 10th to make the award. We cannot make the award this evening because we do not have the certification of funds. He recommended that we schedule this topic for discussion at the next workshop meeting, thus allowing the CFO and Administrator to determine where the additional funds can be obtained.

Councilman Weisbecker made a motion to take action on Resolution 2006-064.

Agenda No. II 1

- Resolution 2006-064 -

RESOLUTION REJECTING AWARD OF CONTRACT FOR PURCHASE OF ONE HEAVY RESCUE TRUCK WITH PUMP FOR GREENWOOD FOREST FIRE DEPARTMENT #3

WHEREAS, the Township of West Milford solicited bids on February 10, 2006 at 10:30 a.m. for one (1) Heavy Rescue Truck with Pump for the Greenwood Forest Fire Department #3; and

WHEREAS, the Township received one (1) bid from *Pierce Manufacturing, Inc.* in response to its "Notice to Bidders"; and

WHEREAS, said bid was in an amount of \$489,983.00; and

WHEREAS, in 2005 the Mayor and Council of the Township of West Milford adopted a bond ordinance appropriating \$467,725.00 for the purchase of the aforementioned fire truck; and

WHEREAS, the Treasurer of the Township of West Milford has determined that he is unable to certify the availability of funds for this purchase due to the bid being in excess of the appropriated funds in an amount of \$22,258.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Milford, County of Passaic, State of New Jersey, that the bid received from *Pierce Manufacturing, Inc.* for one (1) Heavy Rescue Truck with Pump for the Greenwood Forest Fire Department #3 be and is hereby rejected.

BE IT FURTHER RESOLVED that the Greenwood Forest Fire Department #3 be and is hereby authorized to revise the bid specifications for this vehicle and schedule a bid opening for this purchase.

Adopted: failed

Moved: Weisbecker Seconded: Smolinski
Voted Aye: None.
Voted Nay: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Motion failed.

Councilman Weisbecker moved to close the Public Comments portion of the meeting at 9:17 p.m.

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Council Comments

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Councilman Weisbecker stated that the signs are up for the work on Greenwood Lake Turnpike. They are located along Awosting and before Marshall Hill. He asked if resolutions and ordinances are on the website before action is taken on them. Administrator Kunze advised that they are not but that the Clerk and Administrator are looking in to this subject. He asked when Mr. Affinito received the letter advising him of his appointment. The Clerk advised that the Court Administrator had been notified of the appointment immediately and the second request from the Clerk's office was sent out on January 29th.

Councilman Nolan advised that the Council had discussed the Percepture bill and the Tourism Commission at Saturday's budget meeting. He believed that it is required that such expenditures are run by the Council before any agreement is made for such services. The back-up information provided with the purchase order states that Percepture will assist in distribution within a 10-mile radius of West Milford. He will not vote to approve this bill. Administrator Kunze advised that he spoke with the principal at Percepture who clarified that distribution will be within a 50-mile radius.

Administrator Kunze advised that personnel matters must be discussed in executive session because the Township is required to send affected employees a Rice notice if such discussion is to take place. He advised that the price he quoted for poles was an estimate received from the DPW and they provided the estimate based on the requirements that such poles be "breakaway" poles.

Councilman Scangarello asked Administrator Kunze to explain how the work and installation of guardrails is scheduled. Administrator Kunze advised that the DPW awards contracts to vendors pursuant to our capital improvement plan and encumbrances are made through the capital improvement account. They maintain a priority listing which goes hand-in-hand with scheduled roadwork.

Councilman Smolinski opined that planning for the installation and improvement of guardrails makes good sense but the Township must allow exceptions if an existing guardrail has been hit or damaged. He noted that the tourism newsletter reviewed tonight is very impressive.

Township Clerk Battaglia advised that the public is always provided an opportunity to obtain copies of ordinances between the time of introduction and public hearing. She noted that this is inherent in the manner in which the legislation is written. The law mandates that the ordinance and supporting documents are available to the public at no charge during that time so that people can have access to the information to assist them in determining what, if anything, they wish to say on the subject at the public hearings.

New Business, Introduction of Ordinances, Resolutions

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

Agenda No. VIII 1
~ Resolution 2006-068 ~

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD,
COUNTY OF PASSAIC AND STATE OF NEW JERSEY
AUTHORIZING THE DONATION OF A FIRE TRUCK TO THE VOLUNTEER FIRE COMPANY
OF DELMAR, ALABAMA**

WHEREAS, a new Fire Engine was delivered to the Macopin Fire Company in 2005; and
WHEREAS, upon receipt of the new Engine, the old apparatus, a 1987 E-1 Hurricane Pumper, was taken out of service and has been in reserve pending disposal at the next surplus equipment auction; and

WHEREAS, it has been determined that this vehicle has little or no fair market value at this time and that the cost of repairing and/or remodeling the vehicle would outweigh any value that it may have; and

WHEREAS, the Township of West Milford has been in communication with the community of Delmar, Alabama, a community immediately impacted by Hurricane Katrina, and specifically the Volunteer Fire Company of Delmar, Alabama which has expressed an interest in accepting a donation of this vehicle; and

WHEREAS, the Mayor and Township Council of the Township of West Milford have determined that the disposition of this vehicle by the gifting of same to the Volunteer Fire Company of Delmar, Alabama would result in benefits to the Township of West Milford and State of New Jersey.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council
Date of Meeting: March 1, 2006
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NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

1. In accordance with the provisions of N.J.S.A. 40A:14-31, the disposition of a 1987 E-1 Hurricane Pumper Truck in the form of a donation to the Volunteer Fire Company of Delmar, Alabama is hereby authorized.
2. Said disposition shall be without consideration.
3. The donation shall be subject to the Township of West Milford shall be provided with an executed Agreement to hold the Township of West Milford harmless from the community of Delmar, Alabama, and any future owners or operators of the vehicle, from any liability resulting from and out of the use or operation of said vehicle.
4. The Township Administrator is hereby authorized to execute any and all documents which may be necessary to facilitate the transfer of this vehicle including a Bill of Sale, Certificate of Title or any related documents which may be necessary in order to facilitate this transfer.

BE IT FURTHER RESOLVED, that the Township Clerk be and she is hereby authorized and directed to forward certified copies of this Resolution to the community of Delmar, Alabama, the Township Administrator and the Macopin Fire Company.

Adopted: March 1, 2006

Mayor DiDonato provided a brief overview of the background of this resolution. A 1987 truck is being taken out of service. A small municipality in Delmar Alabama has been affected by hurricane Katrina and has a need for a fire truck.

Moved: Gervens Seconded: Weisbecker
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. VIII 2
~ Resolution 2006-069 ~

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD,
COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING
CHANGE ORDER NO. 1 FOR THE WEST MILFORD BIKEWAY CONTRACT SECTION 1
(CONTRACT 1)**

WHEREAS, the Township Engineer has recommended approval of a change order to the West Milford Bikeway Contract, Section 2, Contract 2 previously awarded to Tomaro Contracting Co. Inc. in the amount of \$898,000.00; and,

WHEREAS, the increased cost recommended in the approval of the change order is \$18,624.95 which amount represents an increase of 2.1% above the original amount representing an updated contract amount of \$916,624.95; and,

WHEREAS, the change is recommended due to the need for additional leveling and surface course installation during the paving operation to produce an acceptable cross-section prior to paving the final top course; and

WHEREAS, the final contract amount of \$916,624.95 is below the engineer's original estimate for the project; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds for this change order, said funds to be paid from line item number C-04-41-713-203 in the Township 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 Administrator be and is hereby authorized and directed to execute a contract amendment with Tomaro Contracting Co. Inc. in an amount not to exceed \$18,624.95 representing an increase to the original contract amount not to exceed \$245,025.56
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 Municipal Clerk.

Adopted: March 1, 2006

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Moved: Nolan Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. VIII 3
~ Resolution 2006-070 ~

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD,
COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING CLINTON ROAD
EMBANKMENT REPAIRS AND EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE
COUNTY OF PASSAIC**

WHEREAS, the Township of West Milford and the County of Passaic both have need to undertake repairs on Clinton Road in the Township of West Milford; and,

WHEREAS, the Township's repairs would consist of repairing a road embankment that has deteriorated to a dangerous state; and,

WHEREAS, to expedite these repairs and minimize the cost, the Township is desirous of effectuating these repairs by collaborating with the County of Passaic and undertaking all of the work as a joint project with the County of Passaic acting as the lead agency; and

WHEREAS, the Township Attorney drafted an Interlocal Agreement for this project which agreement was accepted by the Freeholder Board of the County of Passaic by virtue of their resolution number R-06-68 adopted on January 31, 2006; and

WHEREAS, the Township's share of the project is estimated to be \$175,000; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds for this change order, said funds to be paid from line item number _____ in the Township 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:

4. The Mayor and Clerk be and are hereby authorized and directed to execute an Intergovernmental Services Agreement with the County of Passaic to consolidate resources for efficient and expedited repairs to the embankment and culvert #172 on Clinton Road in the Township of West Milford.
5. The Township's Chief Financial Officer has certified the availability of funds for same.
6. This resolution and contract shall be available for public inspection in the office of the Municipal Clerk.

Adopted: March 1, 2006

Moved: Nolan Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. VIII 4
~ Resolution 2006-071 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE
OF NEW JERSEY TO URGE THE FEDERAL GOVERNMENT TO PROHIBIT THE PENDING
AND FUTURE OPERATIONS BY FOREIGN NATIONS OF OUR NATION'S PORT
OPERATORS**

WHEREAS, the Township of West Milford is proud of its long and distinguished tradition of protecting the health, safety and well-being of its residents; and

WHEREAS, the protection of our nation and its citizens is essential to the well-being of a democratic society; and

WHEREAS, Federal, State and local governments should protect the public from terrorist attacks such as those that occurred on September 11, 2001, but should do so in such a fashion

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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to ensure that any new security measure, acquisition or action taken by our country enhances public safety without impairing or possibly providing a vulnerability to our national security; and
WHEREAS, recent acquisitions, most notably the acquisition of Peninsular and Oriental Steamship Navigation Co. (P&O) by DP World, a company owned and controlled by the Government of Dubai, United Arab Emirates (UAE), would result in a foreign government control of P&O's Ports, the largest port operator on both the Eastern U.S. Coast and U.S. Gulf Coast; and

WHEREAS, our country's maritime ports are critical to our national security, vital to our military capability, and essential to our economy.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of West Milford that the Township of West Milford affirms its strong support in our nation's attempts to maintain strong levels of national security; and

BE IT FURTHER RESOLVED that the Township of West Milford urge the Federal Government to prohibit the pending and future operations by foreign nations of our nation's port operations.

Adopted: March 1, 2006

Moved: Nolan Seconded: Weisbecker
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. VIII 5
~ Resolution 2006-072 ~

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD,
COUNTY OF PASSAIC AND STATE OF NEW JERSEY TO
AUTHORIZE THE SETTLEMENT OF A DISCIPLINARY ACTION**

WHEREAS, the Township has issued a Disciplinary Action concerning Officer Anthony DiMinno; and

WHEREAS, the Fredric M. Knapp, Esq., the Township's Labor Counsel negotiated a settlement of this matter; and

WHEREAS, Mr. Knapp is of the opinion that this settlement is in the best interest of the Township of West Milford.

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 Mayor is hereby authorized to execute a Complete and Permanent Settlement Agreement and Release on behalf of the Township in the Disciplinary Action of Anthony DiMinno.

BE IT FURTHER RESOLVED, that there will be no costs to the Township associated with this settlement.

Moved: Nolan Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. IX 1
~ Resolution 2006-073 ~

RESOLUTION 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; and

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

- Resolution 2006-074 – Authorize Refund of Overpayments
- Resolution 2006-075 – Authorize Refund of Liens
- Resolution 2006-076 – Authorize Cancellation of Checks
- Resolution 2006-077 - Authorize Refund Permit Fee
- Resolution 2006-078 - Authorize Refund Recreation Fee
- Resolution 2006-086 – Resolution Authorizing Reinstatement of Taxes
- Resolution 2006-087 – Resolution Authorizing Refund - Performance Bond

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Resolution 2006-088 - Resolution Authorizing Refund - Performance Bond

Application for Social Affair Permit:
Apshawa Volunteer Fire Company
April 8, 2006, 7:00 p.m. to 12:00 a.m.

Adopted: March 1, 2006

Moved: Weisbecker Seconded: Nolan
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Included in and adopted by the Resolution Authorizing Passage of the Consent Agenda were the following resolutions:

Agenda No. IX 1a
~ Resolution 2006-074 ~

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.

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 | 2. Duplicate Payment |
| 3. Senior Citizen/Veteran Deduction | 4. Homestead Rebate |
| 5. Tax Appeal | |

<u>Block/Lot</u>	<u>Name</u>	<u>Amount</u>	<u>Year</u>	<u>Reason</u>
408-12	Mark Muskivitch 403 Warwick Turnpike Hewitt, NJ 07421	\$76.00	2006	1
1301-1Q	M. Scattergood & A. Tooy P.O. Box 335 Hewitt, NJ 07421	\$21.99	2006	1
1701-64	Walker Family Investments, Inc 201 Wanaque Avenue Pompton Lakes, NJ 07442	\$75.00	2006	1
1803-6	736 LLC 913 Riverdale Boulevard Pompton Lakes, NJ 07442	\$19.28	2006	1
2402-41	R. & R. Hennessy 303 Lakeshore Drive Hewitt, NJ 07421	\$68.00	2006	5
2608-13	Kathy M. Swanson 241 Point Breeze Drive Hewitt, NJ 07421	\$15.50	2006	1
2715-7	G. Magliaro & M. Donnelly 182 Lakeshore Drive Hewitt, NJ 07421	\$52.00	2006	5
4008-1	Christopher & Jate Perillo 193 Long Pond Road Hewitt, NJ 07421	\$31.00	2006	5
5101-7	Elaine & Kenneth Taylor 18 Ridge Road West Milford, NJ 07480	\$17.76	2006	1
5405-3	William & Regina Riedel 8 Lozier Court	\$100.00	2006	1

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	West Milford, NJ 07480			
5618-5	Larry Jacobs & Jennifer Jones 36 Hickory Road West Milford, NJ 07480	\$128.64	2006	1
6704-1.02	Mark Petroski & Susan Stopper 6 Palmetto Lane West Milford, NJ 07480	\$11.00	2006	5
7203-6	Masessa & Cluff Esq. 1524 Route 23 North Butler, NJ 07405	\$1,587.00	2006	2
7206-4	John Colla-Negri 200 W. 79 th Street New York, NY 10024	\$9.00	2006	5
7610-6	Patricia Foran Boswell 12 Dante Place Waldwick, NJ 07073	\$11.68	2006	1
7801-53.05	Michael Saffran 53 E Beacon Hill Road West Milford, NJ 07480	\$124.16	2006	1
8801-17	James & Judith Davidson 1596 Macopin Road West Milford, NJ 07480	\$52.00	2006	5
8901-27	Mark Brandecker 68 Vreeland Road West Milford, NJ 07480	\$41.00	2006	1
8902-2	Thomas & Robyne Hogan 92 Rolling Ridge Road West Milford, NJ 07480	\$16.00	2006	1
11106-8	David Lipari 961 Tilton Road Valley Cottage, NY 10989	\$15.00	2006	1
15401-43	Soller, E. Revocable Trust P.O. Box 606 Newfoundland, NJ 07435	\$13.44	2006	1
16003-1	Brent C. Snyder 8 Jefferson Street Oak Ridge, NJ 07438	\$30.45	2006	1
16304-4	Jeffrey Blake 20 Oak Drive Oak Ridge, NJ 07438	\$65.00	2006	1
16504-1	Samuel Raymond 29 Oak Drive Upper Saddle River, NJ 07458	\$18.80	2006	1
16703-11	Dominick DeCastro 24 Land of Oaks Drive Oak Ridge, NJ 07438	\$109.00	2006	1
	TOTAL	\$2,708.70		

Adopted: March 1, 2006

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 Agenda No. IX 1b  
 ~ Resolution 2006-075 ~

**RESOLUTION AUTHORIZING REFUND OF OTHER LIENS**

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

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

| <b>Certificate No</b> | <b>Certificate Date</b> | <b>Block/Lot/Qual</b> | <b>Reimbursement Amount</b> | <b>Pay to the Lien Holder</b>                                  |
|-----------------------|-------------------------|-----------------------|-----------------------------|----------------------------------------------------------------|
| 05-014                | 03/09/2005              | 01804-003             | \$152.35                    | CURTIS HAMPTON<br>144 UPPER GREENWOOD ROAD<br>HEWITT, NJ 07421 |

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

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|                    |            |           |                   |                                                 |
|--------------------|------------|-----------|-------------------|-------------------------------------------------|
| 05-017             | 03/09/2005 | 01812-001 | \$1,537.50        | LARRY NACH<br>8 COLFAX AVE<br>CLIFTON, NJ 07013 |
| <b>Grand Total</b> |            |           | <b>\$1,689.85</b> |                                                 |

Adopted: March 1, 2006

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 Agenda No. IX 1c  
 ~ Resolution 2006-076 ~

**RESOLUTION AUTHORIZING CANCELLATION OF TOWNSHIP CHECKS**

**WHEREAS**, the Collector of Taxes has found that certain checks issued by the Township have not been negotiated; and

**WHEREAS**, the Collector of Taxes recommends the cancellation of said checks for the reasons stated below.

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

- REASON: 1. RECIPIENT UNFOUND  
 2. UNREDEEMED LIEN

| TWP CHECK # | DATE    | PAYABLE TO                   | AMOUNT            | REASON |
|-------------|---------|------------------------------|-------------------|--------|
| 19625       | 6-03-04 | Fred Weber                   | \$895.09          | 1      |
| 23458       | 6-16-05 | Nationwide Investment Assoc. | 5,218.50          | 1      |
| 23409       | 6-16-05 | DCAGC Management Corp.       | \$1,279.65        | 2      |
|             |         | <b>TOTAL</b>                 | <b>\$7,393.24</b> |        |

Adopted: March 1, 2006

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 Agenda No. IX 1d  
 ~ Resolution 2006-077 ~

**RESOLUTION AUTHORIZING REFUND PERMIT FEES**

**WHEREAS**, the Township Health Department received fees in the amount of \$53.00 for a furnace replacement permit; and

**WHEREAS**, the homeowner has determined not to proceed with this job and the contractor has made a request to have the permit fees refunded; and

**WHEREAS**, the Health Department has conducted the plan review and has determined the cost of such review to amount to 20% of the permit fee.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Township of West Milford that the balance of the permit fees paid to the Township of West Milford for a furnace replacement permit be refunded to the contractor as indicated:

Norman Sheet Metal & Mechanical Corp. \$42.00  
 Attn: Paulette Brauch  
 254 Little Falls Road  
 Fairfield, NJ 07004

Adopted: March 1, 2006

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 Agenda No. IX 1e  
 ~ Resolution 2006-078 ~

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

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**RESOLUTION AUTHORIZING REFUND OF RECREATIONAL FEES**

**BE IT RESOLVED**, by the Township Council of the Township of West Milford that the following Recreational fees upon the report of the Recreation Director be refunded:

Refund for cancellation of enrollment in Gymnastics Classes to the following:

| PARTICIPANT     | AMOUNT  | MADE PAYABLE TO:                                              |
|-----------------|---------|---------------------------------------------------------------|
| Kaitlyn Mascola | \$65.00 | Kathy Mascola<br>19 Eagle Rock Road<br>West Milford, NJ 07480 |

Refund for cancellation of Session 2 Imagine with Music to the following:

| PARTICIPANT            | AMOUNT   | MADE PAYABLE TO:                                             |
|------------------------|----------|--------------------------------------------------------------|
| Kirsten & Riley Browne | \$170.00 | June Browne<br>44 Bordeaux Terrace<br>West Milford, NJ 07480 |

Adopted: March 1, 2006

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 Agenda No. IX 086
 ~ Resolution 2006-086 ~

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.

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

BLOCK/LOT	NAME	AMOUNT	YEAR	Reason
3611-11	R. & S. Castronova	\$250.08	2005 4 th Qtr.	1
6401-1	S. & R. Holdings, LLC C/O R. Castronova	\$8,383.82	2005 4 th Qtr.	1
3610-30	R. & S. Castronova	\$666.44	2005 4 th Qtr.	1
3506-10	R. & S. Castronova	\$2,000.45	2005 Full Year	1
6711-8	R. Castronova	\$544.16	2005 Full Year	1
7601-2	Castronova Holdings, LLC	\$5,241.09	2005 Full Year	1
4301-21	R. & J. Charnecky	\$3,876.09	2005 First Half	1
10815-8	Joanne Klosz	\$1,214.00	2005 4 th Qtr.	1
9101-13	Albert & Carolyn Evans	\$5.03	2005 4 th Qtr.	1
2601-35	Jill Wei	\$1,100.00	2006 1 st Qtr.	1
2003-2.02	N & L Lengares	\$165.90	2006 1 st Qtr. SP	1
2003-11	N & L. Lengares	\$181.10	2006 1 st Qtr. SP	1

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	TOTAL	<u>\$23,628.16</u>		
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Adopted: March 1, 2006

 Agenda No. IX 1g
 ~ Resolution 2006-087 ~

RESOLUTION AUTHORIZING REFUND OF PERFORMANCE GUARANTEE

BE IT RESOLVED, by the 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 & Address</u>	<u>Block & Lot</u>	<u>Amount Refunded</u>	<u>Pg. No.</u>
Roger Kish 45 Dunham Road Hewitt, NJ 07421	2408/9	\$ 850.00	70

Adopted: March 1, 2006

 Agenda No. IX 1h
 ~ Resolution 2006-088 ~

RESOLUTION AUTHORIZING REFUND OF PERFORMANCE GUARANTEE

BE IT RESOLVED, by the 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 & Address</u>	<u>Block & Lot</u>	<u>Amount Refunded</u>	<u>Pg. No.</u>
Joseph Paterno, LLC P.O. Box 187 Butler, NJ 07405	13807/6	\$ 1,050.00	73

Adopted: March 1, 2006

Payment of Bills

None.

Reports of Administrator, Mayor and Members of the Council

Mayor DiDonato announced that, thanks to the Clerk and the Administrator, the Township plans to host a volunteer breakfast social on April 23, 2005. He noted that the Attorney Ethics ordinance has a very short compliance time and does not provide any exemptions for vacations or holidays. He also noted that the original ordinance is the subject of on-going litigation.

Administrator Kunze noted that the Township has submitted a second funding request to the Federal Government for the Union Valley District Improvement Project. We received funding last year and are thus proceeding with plans to implement the project. We expect to receive an answer sometime in the fall. The next budget meeting is scheduled for March 15th. He is working on ways to reduce appropriations. He advised the Council that the Township has made employment offers to four individuals who will begin the police academy on March 20. If there are no more retirements in that department, we will be returning to the 2004 staffing levels. He advised that the Clerk, Planner and Administrator had a meeting with general code regarding the on-going recodification of the Township code. The Council will receive updates as this project progresses. Mr. Kunze noted that recently there was an article in the AIM newspaper wherein the writer was critical of the appointment of the planning and zoning board attorney. Mr. Kunze advised that these boards have autonomy and neither the Council nor the Administrator can interfere with their actions. As Administrator, Mr. Kunze ensured that the attorney complied with pay-to-play and all other associated requirements.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Councilman Weisbecker advised the County will be fixing Deadman's curve.

Councilman Smolinski noted that there are a number of sports programs in West Milford. In order to be a coach, one must attend programs which teach how to deal with kids, their emotions, physical injuries, and a host of other related topics. The Rutgers clinic will be held on March 11th at the West Milford library. The fee is \$25 and any interested persons should call the recreation department. He advised that he recently attended the Environmental Commission meeting and expressed his pleasure at what they are doing. He asked the Administrator to place discussion of septic systems and reporting by vendors on a future workshop agenda.

Council President Gervens thanked residents, employees, and colleagues for their expressions of sympathy to him and his wife at the recent passing of his father in law.

Councilman Nolan conveyed his condolences to Mr. Gervens and his family. He congratulated the recipients of tonight's awards and commended and thanked those volunteers not selected. He referred to an article in today's *Daily Record* which indicated that Assemblymen DeCroce and Pannachio are planning to introduce legislation which would rescind the Highlands Protection Act. In his opinion, the proposed legislation is doomed to fail. Because the Highlands Act was signed with a pen and can be taken away with a pen, Mr. Nolan stated that we need to accumulate open space funds. He referred to an article in the February 28th *Record*, Kinnelon Councilman Bob Collins obtained acquired land on which Kinnelon proposes building recreation fields. He noted that approvals come from various sources and there are various restrictions. Mr. Nolan noted that the Township authorized a recreation study in 1996. Since that time, there have been many changes; our population is not growing as anticipated and the Highlands Act has been introduced. He proposed that the Council consider hiring a consultant to do a needs assessment of our current facilities and our future needs. He referred to a February 27th news article wherein Senator Leonard Lance addressed the need to preserve land. There are four towns in Passaic County where tax appeals have been filed as a result of the Highlands Act. Ringwood has the greatest number of tax appeals filed and the process continues. He affirmed the need to continue to lobby for a water use surcharge. Mr. Nolan thanked his fellow Council members for taking action on the resolution opposing foreign control of US ports. He referred to a March 1st *Star Ledger* article wherein Governor Corzine instructed State personnel to prepare for staff cuts and where he spoke about possible cuts in municipal aid. He advised that there will be a public meeting at Montclair University on Tuesday March 7th starting at 7:00 p.m. He plans to attend and advised that reservations can be made by calling 609-984-9850 or online at www.state.nj.us/budget06/dialogues.

Councilman Nolan noted that the Township Council, through mediation, settled a suit with Mr. O'Shea that pertained to the open public meetings act. He noted that the planning board continues to pursue this matter in the courts and this continues to cost the Township taxpayer money. Mr. O'Shea is not seeking a financial settlement so Mr. Nolan questioned why the planning board is not making an effort to resolve this matter. He proposed a plan whereby all proposed litigation would be reviewed by the Township attorney and a determination should be made about what counsel can best represent the interests of the Town on a case-by-case basis. He stated that the planning board attorney, while well versed on land use law, has no experience in municipal law. Mr. Nolan read a letter that the Council received from Mr. O'Shea about Saturday's budget meeting and the tourism budget. He noted that Township money should not be placed in the hands of irresponsible people. He stated that e-mails obtained through OPRA indicate that some council people have not always acted in the best interests of the Township. He urged the Council to remove Mr. Bailey from the Tourism Commission and to make a replacement appointment.

Councilman Warden noted that the Council has been holding budget meetings and he asked the Administrator to review the budget and recommend cuts at the March 15th meeting. He recommended that the Township explore hiring a grant writer. He opined that there is money available through grants and we are not going after those funds. A grant writer would pay for him/herself and would benefit the Town. The weed-harvesting contract has been forwarded to all parties and the Township attorney will follow up to ensure that this continues to move forward. The weed harvester should be up and running by April 15th. Mr. Warden expressed agreement with Mr. Nolan's sentiments and noted that he will not support a tourism budget when the Chairman of that Commission is known to have attempted to sabotage the weed harvesting last year. He noted that Mr. Bailey's appointment went to a tie vote by the Council which was broken by the Mayor's vote. Mr. Warden acknowledged that Mr. Affinito is in the audience and he stated that he would like an opportunity to speak with Mr. Affinito tonight before voting to terminate his

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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services as public defender. He commended Mr. Affinito for attending tonight's meeting. Mr. Warden advised that the West Milford High School basketball team beat Fairlawn last night and they will be playing in Fort Lee tomorrow.

Councilman Scangarello noted that there are abandoned vehicles, oil drums, and a camper at Farrell Field. He asked the Administrator to have them removed. He advised that the Lions Club is seeking volunteers to assist in prepping the creative playground for contractors to begin work. Any interested volunteers should call his cell phone at 201-924-3059 before the end of this month. He asked Mr. Semrau to continue to monitor the Sheridan property grant and the transfer of funds. He advised that Assemblyman Scott Garrett will attend the March 22nd Mayor and Council meeting to present a \$350,000 check for a streetscape grant.

Report of Township Clerk

The Township Clerk asked if the Council had any questions with regard to her memo. There being no questions, the Clerk had no further report.

Report of Township Attorney

Township Attorney Fred Semrau provided a brief overview of the public defender position in the Township and noted that the accountability ordinance had not been complied within the 7-days called for in the ordinance. He notified Mr. Affinito that the Council would be discussing this matter tonight. The ordinance is very strict and non-compliance within 7-days results in automatic forfeiture of office. This requires formal action from the Council. Councilman Warden asked if the Council can discuss this now and make a determination. Mr. Semrau advised that, if Mr. Affinito is comfortable answering questions, it is best to address this issue tonight. Mayor DiDonato advised that discussion can continue when we get to the resolution.

Mr. Semrau advised that this governing body cannot interfere with planning and zoning board appointments of professionals. There is no defining case law with regard to the planning board case with Mr. O'Shea. For Mr. Semrau and the planning board attorney to have a dialogue about non-land use matters would not be prohibited. He advised that, with Council consent, he and the Administrator will get a letter out to the planning board tomorrow. He advised that the Eagle Ridge appeal brief was filed this morning. The brief includes five reports that show that the Township addressed water concerns as far back as 1988. He noted that Hovnanian raised concerns about a meeting with the commission last year after public comments were given. Hovnanian engaged in a discussion with the technical hearing officer and an engineer who favors the application that was never disclosed. Mr. Semrau has argued in his brief that, to use the Highlands Act as an excuse to rush this process, is not a valid argument. He expects that either arguments will be made or a decision rendered within sixty days. He thanked the residents of West Milford who were a great help in formulating the briefs and the background information.

Appointments, Resignations, Terminations

Agenda No. XII a
~ Resolution 2006-079 ~

MAYOR'S APPOINTMENT OF DANA D'ANGELO AS PUBLIC DEFENDER FOR A TWO YEAR TERM FROM JANUARY 1, 2006 THROUGH DECEMBER 31, 2007 PURSUANT TO ORDINANCE 1989-13

BE IT RESOLVED, by the Township Council of the Township of West Milford that they do hereby concur with the Mayor's appointment of Dana D'Angelo to the position of Public Defender for a two-year term, said appointment being retroactive to January 1, 2006 and expiring on December 31, 2007.

BE IT FURTHER RESOLVED that Public Defender D'Angelo shall conform with the Township's Disciplinary Authorization and Release ordinance within seven (7) days of the adoption of this resolution.

Adopted: March 1, 2006

Moved: Weisbecker Seconded: Gervens
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Agenda No. XII b
~ **Resolution 2006-080** ~

RESOLUTION ACCEPTING RESIGNATIONS TENDERED

BE IT RESOLVED, by the Township Council of the Township of West Milford that they do hereby accept the following resignations tendered to the Township:

<u>Name</u>	<u>Position</u>	<u>Date Tendered</u>
Charles "Chuck" Cole	Parks & Recreation Committee	February 01, 2006
Laurie Ardis	Tourism Commission	February 13, 2006

Adopted: March 1, 2006

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

Agenda No. XII c

Councilman Smolinski nominated Todd Maupai to serve as a member of the Parks and Recreation Commission. The nomination was seconded by Councilman Scangarello.

Councilman Nolan nominated Ken Long. Mayor DiDonato noted that there is a nomination on the floor that should be acted upon before a second nomination is made.

~ **Resolution 2006-081** ~

Resolution of Appointment to the West Milford Parks & Recreation Committee

BE IT RESOLVED, by the Township Council of the Township of West Milford that they do hereby appoint Todd Maupai to the Township's Parks and Recreation Committee to fill the unexpired term of Charles "Chuck" Cole, said term to expire on December 31, 2007.

Adopted: March 1, 2006

Moved: Weisbecker Seconded: Smolinski
Voted Aye: Smolinski, Gervens, Scangarello, DiDonato
Voted Nay: Weisbecker, Nolan, Warden
Motion carried.

Agenda No. XII d

~ **Resolution 2006-082** ~

Mayor's Appointment to the West Milford Tourism Commission with Council Consent

BE IT RESOLVED, by the Township Council of the Township of West Milford that they do hereby consent to the Mayor's appointment of Bev Puntolillo to the Township's Tourism Commission to fill the unexpired term of Laurie Ardis, said term to expire on December 31, 2006.

Adopted: March 1, 2006

Moved: Smolinski Seconded: Scangarello
Voted Aye: Smolinski, Gervens, Scangarello, DiDonato
Voted Nay: Weisbecker, Nolan, Warden
Motion carried.

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Agenda No. XII d

Mayor DiDonato invited Joseph Affinito Esq. to come forward to discuss the public defender position with the Council. Mr. Affinito advised that he is aware of the attorney accountability ordinance in West Milford and affirmed that he did not comply. He advised that he was not immediately advised of his appointment and did not receive the forms until two weeks ago. He executed the forms and had them notarized on January 30. Then he went on vacation. He advised that he brought the completed forms to the Clerk's office on Monday morning at which time he was notified that the Township Attorney had sent him a letter advising him that the Council would be discussing this matter tonight. He advised that he has no objection to the ordinance and he realizes that he did not comply within the time period. He asked the Council to consider that he has been with West Milford for eight years. In years past he was not even formally appointed. He became the public defender because his predecessor walked away in December 1997 without giving the Township any notice. Mr. Affinito served in that capacity without an official appointment until 1999. He provided an overview of the workload. Mr. Semrau noted that the ordinance, as drafted, does not give the Council any discretion. The only course of action other than discontinuing the agreement with Mr. Affinito, would be for him to resign and be reappointed. Mr. Affinito tendered his immediate resignation.

Mayor DiDonato reappointed Mr. Affinito to the public defender position and asked for council consent.

~ Resolution 2006-084 ~

MAYOR'S APPOINTMENT OF JOSEPH A. AFFINITO, ESQ. AS PUBLIC DEFENDER FOR A TWO YEAR TERM FROM JANUARY 1, 2006 THROUGH DECEMBER 31, 2007 PURSUANT TO ORDINANCE 1989-13

BE IT RESOLVED, by the Township Council of the Township of West Milford that they do hereby concur with the Mayor's appointment of Joseph A. Affinito, Esq. to the position of Public Defender for a two-year term, said appointment being retroactive to January 1, 2006 and expiring on December 31, 2007.

BE IT FURTHER RESOLVED that Public Defender Affinito shall conform with the Township's Disciplinary Authorization and Release ordinance within seven (7) days of the adoption of this resolution.

Adopted: March 1, 2006

Moved: Warden Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello
Voted Nay:
Motion carried.

Presentations of Communications, Petitions

None.

Executive Session

Mr. Semrau advised that he had scheduled the COAH issue for executive session discussion tonight. However, Mr. Drew, the Township Planner, will attend next week to participate in this discussion. Therefore, Mr. Semrau asked that this discussion be deferred until Mr. Drew is in attendance. He also recommended holding off on discussion of the green acres matter. Therefore, there was no executive session.

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 10:40 P.M.

Moved: Gervens Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Warden, Scangarello.
Voted Nay: None.
Motion carried.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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APPROVED:

MAYOR JOSEPH DIDONATO
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK