
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: March 8, 2006
Time of Meeting: 7:30 P.M.
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The Workshop Meeting of the West Milford Township Council was called to order by Mayor Joseph DiDonato.

Adequate Notice Statement

Mayor DiDonato read the following statement:
Please note that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this Regular meeting was advertised in the Herald News in its issues of December 26, 2005 and January 8, 2006; copies were provided to the Suburban Trends, the Record, Star Ledger, and Greenwood Lake News and posted continuously on the bulletin board in the main corridor of the Town Hall and on file in the Office of the Township Clerk.

Pledge of Allegiance

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

Roll Call

Present: Councilmembers Philip Weisbecker, Joseph Smolinski,
Robert Nolan, James Warden, Carmelo Scangarello.
Absent: Council President William Gervens
Also Present: Township Administrator Richard Kunze, Township Clerk Antoinette Battaglia,
Township Attorney Frederick Semrau

Reading of or Approval of Unapproved Minutes

None.

Meetings

Mayor DiDonato noted the future meeting schedule:

March 15, 2006 Special Meeting - Budget
March 22, 2006 Regular Meeting
April 5, 2006 Workshop Meeting
April 12, 2006 Regular Meeting
April 26, 2006 Workshop Meeting

Proclamations

None.

Public Comments

Mayor DiDonato opened the meeting to the public after advising that there is a five-minute limit for each speaker. He invited interested parties to raise their hand and come forward when called upon.

Ada Erik, 1693 Macopin Road, West Milford, thanked the Council for taking action to have the helmet laws enforced. She reminded Council that we have an ordinance which requires that house numbers be clear and clearly displayed throughout Town. However, this ordinance is being ignored and it is not being enforced. She stated that the emergency service providers are being hindered because house numbers are not displayed.

Patty Lotz-Moore, Westbrook Road, West Milford stated that on Westbrook approaching Otterhole Road, there are three streets on the right that have no street signs.

Martin O'Shea, 22 Greenbrook Drive, West Milford stated that he wishes to speak on a matter of fiduciary responsibility. He noted that his questions are not criticisms but rather a search for information. He noted that the Tourism Commission is planning a tourism newspaper and he advised that this is a bad idea. The proposal for this newspaper shows that the process is structured in a poor manner. He noted that on page two of the proposal, it refers to two editions on 4/30 and on 6/15 with eight pages per issue and an advertising insert. This equates to a total publication of nine pages. This is impossible for a press. This could only be effectuated by having eight pages generated through the press and the ninth, the advertising sheet, inserted by hand. He noted that Percepture stated that they would design and send a rate sheet by November in an effort to solicit advertising. This rate sheet is not here yet. Representatives from West Milford cannot solicit for advertisers without the rate page. The proposal also notes that Percepture will work with the A/M for distribution of the newspaper. That

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would cost money and Mr. O’Shea has spoken with the *AIM* publisher who states he knows nothing of such a joint venture.

Jim Novack, 53 Larchmont Drive, Hewitt, stated that he read a recent article in the *Trends* that advised that the police department will be enforcing the helmet law. He advised that he will give the first \$100 in coupons to Dairy Queen and McDonalds that can be distributed by the police department to children who are found wearing their helmets. He reminded the Council that last week Councilman Warden spoke about a grant writer. He opined that one good grant would pay for the grant writer and any further grants would be an outright benefit to the taxpayers. He advised that he heard a rumor that one constable refused to come to a meeting to speak to the Council if Mr. Novack and/or Mr. O’Shea were in attendance.

Gary Oppenheimer, Clover Road, Newfoundland stated the proposed tourism newsletter should be sent to places out of West Milford and not to Township residents. He advised that residents already know what resources are available in West Milford.

Tyler Warden, 199 Highcrest Drive, West Milford read a statement expressing his opposition to the Patriot Act. He urged the Council to adopt a resolution expressing opposition to the erosion of civil liberties.

Andrew Gargano, Apshawa Cross Road, West Milford stated that the West Milford website contains approximately two paragraphs about tourism in the Township. He recommended that the museum information on the website be updated. He also expressed that he supports the notion of two public portions at council meetings.

Kathleen Caren asked the Administrator if he had received the correspondence she sent for the Council. She noted that March is Women’s History Month and today is International Working Women’s Day. She would like to see a woman on Council. She noted that, when watching last week’s meeting, she observed that no-one spoke on the ordinance when that subject was opened to the public. She asked that ordinances be placed on the website prior to the public hearing. She stated that the tourism initiatives should not be circulated through the *AIM* newspaper, as it will only be delivered to residents. She asked that everyone work to serve the best interests of the Township.

Bob Pawlo, 7 Madelyn Avenue, West Milford stated that our legislators are charged with protecting the constitution, not trampling on it as they have done by adopting the Patriot Act. He stated that he has been a union member for thirty years. He has attended a number of meetings lately and the general consensus from the politicians he has heard speak is that the state and county are in dire straits this year as they struggle with their budgets and the deficits. It is not likely that we will receive extraordinary aid nor are we likely to receive any relief from the County. He urged the Council to focus on the West Milford budget, not raise taxes, and eliminate unnecessary services. He opined that ecotourism is not the answer to our problems; we need millions of dollars. We need a proven way of generating revenue. He asked the Council if Mr. Bailey is a good choice to lead the Tourism Commission after he called two council members morons and another a Benedict Arnold.

Councilman Weisbecker moved to close the Public Comments portion of the meeting.

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

Council Comments

Members of the Council commented on the following matters:

Councilman Weisbecker stated that he agrees that enforcement of the helmet law is a priority. He also agrees that we have a problem with street signs. He asked Administrator Kunze to look into the feasibility of hiring a grant writer. He noted that on the agenda for the regular meeting there is a section for public petitions and requests and that we are not utilizing that portion of the meeting. In the past, a person wishing to address the Council during that portion of the meeting contacted the Clerk 48-hours in advance of the meeting and was placed on the agenda. He agreed with Kathleen Caren that he would like to see a woman on the Council.

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Councilman Nolan thanked Mr. O'Shea for his comments on the tourism newsletter. He agreed with Kathleen Caren that the Council needs a woman.

Councilman Warden stated that utilizing the services of a grant writer is a professional approach on behalf of the Township. He thanked Tyler for coming to tonight's meeting from Boston and noted that a resolution opposing the Patriot Act is scheduled for Council consideration tonight. He stated that he views the petitions and requests portion of the agenda as an intent that there be a second public portion to the meeting so that the public is given an opportunity to speak after the Council takes action. He endorses such public participation.

Councilman Smolinski agreed that there is not much tourism information on the West Milford website. He stated that there are a lot of benefits to promoting tourism in this town and the possibilities are numerous. He believes that such endeavors will bring revenue into town.

Attorney Fred Semrau advised that a point of order is used to bring something back to order. In such instances, a person may speak to Council only after that person has been acknowledged by Council. The petitions and requests section of the agenda is not currently included in our code; it no longer exists in the code and thus is not an official part of the agenda.

Presentations

Bicycle Helmet Law - Police Chief Paul Costello distributed a memo to the Council addressing Bicycle Helmet Enforcement by his department. He reviewed the memo point by point providing a history of the statute, an overview of the procedure used by the police officers, statistics pertaining to the number of warnings that have been issued, and an overview of proposed education and awareness programs. He also provided Council with a press release that was sent out on March 6, 2006 apprising residents of the law and the advantages of bicycle helmets. Councilman Nolan thanked the Chief for his presentation and asked if he is working with the school. Chief Costello listed various organizations that are working with the police department on this matter. He advised that juvenile safety is a definite priority within the police department. He advised that an important component of the police work involved here is tracking to see how many repeat offenders are being dealt with. He advised that he is researching grant possibilities to offset some of these costs. The initial step in the process allows for the police to issue a warning, the second instance results in the parent(s) receiving a summons. The first summonsed offense carries a fine of \$25 and subsequent offenses carry penalties of up to \$100. The fines can be waived if the parent buys a helmet or if the parent can prove that the child simply did not wear the helmet that the parent provided. He said that the Township attorney is reviewing the statute to determine if the municipality can adopt an ordinance with better enforcement power. Councilman Warden asked if we can confiscate the offender's skateboard or bike as a repercussion. Councilman Scangarello noted that the parents need to be educated and they also need to learn what their liability is under the law. Chief Costello stated that any incentive will help but cautioned that one cannot legislate common sense and responsibility. The Council instructed the Township Attorney to draft an ordinance which mirrors the state law but has a confiscation clause.

Constable Positions - Administrator Kunze advised that, after the last meeting, the Clerk sent letters to the constables asking if they are interested in continuing to serve in that capacity if we change the requirements. Thus far, we have received a response from two constables. In the past five years, eighteen reports indicating activity have been filed. This activity was limited to traffic control and serving subpoenas. Chief Costello advised that constables do not work under the jurisdiction of the police department nor have they never had a police function in West Milford. Constables are appointed by the governing body and they report to the governing body. The Township Attorney stated that he recommends the increase in bond amounts because the Township should have a level of protection especially since we do not direct constables about what they can and cannot do. The Council gave consensus to have a resolution rescinding this position for their consideration at the next meeting.

COAH Resolution - Mayor DiDonato asked the Township Planner, Bill Drew, to come forward to speak with the Council about COAH and the proposed resolution. Administrator Kunze advised that the Council adopted a similar resolution in December 2005. However, COAH has asked that we adopt a resolution that conforms to their format and thus there is such a resolution being presented to Council at the next meeting. The proposed resolution does not change the Council's position; this is a housekeeping issue for COAH. Councilman Nolan stated that the Council felt tentative about this last year because of the Highlands and other local issues. He is concerned that they took action then on the understanding that no further action would be needed and now the Council is being asked to adopt another resolution. He asked for clarification and for an explanation of Valley Ridge Gardens and that relationship with COAH. Mr. Drew advised that Valley Ridge Gardens is an inclusionary site that was part of a prior round of approvals in the late

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1980s. Valley Ridge was not in front of the planning board last October when Mr. Drew appeared before the Council. Subsequent to his attendance at that meeting, the applicant satisfied incomplete requirements and came before the board. The COAH process is a two-body process wherein the planning board holds hearings but it is a council plan. The completed report was sent to COAH in December. The Township attorney advised that the resolution is a product of a substantive certification round and insulates the Township from builder's suits. COAH has kept strict deadlines and the resolution is the only outstanding point in our plan. Questions about specific developments will not have any impact on this plan; that is a separate discussion. Mr. Semrau urged the Council to adopt this resolution to keep us in compliance. This is not a plan to address future affordable housing requirements; it is not an opportunity to change past plans; this is simply an administrative requirement. Councilman Warden asked if this action by the council could be used as evidence in a potential legal matter in court. Mr. Semrau advised that, in his opinion, a judge cannot view the Council's actions on this resolution as condoning this proposed development. He sees this resolution as being necessary to protect the town but he cannot guarantee how a judge might rule. Mayor DiDonato noted that both the affordable housing and fair share plans being sent down to Trenton clearly state that future land use for West Milford is uncertain because we are in the preservation area. This resolution does not adopt any development contained in the COAH plan. By consensus of the Council the Clerk was instructed to place the resolution on the agenda for Council consideration at their next meeting.

Valley Ridge Development - Mr. Drew advised that the Valley Ridge Development is already blended with COAH somewhat. An application is before the planning board. This application has been placed in the housing by prior councils. However, we are now dealing with new highlands regulations. The planning board is in a difficult situation because of two competing forces beyond their control. They cannot judge the validity of one state regulation versus another. The planning board took the matter to court seeking a determination as to which law supersedes the other and they have stayed their decision pending the court's response. Mr. Drew provided a brief history of the site and the associated applications that have been filed with the Township. Currently a final site plan is before the board. However, yesterday correspondence was received from the DEP advising that the applicant had requested withdrawal of stream encroachment and permit applications. Mr. Drew is unsure about what this means, he sent the notification to the attorney, and he will follow up with the DEP. He will report back to the Council.

Councilman Nolan thanked Mr. Drew for these updates. He noted that Bald Eagle residents did not receive notices about the January Planning Board meeting and was advised that the Planning Board attorney stated that notices were sent out in 1997. He asked if we can have an ordinance that mandates that, if there is no action on a matter for a certain amount of time, the application becomes void and the process must begin again. He expressed concern about the lack of communication between the Planning Board and the Council. Mr. Drew advised that the Administrator has expressed the same concerns and that they are working on refining the lines of communication. Councilman Nolan asked the Township Attorney to provide an opinion about notification requirements on land use issues and an overview of how the system works.

Green Acres – Administrator Kunze advised Green Acres has notified the Township by mail that we need to execute two agreements for green acres funding for the Apple Acres property. Based on on-going Council discussions, Mr. Kunze reached out to determine if these funds can be used toward Eagle Ridge. The response was that, when our open space plan has been approved by the DEP, we can use the funding for areas listed in that plan. However, in the interim, the State recommends that we execute the agreement. Councilman Smolinski asked that the Township request clarification from the State about the use of funds and a definition of active and passive recreational uses. On behalf of the Council, Mayor DiDonato thanked Mr. Drew for attending tonight's meeting.

Action Items

The Township Council took action on the following items:

Agenda No. VIII 1

~ Resolution 2006-089 ~

**RESOLUTION AWARDING A CONTRACT TO PIERCE MANUFACTURING FOR
ONE (1) HEAVY RESCUE TRUCK WITH PUMP
FOR THE 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

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

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

WHEREAS, the bid received from *Pierce Manufacturing, 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 Fire Chief has submitted a written recommendation for the award of this contract to *Pierce Manufacturing, Inc.*

WHEREAS, the Chief Financial Officer has certified as to the availability of funds and encumbrances for this purchase shall come from account numbers C04-05-945-500 and 6-01-25-260-200; 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 *Pierce Manufacturing, Inc.* for the purchase one (1) Heavy Rescue Truck with Pump for the Greenwood Forest Fire Department #3.

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 *Pierce Manufacturing, Inc.* in the amount of \$489,983.00.
2. The Mayor or Administrator be and is hereby authorized and directed to execute a contract with *Pierce Manufacturing, Inc.* in accordance with its bid for the purchase one (1) Heavy Rescue Truck with Pump for the Greenwood Forest Fire Department #3.
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 8, 2006

Councilman Nolan asked from whence the additional funds were obtained. Administrator Kunze advised that the came from they Fire Department operating budget which will affect the funds available for other supplies for the Fire Department.

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

Agenda No. VII 2

~ Resolution 2006-090 ~

RESOLUTION APPROVING THE PAYMENT OF BILLS (AMENDED)

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

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

<u>Acct #</u>	<u>Account Name</u>	<u>Amount</u>
1	Current Account.....	\$ 453,641.64
	Current Account.....	\$ 449,528.31
2	Reserve Account.....	75,205.75
3	Animal Control Trust	

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6	Capital.		13,180.83
7	Grants.		4,806.57
8	Refuse.		40.00
9	Refunds.		42.00
12	General Ledger.		
16	Heritage Trust.		175.00
14	Open Space Trust		
17	Trust		3,950.00
18	Development Escrow.		5,005.00
19	LOSAP		
20	Special Reserve		<u>1,180.21</u>
	Total		\$ 557,227.00
	Less Refund Resolution		<u>(42.00)</u>
	Actual Bill List		\$ 557,185.00
	Amended Bill List		\$ 553,071.67
	Other Payments		
	Less Refund Resolution		
	Total Expenditures		\$ 557,185.00
	Total Expenditures as Amended		\$ 553,071.67

Adopted: March 8, 2006

Motion by Councilman Nolan to place this resolution on the floor for consideration.
 Seconded by Councilman Weisbecker.

Discussion: Councilman Nolan requested that the Percepture bill be pulled for the bill list and be acted on separately.

Councilman Nolan moved to amend his motion to exclude the Percepture bill from the bill list.

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

Motion by Councilman Weisbecker not to pay the Percepture bill presented on the bill list.
 Seconded by Councilman Warden.

Discussion: Councilman Smolinski asked the Township Attorney if we are liable if we do not pay this bill. Mr. Semrau advised that, essentially the purchase order is a contract, so we are essentially obligated to pay this bill. Under our form of government and pursuant to case law, the Administrator has the authority to sign contracts that are in proper order. In Mr. Semrau's opinion, we have an obligation to pay this bill because everything was done in correct form. Councilman Warden stated that the Tourism Commission does not have the authority to spend money without advising the Council of their intent. This Council was never advised of this project and the associated expenditures. He noted that the purchase order is signed by Mr. Bailey who does not have that authority. Mr. Semrau noted that Mr. Bailey signed as the requester and Administrator Kunze signed as the approving entity. Councilman Nolan noted that this bill is being charged to the 2005 budget. It is his opinion that the Tourism Commission is spending this money because it is there rather than because it is necessary. This requisition was processed after the last meeting in 2005 and the Council was never notified. Councilman Weisbecker asked if bids were received for this service. Administrator Kunze explained the procedure used for purchasing.

 Moved: Weisbecker Seconded: Warden
 Voted Aye: Scangarello

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Voted Nay: ~~_____~~ Weisbecker, Nolan, Warden
 Abstain: ~~_____~~ Smolinski
 Motion defeated.

Mayor DiDonato asked the Clerk to clarify the roll call and the result of the vote. Clerk Battaglia advised that the motion was not to pay the Percepture bill. Mayor DiDonato asked that the roll call be taken again. He clarified that that a "yes" vote means the bill will not be paid and a "no" vote means the bill will be paid.

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

Items For Discussion

Administrator Kunze noted that a number of items scheduled for discussion have already been addressed during Chief Costello and Mr. Drew's presentations.

The following items were discussed by the Township Council:

1)	Bids – Administrator Kunze noted that there are three bids scheduled for Council consideration. The engineer has recommended awarding the bid for paving materials in an amount not to exceed \$50,000. He has also recommended purchasing snow grits through the Morris County Coop and also a paving contract to Tilcon through the Morris County Coop. Councilman Nolan noted that we have had a problem with Tilcon and this recommendation means that we are awarding them a lot of money knowing that we have had problems with them. The Township Attorney advised that the pricing is directly through the Coop and that this award will not impact any future claim we may have against Tilcon. The Council gave consensus to have these resolutions placed on the agenda for the next meeting.
2)	Patriot Act – Councilman Warden stated that he worked with his son, Tyler, to present a resolution for Council consideration. He stated that this message should be sent to both the federal and state governments urging them to respect our civil liberties. Our civil rights are the basis of this country and this resolution says that West Milford endorses the protection of civil rights. He commended Tyler and his friend, Adam, for their many hours of work on this and asked the Council for their support. Councilman Weisbecker commended Tyler for doing this and stated that he understands the thrust. However, he stated, the Patriot Act was recently passed and doing something now to counter that is really not meaningful. He sees the Patriot Act as a protection against future attacks similar to 9/11. Councilman Smolinski stated that the Council adopted a resolution last week urging that our ports security be of top priority. He stated that this resolution compromises our safety. He stated that the day the towers fell, Americans ran for their lives and were never seen again. He sees no benefit to passing a resolution condemning the Patriot Act. Councilman Scangarello stated that this resolution contradicts the action the Council took last week. Councilman Warden stated that he feels that this is being made a partisan issue. There was no consensus from the Council to present the resolution for action at the next meeting.
3)	Weed Harvester – Mr. Semrau advised that the agreement is essentially the same as last year's but there are some minor revisions. He has forwarded the amended agreement to both the County and the Bi-State commission requesting that they move post haste. Councilman Warden stated that he does not want to see this become a political issue as it did last year. He stated that everything is in place and asked the Council to adopt this resolution tonight. Councilman Weisbecker concurred. Mr. Semrau noted that this resolution is not ready for action tonight and that we need to have the certification of funds before taking action. The Council agreed that the Mayor could sign the agreement tonight, the Attorney would hold it until the certification of funds is received, and the resolution can be acted upon at the next meeting.
4)	Auditor Bond Work – Administrator Kunze advised that the payment being requested is a partial payment for services rendered and that the fee is set out in the bond sale. The resolution adopted at the beginning of the year for the Auditor's contract should be revised to reflect the work on the bond sale. The resolution would also clarify the account numbers from which payment will be made. Mr. Kunze noted that the bond invoices are proportional amounts based on each bond. Councilman Nolan noted that the Auditor should have noticed the problem with the original resolution. Council gave concurrence to have the amending resolution on the agenda for the next meeting.

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5)	Recreation Fees Ordinance – Administrator Kunze advised that the Recreation Director has requested an increase in fees in an effort to attract and retain better seasonal staff to run the programs. The Council has been given her report. The council reviewed the expected increases in revenue and expenditures. Mayor DiDonato noted that our fees for these recreation services are very reasonable and also noted that these services are offered to users, some of whom do not live in West Milford. He stated that the costs should be paid by the users rather than spread among all residents. The Council gave consensus to have this ordinance introduced at their next meeting. Administrator Kunze asked if the Recreation Director could send out the employment applications reflecting the proposed new fee schedule. The Council granted authorization.
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Mayor's Report

Mayor DiDonato conveyed his condolences to the Mulligan family in the recent passing of former Mayor and Councilman John Mulligan. He thanked the Mulligan family for the support they gave Mr. Mulligan throughout his years of services to this community. He asked the Council to convey to Administrator Kunze their availability for a joint meeting with the Board of Education on Saturday March 25, 2006 at 9:00 a.m.

Township Administrator's Report

Administrator Kunze advised Council that copies of a proposed transfer resolution for next week's meeting had been distributed in their packets. The transfer is primarily to cover legal costs for the planning and zoning boards. Also, the temporary budget resolution is also scheduled for next week and, that too, has been distributed. He noted that some people have expressed interest in serving on the task forces for telecommunications and energy. He asked the Council to convey any comments they may have on the draft letter to the County about open space funds. He advised that letters went out to the lake communities and we have received one response. He directed Council to a memo from the Environmental Commission expressing interest in applying for an ANJEC grant. More information is expected. He stated that he will schedule the resolution for March 22nd unless there is any objection from the Council.

Township Council Reports

Councilman Weisbecker conveyed condolences to the Mulligan family. He stated that he knew Mr. Mulligan personally and found him to be an interesting person and a great guy. He asked the Council to consider having Belcher's Creek renamed for Mr. Mulligan and asked the Administrator to look into the matter. Councilman Warden stated that the Belcher family was a part of West Milford life 200 years ago and that Jonathon Belcher was the Governor. Councilman Weisbecker asked the Administrator to ensure that the Council gets copies of board and committee meeting minutes. He asked the Administrator for a status on the No Left Turn on Eisenhower ordinance. Administrator Kunze advised that we are awaiting an answer from the DOT. Councilman Weisbecker stated that he read a letter from the League of Municipalities addressing the subject of eminent domain. He stated that this is a scary topic and that the Council should consider becoming educated on this subject before there is a direct impact on our community or one of our lake communities. Mr. Semrau advised that there have been significant decisions of late relative to eminent domain. He noted that, if a governing body acts responsibly it is usually not an issue. He asked the Council to be cautious about voicing opinions on this subject without knowing whether or not we will ever need this too. Councilman Weisbecker passed out a proposal for the establishment of a finance committee allowing the Council oversight of municipal expenditures and the budget. Mr. Semrau noted that he would have to review this proposal to ascertain whether or not it is in conformance with our form of government. The Council gave consensus for the Attorney to explore this matter.

Councilman Smolinski had no report.

Councilman Nolan conveyed his condolences to the Mulligan family. He advised that he attended a meeting last night wherein a presentation was made on the State's 2007 budget. The news is not good. The State is facing a structural deficit of over \$4 billion. The Governor has basically said that municipalities may get funding in an equal amount to that received last year. The Governor supports the CAP on school budgets. Councilman Nolan stated that, at next week's budget meeting, the Council may need to revisit some items that we had hoped to fund. He stated that he is in favor of a finance committee. He also knows of parties interested in serving on the recently established task forces. He noted that the Administrator sent letters last week to the planning and zoning board secretaries about the handling of lawsuits. He expressed that these letters should have been sent to the respective Chairmen. Administrator Kunze advised that the letters will be sent to the Chairmen and the members. Councilman Nolan stated that he would like all grant applications sent to the Council with sufficient time for review before they are

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submitted to the various agencies. He asked the Administrator to ensure that we have the financials from the library and the fire companies for the budget meeting. He noted that there was an article in today's Record titled "Councilman Pursues Website Hunt". He wished Councilman Warden a Happy Birthday.

Councilman Warden stated that it is wonderful to get the weed harvesting agreement done tonight. He asked Administrator Kunze to research the possibility of hiring a grant writer. He stated that a Bergen County Judge ruled that Cablevision must disclose the identities of those people behind fleecingwestmilford.com. He distributed copies of the subpoena to the Council. He stated that he has received calls from council members in other towns commending his pursuit of the website postings. He advised that NJ.com has given up the identity of Democat. He stated that Democat traces to a female, age 19 with an e-mail address of Elcavage@verizon.net. He asked the Attorney for an opinion as to whether or not Mr. Elcavage can continue to serve as an appointee to committees in West Milford. He stated that he would like to see the Council adopt a resolution asking for Mr. Elcavage's removal from all boards, commissions, or committees for conduct unbecoming to a Township official. He asked for Council support. He advised that Assemblyman Biondi is proposing legislation which would provide easier access to the identities of persons who post slanderous anonymous web postings. He asked for Council support for a resolution supporting this legislation. He conveyed his condolences to the Mulligan family.

Councilman Scangarello conveyed his condolences to the Mulligan family. He distributed a draft agreement between the Board of Education and the Township pertaining to the Wallisch property and Hillcrest. He asked the Council to review this agreement which was prepared by the Board of Education president. He also advised that he has received and given a draft agreement to the Township Attorney pertaining to Jungle Habitat. He asked that Mr. Semrau review this and that we continue dialogue and move forward on this matter.

Township Attorney

Mr. Semrau advised that a new attorney from the State Attorney General's office has been assigned to the Eagle Ridge case. In their brief, a number of things have been consistently argued. We have taken the position that case history supports our position. The court does not have the authority to exempt any property from the Highlands Act. The Township contends that the reasons set forth by the Commissioner when he denied water access must be addressed first. Both the State and the Township have taken the position that Hovnanian has forced the Commission to deny their permit by demanding the court to decide. Hovnanian has to file a responsive brief. The Council will discuss Lanza v. West Milford and Apple Acres in executive session tonight.

Township Clerk's Report

The Township Clerk referred the Council to the memo she had distributed and asked if there were any questions. There being no questions from the Council, the Clerk had no report.

Executive Session

Agenda No. XI 1

~ Resolution No. 2006-091 ~

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 8th day of **March**, 2006, that:

1. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: March 8, 2006
Time of Meeting: 7:30 P.M.
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- (X) b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
 - Green Acres funding for Apple Acres
- () b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
- (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
 - Lanza vs. West Milford (Docket No. L-740-06)
- () b. (8) Personnel matters.
- () b. (9) Deliberations after a public hearing that may result in penalties.

2. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: March 8, 2006

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

The Council went into executive session at 11:10 p.m.

Present: Councilmembers Philip Weisbecker, Robert Nolan,
James Warden, Carmelo Scangarello.
Mayor Joseph DiDonato.

Absent: Council President Gervens

Also Present: Township Administrator Richard Kunze, Township Clerk Antoinette Battaglia,
Township Attorney Frederick Semrau,

Items for discussion at Executive Session were as follows:

- Green Acres funding for Apple Acres
- Lanza vs. West Milford (Docket No. L-740-06)

Executive Session adjourned at 11:32 p.m.

Moved: Nolan Seconded: Scangarello
Voted Aye: Unanimous Voice Vote.
Voted Nay: None.
Motion carried.

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 11:35 P.M.

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Unanimous Voice Vote.
Voted Nay: None.
Motion carried.

Approved:

JOSEPH DiDONATO, MAYOR
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK