
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: May 4, 2011
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 Council President Joseph Smolinski.

Adequate Notice Statement

Council President Joseph Smolinski read the following statement:
Please note that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this Workshop meeting was advertised in the Herald News in its issue of December 19, 2010 and January 9, 2011; 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.

Please also make note of all fire and emergency exits – located to the left, right, and rear of this room - for use in case of an emergency. Thank you.

Pledge of Allegiance

Council President Smolinski led all in attendance in a salute to the flag.

Roll Call

Present: Councilmembers Philip Weisbecker (arrived 8:49 pm), Joseph Smolinski, Michael Ramaglia, Edward Rosone, Luciano Signorino, Daniel Jurkovic.
Absent: Mayor Bieri.
Also Present: Township Administrator Kevin Boyle, Township Clerk Antoinette Battaglia, Township Attorney Frederick Semrau.

Agenda No. II

Reading of or Approval of Unapproved Minutes

Councilman Ramaglia moved to adopt the September 15, 2010 Regular Meeting as presented:

Moved: Ramaglia Seconded: Rosone
Voted Aye: Smolinski, Ramaglia, Rosone, Signorino, Jurkovic.
Voted Nay: None.
Absent: Weisbecker
Motion carried.

Agenda No. III

Meetings

Council President Smolinski noted the future meeting schedule:

May 18, 2011 Regular Meeting June 1, 2011 Workshop Meeting
June 15, 2011 Regular Meeting

Agenda No. IV

Presentations

Sign Ordinance – Township Planner Chuck McGroarty

Mr. McGroarty advised that this ordinance is a culmination of efforts from the Planning Board for about a year to modify the existing sign ordinances. The proposed amendments accomplish a number of things as outlined in his memo. He reviewed some. The fourth change took a long time to get right. It establishes uniform design standards for portable signs. The solution appears to be agreeable with those who interfaced with the Planning Board including the Chamber of Commerce. A new category would allow for identification signs for lake and neighborhood associations. Councilman Jurkovic asked what happens if current signage is larger than allowed here. Mr. McGroarty replied that they are grandfathered in. He recommends that any business so affected send a letter placing the existence of the sign on record. He can work with the Land Use Administrator on that. Mr. Semrau suggested that the Township might want to consider a cutoff date for that grandfather provision and the Council agreed. Mr. McGroarty stated that the Planning Board recommends moving the definitions into this chapter from chapter 400 in the code. However, he advised this, in his opinion, is not necessary and it would incur a codification cost. There are a number of tables that are appendices to current sign legislation and all of that information is being incorporated into the text of the amended ordinance. Councilman Jurkovic asked for a simplified table to be included as an appendix to the new legislation to allow for ease of understanding and he asked what constitutes a free standing sign. Mr. McGroarty replied monument signs or signs not attached to a building adding that these changes do not impede upon anyone's rights to seek variances from the zoning board. Mr. McGroarty stated that the Chamber of Commerce was included in many meetings and he believes that they ultimately agreed to these changes. He commended them for their input adding that there was a cordial and frank exchange of ideas. The Council asked Administrator

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Boyle to send the ordinance to the Chamber of Commerce and the Economic Development Committee for one final review. The Council thanked Mr. McGroarty for his time and efforts.

Agenda No. V

Proclamations

Silver Star Service Banner Day – Council President Smolinski went to the podium where he read the proclamation stating that this is very timely. He said that we are all grateful to our service men and women especially in light of the fact that Osama bin Laden was killed by American uniformed personnel this past Sunday.

Agenda No. VI

Unfinished Business Final Passage of Ordinances

None.

Agenda No. VII

Public Comments

Council President Smolinski opened the meeting to the public after advising that there is a five-minute limit for each speaker.

Doris Aaronson, 19 Bearfort Road, West Milford stated that last night the new Passaic County Sheriff attended the Democratic Club meeting to discuss certain programs including SLAP. Today she saw a Greenwood Lake Commission program member who stated that they may need SLAP assistance in cleaning up Brown's Point for the upcoming boat races. She asked that Administrator Boyle be instructed to contact the Sheriff to have this task completed.

Andrew Gargano, 45 Apshawa Crossroad, West Milford is chair of the Planning Board. He advised that the Chamber of Commerce was included in the process of amending the sign ordinance from the beginning. There were two meetings to which they were invited and he commended them for being both receptive and fair. There was a lot of hard work invested into this legislation and the Planning Board welcomes any proposed changes. The Board is now working on the Master Plan which they are hoping to complete by year's end.

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

Moved: Rosone Seconded: Ramaglia
Voted Aye: Smolinski, Ramaglia, Rosone, Signorino, Jurkovic.
Voted Nay: None.
Absent: Weisbecker.
Motion carried.

Agenda No. VIII

Council Comments

Councilman Jurkovic asked Administrator Boyle to look into the SLAP program and Brown's Point. He commended the Planning Board stating that they did a nice job on that sign ordinance. Concerns were expressed early in the process, but he can see that a lot of thought was invested in the proposed result. This ordinance will mainly apply to businesses and so it is good to have the Chamber and EDC on board to achieve better compliance.

Agenda No. IX

Discussion Items

1)	\$1.3M Golf Course Money (Redevelopment Funds) – Administrator Boyle asked for council consensus to use these funds for the \$500,000 for the Wallisch acquisition. Council President Smolinski recalled that in past years and by past Councils it was agreed to use these funds for capital improvements to public buildings. Councilman Jurkovic reminded everyone that \$400,000 of this money is to be invested immediately into Hillcrest and the remaining \$100,000 to be escrowed for future payments. The annual rent must also be invested into the building. All monies must go back into capital improvements into this building to ensure that the Township will not have to bond to maintain and or complete capital improvements to that building. Council President Smolinski agreed and stated that he informed the Senior Advisory Committee of those facts today. Residents have been misinformed about this.
2)	Request to Donate Property – Block 2014/Lot 16 Yorktown Road, Upper Greenwood Lake from Rosemarie Ossi of Saddle Brook

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3)	Greenwood Lake Drawdown – October 2011 – Administrator Boyle stated that he received a letter from the New York commissioner asking the Township to give consent to the drawdown beginning next October. The letter, he said, is different to that received last year and they need consent to move forward. Mr. Semrau advised that under title 59, the Township has certain immunities. He asked for and received Council consensus to have an engineer evaluate this for sign off. Councilman Jurkovic noted that the letter says a non response in 35 days deems approval. The Council instructed Mr. Boyle to notify the Greenwood Lake Commission that the Township needs more time.
4)	Village on Ridge – Mr. Semrau advised that he has had a number of conversations with the property owner’s engineer, Mr. Boswell and Matt Mulhall. Most recently all three participated in a conference call where they discussed concerns about security for the lifetime of this proposed water system in the manner possibly of bonding. We received a draft resolution that had a lot of the primary points but it failed to address the posting of bond or cash. Mr. Semrau stated that he believes that an ordinance is needed and he has requested that the ordinance have specific language that gets Matt Mulhall to provide a cost estimate of the system and the owner would post a bond for the life of system and construction of a new system if the system is abandoned. It would then go to a bond company and upon completion of a new system the MUA would take over. He and Mr. Boswell are trying to finalize all this right now. If all that information is in hand, Mr. Semrau will return to the Governing Body if he is in a position to proceed with an ordinance. Before this is completed, it will be sent to the MUA attorney for input. He is trying to secure rights for the Township and the MUA.
5)	Solar Panels on Utility Poles – Mr. Boyle stated that there are many solar panels on utility poles along the Garden State Parkway. He looked into this matter after Councilman Ramaglia requested that it be researched at the last meeting. To that end he reached out to Rockland Electric and JCP&L and he is awaiting their responses regarding policies. Councilman Ramaglia advised that smaller utility companies do not provide for these solar panels but he would like to know if there are grant initiatives for such a program. Mr. Boyle stated that area managers for both Rockland Electric and JCP&L are researching options.
6)	Paperless Agenda and Back-up Documentation – Administrator Boyle stated that he has spoken with the Network Administrator and he reviewed the costs to provide paper packets to Council for meetings. He suggested that the Council should engage the municipal clerk regarding this matter and Councilman Jurkovic suggested establishing a committee of the Council. Councilmembers Jurkovic, Ramaglia & Smolinski agreed to serve.
7)	Attract/Retain Businesses
8)	Resolution: Interlocal Services Agreement – Passaic County – Public Works Equipment and Employees Shared Services – the Council gave consensus to have a resolution prepared for the next meeting.
9)	Resolution: Support A3412 – Tax Appeal Refunds – Mr. Boyle advised that the Township has received information from the NJLM regarding a proposed bill that would seek to have schools and counties contribute their fair share of tax refunds as a result of appeals. Right now the cost is borne solely by the municipality. Mr. Semrau opined that this is excellent legislation that will close a real loophole. He described how the current process affects the appeal process in tax court and settlements. The Council gave consensus to proceed.
10)	Contract: Labor Attorney – Mr. Boyle stated that we have had Mr. Giacobbe serve as holdover labor counsel and have received about 6-7 resumes from interested parties. He has asked for many items to be stalled until June and we now need to have labor counsel and Mr. Giacobbe has maxed out on approved funding. Mr. Semrau stated that in the meantime, he is receiving many pending files including Hardin and other personnel matters. Mr. Giacobbe has been advised that he has exhausted his contract and from an efficiency standpoint he asked that Mr. Giacobbe continue these matters in the interim. Some of these matters are near conclusion after 4-5 years. He asked for a resolution to extend Mr. Giacobbe’s contract until new labor counsel is hired. Mr. Semrau stated that he has tried to handle new day to day matters. Council President Smolinski stated that the Council agrees that the same person should continue with the old issues. There are new Council people who don’t know the history of many of these cases. He would like to schedule executive session discussion on many of the old cases. Councilman Ramaglia advised that he would like Mr. Giacobbe to come to the executive session. Mr. Boyle stated that he will schedule that for May 18 th and asked how he should handle the interview process for new labor counsel. The council agreed to a committee comprising of Councilmembers Jurkovic and Signorino and Mayor Bieri. Mr. Boyle stated that he will have a resolution for Mr. Giacobbe’s services for the June meeting.
11)	Contract: Appraisal for Property at Warwick Turnpike and Lakeshore Drive – the Council gave consensus to proceed.
12)	Contract: Hydraulic Hammer Services - the Council gave consensus to proceed.

Agenda No. X

Action Items

Agenda No. X 1

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~ Ordinance No. 2011- 012 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 42, RULES OF COUNCIL, OF THE REVISED GENERAL ORDINANCES

42-3 Meetings

- A. Regular meetings. The Council shall hold regular meetings at the times specified in the resolution adopted pursuant to N.J.S.A.10:4-6 et seq. the Open Public Meetings Act. All regular meetings of the Council shall be held in the Council Chamber or such other place within the Township upon appropriate notice to the public.
- B. Special meetings. The Mayor, whenever he deems it in the public interest, may call for a special meeting, Upon request in writing of a majority of the Council or at the direction of the Township Administrator the Mayor shall call a special meeting of the Council. A request by Councilmen or the Mayor for a special meeting shall state the date, time, place and purpose of the meeting. The Mayor shall deliver the call for a special meeting to the Township Clerk who shall forthwith provide notice thereof to each Councilman through his official Township email account. No business except what is described in the call shall be considered at the special meeting. Except in case of emergency, special meetings shall require at least 48 hours advance written notice to the official newspaper of the Township in accordance with N.J.S.A.10:4-6 et seq.
- C. Adjourned meetings. An adjourned meeting shall be considered a continuation of the preceding meeting, and the business of the Council shall be resumed where it was left at the last adjournment.
- D. Notice required. All meetings shall receive such prior notice required by and conducted in conformity with the Open Public Meetings Law (P.L. 1975, Chapter 231).

42-4 Presiding Officer; Township Attorney

- A. Presiding officer. The presiding officer of the Council shall be the Mayor and in his absence the Council President. The presiding officer shall preserve strict order and decorum at all regular, workshop and special meetings of the Council. He shall state every question coming before the Council and announce the decision of the Council on all matters coming before it. He shall appoint special committees of the Council. The Mayor may vote on all questions only in the event of a tie vote, his name being called last. The Mayor shall sign all ordinances adopted by the Council during his presence except when he shall invoke the power of veto in accordance with the rules governing same. In the event of the absence of the Mayor, such ordinances shall be signed by the presiding officer except that the presiding officer shall not sign such ordinances during the period for mayoral veto as prescribed by law.
- B. Township Attorney. The Township Attorney or such member or members of his office as he may designate shall be available to the Council at all regular, workshop and special meetings, and at such other meetings or conferences as may be designated by a majority of Council, the Mayor or Administrator. He, or his designee, shall draw ordinances and resolutions when and as requested by the Council.

42-5 Agenda

- A. The Township Administrator shall establish a deadline for staff submission of all reports, communications, ordinances, resolutions, claims, contract documents or other matters to be submitted to the Council for consideration or discussion at a Council meeting. Said documents shall be delivered by the appropriate departments, staff, or contracted professionals to the Township Administrator and the Township Clerk. The Township Administrator together with the Township Clerk, shall prepare a calendar of such matters together with such additional matters that they may have to present to the Council. In conformity with the prescribed order of business as hereinafter provided, the Township Clerk shall prepare an agenda and furnish a copy to the Mayor, the Administrator, each member of the Council and, when required the Township Attorney prior to the Council meeting and as far in advance of the meeting as time for preparation will permit.
- B. Any member of the public, group or organization wishing to seek Council discussion or action on any item must submit a request in writing to the Office of the Township Clerk during regular business hours. The Clerk shall cause same to be provided to the Mayor,

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Council and Administrator when providing the agenda for the next regularly scheduled Council meeting. The Mayor and/or Administrator may cause such items to be placed on a future workshop agenda for discussion or a future regular meeting for action. Failure of the Mayor and/or Administrator to place such items on a future agenda shall be construed as a directive to forego the matter. Any Council member may, at the next meeting after receipt of such requests, seek consensus from a majority of the Council to have such matters placed on a future workshop agenda for discussion or a future regular meeting agenda for action. Failure any Council member to seek such consensus shall be construed as Council's directive to forego the matter.

42-6 Call to Order

The Mayor shall take the chair at the hour appointed for the meeting, and shall immediately call the Council to order. In the absence of the Mayor or the Council President, the Township Clerk or his designee shall call the Council to order. In the event that the Township Clerk calls the Council to order, he shall then determine whether a quorum is present and in that event shall call for the election of a temporary presiding officer. Upon the arrival of the Mayor or the Council President, the temporary presiding officer shall forthwith relinquish the chair upon the conclusion of the business immediately before the Council.

42-7 Roll Call

Before proceeding with the business of the Council, the Township Clerk or his designee shall call the roll of the members, and the names of those present shall be entered in the minutes.

42-8 Quorum

- A. A majority of the whole number of members of the Council shall constitute a quorum. No ordinance, resolution or motion shall be adopted by the Council without the affirmative vote of the majority of all the members of the Council.
- B. Should no quorum attend within 30 minutes after the hour appointed for the meeting of the Council or within 60 minutes if a Councilman or Councilmen should telephone and signify they will attend, the Mayor, or in his absence the Township Clerk or his designee, may thereupon adjourn the meeting until an appropriate time and date.

42-9 Order of Business

The order of business at all regular Council meetings shall be as follows:

- A. Meeting — reading of adequate notice.
- B. Pledge of Allegiance.
- C. Roll call.
- D. Minutes.
- E. Presentations.
- F. Proclamations.
- G. Unfinished business, final passage of ordinances.
- H. Public comments.
- I. Council comments.
- J. New business, introduction of ordinances, resolutions.
- K. Consent agenda.
- L. Approval of expenditures.
- M. Reports of Administrator, Mayor, and Council members.
- N. Appointments and resignations.
- O. Executive session.
- P. Adjournment.

42-10 Reading Of Minutes

Unless a reading of the minutes of a Council meeting is requested by a majority of the Council, such minutes may be approved without reading, provided that the Township Clerk, at least two full working days preceding the meeting, shall deliver a copy thereof to each member of the Council. The Presiding Officer and the Township Clerk shall sign approved minutes. Copies of the minutes shall be made available to the public in accordance with the law.

42-11 Voting and Minutes

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The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. Upon the call of the roll, a member shall adhere to Robert's Rules of Order and may not discuss or explain his vote. The silence of any Councilman who is present shall be recorded as an affirmative vote unless he states directly that he either abstains, or votes "present." The minutes of each meeting shall be signed by the presiding officer and by the Clerk.

42-12 Committees

There shall be no standing committees of the Council, other than the committee of the whole. The rules of the Council shall govern the meetings of the committee of the whole so far as applicable. Special committees for legislative purposes may be appointed by the Mayor pursuant to resolution. No special committee shall proceed to the consideration of any matter referred to it unless a majority of the members of the committee shall be present. All committee meetings shall be held within the Township. No special committee shall report on a matter referred to it at the same meeting at which the reference is made, except by consent of a majority of the members of the committee.

42-13 Nominations and Appointments

With respect to appointments to be made by the Council, any member of the Council may nominate as many candidates as there are offices to be filled. The Council will consider such nominations in committee of the whole, which will report to a regular meeting of the Council. Where there is a single office to be filled, the consensus of the Council on the appointment shall be taken, and the nominee receiving a majority shall be deemed appointed. Where there is more than one office to be filled, such as on a board, commission or authority, the same procedure shall be followed with respect to each office separately until the total number of appointments to be made has been completed. In the discretion of the chair, a group of nominations may be considered at once where there is no apparent division in the Council as to the nominees included in the group.

42-14 Rules of Debate

- A. Questions under consideration. When a question is presented and seconded, it is under consideration, and no motion shall be received thereafter, except to adjourn, to lay on the table, to postpone, or to amend, until the question is decided. These motions shall have preference in the order in which they are mentioned, and the first two shall be decided without debate.
- B. The Mayor. The Mayor, or such other member of the Council as may be presiding, may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed upon all members, and shall not be deprived of any of the rights and privileges of a Councilman by reasons of his being the presiding officer.
- C. Getting the floor. Improper references shall be avoided. Every member desiring to speak for any purposes whatsoever shall address the presiding officer, and upon recognition, shall confine himself to the question under debate, avoiding all personalities and indecorous language. A member may only speak once on the same subject, but may speak to clear up a matter of fact or explain a material part of his speech, except that a member after moving a question may once again speak on the same subject.
- D. Interruption. A member once recognized shall not be interrupted when speaking unless it be to call him to order or as herein otherwise provided. If a member while speaking be called to order, he shall cease speaking until the question of order be determined by the presiding officer, and if in order, he shall be permitted to proceed. Any member may appeal to the Council from the decision of the presiding officer upon a question of order, when without debate the presiding officer shall submit to the Council the question, "Shall the decision of the chair be sustained?", and the Council shall decide by a majority vote.
- E. Privilege of closing debate. The Councilman moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.
- F. In the event a conflict as to procedure or protocol shall arise, the chair of the meeting shall first be guided by the Township code and thereafter Roberts Rules of Order shall apply.

42-15 Addressing the Council

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- A. Any other person may address the Council by oral request, addressed to the presiding officer, at such time and during that portion of the meeting agenda entitled "Public comments."
- B. Any person may be granted leave to address the Council during the meeting, by oral request to the presiding officer, which leave shall be granted only after showing to the satisfaction of a majority of the members of the Township Council present that the subject of the matter of the address deserves the time and attention of the Township Council. Such remarks shall be limited only to that item, then under consideration by the Council.
- C. Any member of the Council may address any question or remarks to a person of the public in attendance, on any matter then under consideration by the Council, but only after request to the presiding officer and by and with the consent of the majority of the members present.
- D. When, during any discussion by the Council, the name of a person present has been mentioned or referred to, such person may be granted permission to address the Council at such time, but only after it has been shown to the satisfaction of a majority of the members of the Council present that such person deserves the time and attention of the Council.
- E. Where advertisements have been published or notices served for public hearings then, and in such case, at the time and place so specified in the notice so published or served, all persons interested shall be given an opportunity to be heard on the subject matter advertised.
- F. Each person addressing the Council shall give his name and address in an audible tone of voice for the records. He shall limit his remarks to five minutes, and to one statement, on any item or topic; further time may be granted by the Council, by a majority assent of the members present, if the subject matter deserves the time and attention of the governing body. All remarks shall be addressed to the Council as a body, and not to any member thereof. No person, other than members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the presiding officer. No question shall be asked a member of the Council or any other person present at the meeting, except through the presiding officer.

42-16 Decorum

- A. By Council members. While the Council is in session, the members must preserve order and decorum, and a member shall neither by conversation or otherwise except as herein provided delay or interrupt the proceedings, the peace of the Council, disturb any member while speaking nor refuse to obey the orders of the Council or its presiding officer.
- B. By persons. Any person making impertinent or slanderous remarks or who shall become boisterous while addressing the Council shall forthwith be barred from further audience before the Council, by the presiding officer, unless permission to continue or again address the Council be granted by the majority vote of the Council.
- C. Enforcement of decorum. The Chief of Police, or such other member or members of the Police Department as he may designate, shall be the Sergeant at Arms of the Council meetings. He or they shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meetings.

42-17 Ordinances, Resolutions Contract Documents and Consent Agenda

- A. Introduction. Ordinances may be introduced and adopted by title, except bonding or local improvement ordinances, introduction of which shall be in accordance with existing statute, before consideration by the Council on second and final reading. Every ordinance after introduction and adoption on first reading shall be published as required by law, and the publication shall be at least one week or 10 days, as required by law, prior to the time fixed for further consideration for second and final passage. At the time and place so specified in such notice, all persons interested shall be given an opportunity to be heard thereon.
- B. Prior approval.

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~ Resolution No. 2011- 167 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY SUPPORTING A REPEAL OF SICK LEAVE INJURY PROGRAMS

WHEREAS, a recent study by the Municipal Excess Liability Joint Insurance Fund concluded that the cost of employee accident claims against New Jersey municipalities increased 7.7% per year since 2005 and now costs \$2,520 per full time public sector employee; and

WHEREAS, under N.J.S.A. 18A:30-2.1 and N.J.S.A. 11A:6-8 Municipalities and Boards of Education are permitted to adopt Sick Leave Injury (SLI) programs that extend pay for public employees injured in the course of their employment for up to one year; and

WHEREAS, the purpose and intent of Sick Leave Injury (SLI) programs is to bridge the gap between the weekly benefit under workers' compensation and the employee's regular earnings; and

WHEREAS, because workers' compensation is not taxed, employees out on workers' compensation who also have coverage through SLI programs often realize increased after-tax incomes while off the job in direct contradiction to the purpose and intent of SLI programs; and

WHEREAS, the increased earnings that often result from SLI programs provide an incentive for employees to resist coming back to work; and

WHEREAS, recently the State of New Jersey repealed such provisions in legislation that pertained to persons employed by the State of New Jersey; and

WHEREAS, SLI programs are rarely offered in the private sector and are becoming increasingly uncommon to governmental employees in other states as well as State employees in New Jersey; and

WHEREAS, SLI costs New Jersey Municipalities approximately \$500 on average per full time employee per year which could potentially cost West Milford \$65,500 per year based on the current full time staffing level of 131 full time employees; and

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Milford that the legislature is urged to amend N.J.S.A. 18A:30-2.1 and N.J.S.A. 11A:6-8 to eliminate SLI programs at all levels of government so that all New Jersey governmental employees are treated in a similar fashion.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Governor Christopher Christie, Senator Joseph Pennachio, Assemblymen Alex DeCroce and Jay Weber, Senate President Sweeney, Assembly Speaker Oliver, Majority Leader Cryan, Minority Leader Kean Jr., the Municipal Excess Liability Joint Insurance Fund and the Morris County Joint Insurance Fund.

Adopted: May 4, 2011

Agenda No. X 3

~ Resolution No. 2011- 168 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY SUPPORTING S-2404 WHICH PROPOSES TO CAP ATTORNEY FEES IN LITIGATION AGAINST PUBLIC ENTITIES

WHEREAS, Public Officials and Employment practices claims against municipalities have increased dramatically over the past few years; and

WHEREAS, according to a ten year closed claim study recently completed by the Municipal Excess Liability Joint Insurance Fund, the cost of employment practices liability per employee was \$26 in the year 2000 and increased to \$125 per employee for most of the decade; and

WHEREAS, according to the same study, it increased 175% to \$354 per employee in just the past two years; and

WHEREAS, 65% of these claims are for police and the 2011 projected cost of these claims is \$740 per officer with legal fees historically representing over 70% of the cost; and

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WHEREAS, provisions in various laws such as LAD and CEPA providing for fee shifting have encouraged attorneys to make unreasonable demands in otherwise minor cases.

WHEREAS, John Farmer, Dean of the Rutgers Law School and former NJ Attorney General stated: "Even cases with marginal relevance are now being presented by plaintiffs' counsel as having substantial settlement value." and;

WHEREAS, in a recent case, a NJ court awarded the plaintiff's attorney a fee of \$450,000 even though the jury awarded his client only \$20,000; and

WHEREAS, the explosion of employment practices cases will continue until reasonable caps are placed on legal fee applications:

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Milford that the legislature is urged to adopt S-2404 placing a cap on attorney fee awards in fee shifting cases against public entities as follows:

For awards (compensatory and punitive damages combined) of \$50,000 or less, the maximum fee award should be \$50,000, though a lower fee should be awarded if warranted based on considerations of reasonableness

For awards over \$50,000, the fee award should not exceed the verdict, though a lower fee should be awarded if warranted based on considerations of reasonableness

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Governor Christopher Christie, Senator Joseph Pennachio, Assemblymen Alex DeCroce and Jay Weber, Senate President Sweeney, Assembly Speaker Oliver, Majority Leader Cryan, Minority Leader Kean Jr., the Municipal Excess Liability Joint Insurance Fund and the Morris County Joint Insurance Fund.

Adopted: May 4, 2011

Councilman Jurkovic said that this is the problem with attorney fees and litigation matters and while appreciates the attempt to rectify the problems, this is not necessarily fair. They want to cap the attorney fees at the amount of award. The issue is that if there is a suit that results in a \$500,000 award, now the attorney is limited to one third of the award. This proposed change would allow them 100% of the award. Mr. Semrau stated that the proposed cap to the award emanates from a case out of Scotch Plains where a police officer sued and wanted \$3 million. Eric Harrison was the attorney and he also represented West Milford in the Sparkes matter. The jury awarded \$17,000 for the police officer. Under fee shifting rules the plaintiff's attorney received an award of \$450,000. That matter is now before appellate division. Councilman Jurkovic stated that the caps proposed in this resolution are a joke. Mr. Semrau stated that if this resolution were to result in a change in current practices it would save the Township and the MEL millions of dollars.

Agenda No. X 4

~ Resolution No. 2011- 169 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY SUPPORTING A-3431 WHICH PROPOSES TO AMEND TITLE 59 BY GRANTING IMMUNITY TO PUBLIC ENTITIES FOR SIDEWALK INJURIES WHERE THE HOMEOWNER IS RESPONSIBLE FOR SIDEWALK ORDINANCE BY ORDINANCE

WHEREAS, injuries that occur on sidewalks that abut commercial property are the responsibility of the commercial property owner; and

WHEREAS, in Lodato v. Evesham, the courts ruled that injuries that occur on sidewalks that abut residential property are not the responsibility of the homeowner even when the homeowner is responsible for the maintenance and repair of the sidewalk by municipal ordinance; and

WHEREAS, in the same case, the courts ruled that the town, not the homeowner was liable for accidents on defective sidewalks notwithstanding the ordinance.

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Milford that the legislature is urged to adopt A3431 amending Title 59 so that a public entity is not responsible for sidewalk injuries where the homeowner is responsible for sidewalk maintenance by ordinance; and

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Governor Christopher Christie, Senator Joseph Pennachio, Assemblymen Alex DeCroce and Jay Weber, Senate President Sweeney, Assembly Speaker Oliver, Majority Leader Cryan, Minority Leader Kean Jr., the Municipal Excess Liability Joint Insurance Fund and the Morris County Joint Insurance Fund.

Adopted: May 4, 2011

Agenda No. X 5

~ Resolution No. 2011- 170 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY SUPPORTING A-3430 WHICH PROPOSES TO AMEND TITLE 59 BY STRENGTHENING WEATHER IMMUNITY

WHEREAS, under the provisions of Title 59 public entities are immune from injury "caused solely by weather" on streets and sidewalks; and

WHEREAS, despite this language, in many cases municipalities and other public entities have been forced to pay large amounts of money in damages when judges ruled that because other factors contributed to an accident, the immunity didn't apply because the accident was not "solely" caused by weather.

WHEREAS, municipalities and other public entities have also been forced to pay large amounts of money in damages for accidents occurring on other public property that were substantially caused by weather

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Milford that the legislature is urged to adopt A-3430 amending Title 59 as follows:

1. Changing the word "solely" to "primarily", and
2. Extending this provision to all public property including storm water and waste systems, dams, rivers and streams.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Governor Christopher Christie, Senator Joseph Pennachio, Assemblymen Alex DeCroce and Jay Weber, Senate President Sweeney, Assembly Speaker Oliver, Majority Leader Cryan, Minority Leader Kean Jr., the Municipal Excess Liability Joint Insurance Fund and the Morris County Joint Insurance Fund.

Adopted: May 4, 2011

Agenda No. X 6

~ Resolution No. 2011- 171 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY SUPPORTING S-2333 AND A-3432 WHICH PROPOSE TO AMEND TITLE 59 TO PROVIDE IMMUNITIES FOR BEACHES, BOARDWALKS AND SIMILAR PROPERTY

WHEREAS, under the provisions of Title public entities are immune from injury "caused by a condition of any unimproved public property, including but not limited to any natural condition of any beach."; and

WHEREAS, despite this language, in many cases municipalities have been forced to pay large amounts of money in damages for claims by swimmers injured in the ocean.

WHEREAS, S-2333 would provide that public entities are immune for these accidents regardless of the circumstances under which they occur.

WHEREAS, Public entities have also incurred large costs in defending lawsuits by persons injured while walking on municipal boardwalks.

WHEREAS, S-2333 provides that a public entity would be immune from such a suit if it can demonstrate that it was operating under an ongoing maintenance plan calling for periodic review and repair of the boardwalk.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Milford that the legislature is urged to amend S-2333 and A-3432 to include piers, wharves, docks and similar public properties and adopt the amended bill; and

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Governor Christopher Christie, Senator Joseph Pennachio, Assemblymen Alex DeCroce and Jay Weber, Senate President Sweeney, Assembly Speaker Oliver, Majority Leader Cryan, Minority Leader Kean Jr., the Municipal Excess Liability Joint Insurance Fund and the Morris County Joint Insurance Fund.

Adopted: May 4, 2011

Agenda No. X 7

~ Resolution No. 2011- 172 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING PASSAGE OF CONSENT AGENDA

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

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

Applications:

- a. Application for Tricky Tray License No. RL2011-21 by Friends of the American Cancer Society for May 21, 2011.
- b. Application for Raffle License No. RL2011-22 by Knights of Columbus #6139 OLQOP Church for October 2, 2011.
- c. Application for Special Permit for Catering Permit by West Milford Elks for May 14, 2011 and May 15, 2011.

Adopted: May 4, 2011

Approval of Expenditures

Agenda No. XI

~ Resolution No. 2011- 173 ~

RESOLUTION APPROVING THE PAYMENT OF BILLS

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

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

Acct #	Account Name	Amount
1	Current Account.	\$100,005.61
2	Reserve Account	5,865.81
3	Animal Control Trust	0.00
6	Capital.	223,722.57
7	Grants.	130,501.46
8	Refuse.	158,118.87
9	Refunds.	0.00
12	General Ledger.	4,910,201.39
16	Heritage Trust.	105.00
14	Open Space Trust	120.00
17	Trust	1,122.07
18	Development Escrow.	0.00
19	LOSAP	0.00
20	Special Reserve	0.00
Total		\$5,529,762.78

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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\$Less Refund Resolution	0.00
Actual Bill List	\$5,529,762.78
Other Payments	0.00
Total Expenditures	\$5,529,762.78

Approved: May 4, 2011

Discussion: Councilman Jurkovic noted that this bill list reflects 2nd quarter taxes of over \$4 million to Passaic County. That's nearly \$20 million per year being sent to the County. He added that this does not include the \$91,000 being paid to the Passaic County open space fund.

Moved: Ramaglia Seconded: Rosone
Voted Aye: Smolinski, Ramaglia, Rosone, Signorino, Jurkovic.
Voted Nay: None.
Motion carried.

Agenda No. XII

Reports of Mayor, Administrator, Council Members, Attorney and Clerk

Councilman Ramaglia thanked Gail Van Hook from the Administrators office for following up with Passaic County offices about accidents at the Coyote Cove corner of Union Valley Road. He stated that he and Councilman Rosone will be meeting with County officials at that site some time in the next couple of weeks and he asked Administrator Boyle to attend.

Councilman Jurkovic stated that there was a memo in his packet to the Director of Community Services & Recreation from Mr. DiYanni of the Township Attorney's firm regarding ADA compliance. One issue pertained to the basement in this building and it was discussed at the FAC meeting yesterday. There is a double classroom in Hillcrest that may be sufficient to accommodate some staff from downstairs and transfer them to that 1,700 sq. ft. Mr. Boyle stated that he will discuss this matter at tomorrow's staff meeting. Councilman Jurkovic stated that there is also a memo about Hometown Cable going out of business. Mr. Semrau stated that he spoke with the State BPU about this issue and they advised that they were to discuss the matter at their meeting today. He sent them a follow up letter asking what can be done.

Councilman Weisbecker arrived at 8:49 p.m..

Council President Smolinski stated that the EDC attended last week's RAC meeting to discuss the proposed new PUMP track which is a bicycle track. RAC does not approve of Jungle Habitat for this program so the planners will go to the Environmental Commission to seek help in finding an alternate location. He stated that through Joe Pennachio's efforts West Milford received \$15,000 toward the wastewater management plan and he thanked him. He stated that he will be moving on petitioning DOT to address "S" turns on Route 23 in light of the number of supporting resolutions received. This will make West Milford safer for motorists. He said well done to American military personnel for taking out Osama Bin Laden the number one terrorist on the most wanted list.

Administrator Boyle stated that he will be presenting the budget for introduction at the May 18th meeting. He has reviewed the numbers and ensured that they are correct. There will be no amendments. Any grants henceforth will be inserted by resolution. There will be no increased tax levy and all services will continue without layoffs or furloughs. He will then move on the capital work. He stated that he is working with Princeton Hydro on retrofit projects on Greenwood Lake and it is going very well with 80% installation complete. The DEP will seek to locate additional basins with the remaining funds. He advised that he received a letter from Chief Chiosie seeking to hire an experienced officer which will be funded by a recent retirement. The preconstruction meeting for the Westbrook Road project will be held on May 18th and on May 7th there will be a preconstruction meeting for the project whereby the County will replace the Gould Road culvert. The Crescent Road bridge design is complete and we are awaiting DEP approval. He is working with police to minimize road closures. He advised that the Township has received a Green Acres grant in the amount of \$450,000 for open space as a result of a letter sent by Mayor Bieri. This allocation shows that we are recognized for our open space initiatives. He advised that he met with the revaluation company to discuss valuations of vacant land and other issues. Residents have received a letter about the revaluation and fieldwork begins tomorrow. The company will soon begin community outreach meetings and are hoping to adhere to the schedule. Council President Smolinski asked if the open space tax and the effect of the revaluation on this cost to residents was addressed. Mr. Boyle opined that the Council makes that decision and Councilman Jurkovic noted that the Council should wait until the revaluation is completed and the numbers are in.

