
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Gary Higgins, Senior Partner, Lercch, Vinci and Higgins, LLP reviewed the proposed costs that were outlined in his presentation for extra services. Mayor Bieri clarified that the proposed \$36,000 was for basic services and that his firm was open to additional services. Mr. Higgins said that the figure he provided is a fairly close estimate, however if there were a substantial imbalance, or if the records required significant attention, the figure would be increased. Councilman Scangarello asked how available the firm was and Mr. Higgins responded that if they receive a call, they return a call. They are always available. Councilman Scangarello asked if they make recommendations on how to save and make money. Mr. Higgins responded that they look at services, bonds, and interlocal services. He said that they would sit with the Administrator and governing bodies to share ideas about what works in other municipalities.

Mayor Bieri asked if future discussion could be held until after the Council reports so that the Council can get through the agenda. She corrected a statement that she had made a few weeks earlier whereby she said that the Township's previous Auditor, Ferraioli, had decreased his fees from previous years. He had not decreased fees, but had restructured his fee schedule. She apologized for her misstatement. Council agreed to hold further discussion.

Eagle Scout – Charles Heuer, Jr. –

West Milford Lakes – Gillian Hempstead, 27 North Glenwood Road – attended this meeting to present findings on West Milford Lake. This project follows the grant process outlined by the Environmental Committee. In 2005 the State plan to breach West Milford dam was found out about. She reviewed the time lines. West Milford has 1 of 2 storm water implementation plans approved by the State of New Jersey. She reviewed the plan that will reduce phosphorus flow into Belchers Creek and Greenwood Lake. The plan also identified West Milford Lake as a high source of phosphorous. Visioning sessions were held in 2006 for another grant. The participants concurred that West Milford Lake would be best used as a town park. A number of public meetings were held to determine what the Township residents felt should be done with West Milford Lake. She said that no one is happy about the breaching of the dam and the loss of a lake, however there is concerned about the phosphorous.

Dr. Les Lynn - stated that he was hired as part of an ANJEC grant. He reviewed his history with West Milford and the work that he has done in West Milford, stating that there is opportunity here. He explained that the dam will be breached and that water will be reduced to one acre. He expressed that the Council must be proactive with determining what happens to the area. Explaining that Melody Lake was drained about 10 years ago and with West Milford Lake being in the center of town, the Township should not let it become a swamp. He feels that there is an opportunity to make the area interesting through grant money and expressed that Dr. Fred Lubnow of Princeton Hydro will present three scenarios that have been put together.

Dr. Fred Lubnow, Princeton Hydro – started by saying that there will be two components to his presentation. He explained that a number of things have come together at the same time. The Township had a vision plan to create an area that residents want to see. He has been working with Greenwood Lake and West Milford residents to reduce phosphorous load going into Greenwood Lake. He further stated that a storm water implementation plan was drafted and approved. As part of that monitoring, an outsource stream coming from West Milford Lake was identified as being high in phosphorous. All three projects came together with funding from ANJEC. He said that three conceptual plans have been developed. No data has been collected, so they are purely conceptual. He said that the Township wants something that is aesthetically pleasing and recreational for the community. The first plan shows that once the dam is breached, assuming that the soil is stable, the area will change from a 12-acre body of water to a one-acre body. This serves as a sink for vegetation. It stops phosphorous from going into Greenwood Lake and is environmentally friendly. He said that the system would be stabilized with a minimum amount sediment removal. The design and implementation would cost approximately \$100,000 to \$200,000. Scenario 2 anticipates more sediment that is unstable. He said that legacy sediment might have to be removed and that would drive the project cost up. A stream channel would have to be recreated and makes for a more intensive project. The third scenario is a hybrid of the first and second concepts. This one involves creating a riparian corridor along the waterbed. A riparian buffer is strips or small areas of land in permanent vegetation that help control pollutants and promote other environmental benefits. Those plants allow solids to settle. The most appropriate scenario, he feels, would be to focus on scenario #1. However he stressed again that there is no data collected at this time. He also said that there would be potential sources of funding and reviewed what they are. He reminded the Council that he was presenting this information to summarize and provide an update.

Gillian Hempstead, 27 North Glenwood Road – concluded this segment by saying that if the dam is breached, the Environmental Committee and the Planning Board endorsed scenario #1 as the solution. However, grant opportunities and testing will determine the ultimate scenario. She said that the Township does not own this property and that the Environmental Committee has recommended that this property be added to the Open Space plan. If the property is acquired, the Township would be responsible for the maintenance of the property and any structure, including a low hazard dam. This dam would require being inspected by an engineer every four years. Councilman Smolinski said that he has attended presentations and that residents are concerned about who would pay for this. He asked if all costs would be covered with grant funds. Ms. Hempstead said that the plan is to apply for a 319h grant for full

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funding. She expressed again that the Township would be responsible for maintenance. Councilman Smolinski said that one of the presentations that he attended was for passive recreation. Residents appeared to like this. Ms. Hempstead said that a nature preserve has also been recommended. She said that she would like to see this as a haven for migratory birds and a habitat for wildlife in West Milford. As a wetland, this could support that. Councilman Smolinski said that he would like to see something done and asked if this will be better than a dam. Ms. Hempstead explained that there would still be a low hazard dam. The phosphorous outflow right now is very high and exceeds State levels, which is affecting Belchers Creek and Greenwood Lake. This solution would address that as well as improve aesthetics. Councilman Smolinski ask if there were a legal problem with the ownership of the property. Ms. Hempstead said that it was recommended to the Planning Board that the property be acquired as Open Space. Councilman Weisbecker complimented the Environmental Committee and expressed that the BiState Lake Commission is concerned about the flow of sediment when the dam is breached. Dr. Lubnow assured that the engineering firm that designed the plan included criteria for slow, steady removal of water. There is a sediment plan in place and they have been working with the DEP. He said that regarding concerns about stabilization, the site will be stabilized through a number of measures. They will be proactive in stabilizing this process. He said that he has been giving the BiState Commission updates. Councilman Weisbecker asked if the Bi-State Commission should be given a presentation by the Environmental Committee. Ms. Hempstead said that she would address this at their next meeting. Councilman Weisbecker addressed another hurdle for the Township when he informed the Council's that the property is now owned privately. It had previously had a tax lien, however all liens were paid. Public funding cannot be spent on private property and Mr. Weisbecker asked if the property owner had been contacted. Ms. Hempstead said that the property owner has not been contacted because they were awaiting approvals to proceed first. Councilman Weisbecker then asked about the cost to the residents of the Township. Mr. Lubnow said that the grant money would pay for the project, and that the municipality would be responsible for maintaining the structures and grounds. He additionally said that the municipality would be responsible for an in-kind match of about 15-20% and also the design review, review of bid specs, administrating that grant, oversight of the project and possible volunteer monitoring and collection of water samples. The municipality would be responsible for the maintenance of the dam and the park. He furthered by saying that monies will be given to the municipality that will take care of long term preservation. Councilman Schimmenti expressed concern about possibly setting up a breeding ground for Canadian geese, which would be a nuisance. Mr. Lynn said that it is more likely that it would be a preserve for wetland migratory birds and that the potential is limitless. He added that it would be an asset to West Milford with a positive impact on property values. Councilman Weisbecker asked if any bird watching societies had been contacted and Mr. Lynn responded that he felt it was too premature for that, but that it may be viable once the scope of the project has been determined. Councilwoman Lichtenberg asked as to when the state would breach the dam and if there is time to secure the grants. Rob Sparkes, GIS specialist for the Township of West Milford said that he has recently received information from the State of NJ Bureau of Dam Safety and that the breach may be imminent. He said that there is a natural process of monitoring the work that is done to perform the breach. The timeframe for this can be up to and beyond a year. This might link well to the time frame of securing the grant. Mr. Lubnow said that this round of funding has not been announced yet. Ms. Hempstead stated that a plan may be needed before applying for any such grant, and since this is the Committee's plan the timing may be right. Mayor Bieri commented that she believed that Ms. Hempstead is seeking Council support for the Plan A version, however the Township needs to secure property rights. Ms. Hempstead commented that it would affect all Township residents because of it being in the center of town. Councilman Weisbecker asked what would happen to the grant if the Township were unable to secure the property. Ms. Hempstead replied that it is important to move forward with both the grant application and securing the property. Mr. Lubnow said that he is looking into other sources of funding that can be used on private property such as Federal Buy-In with property owners as well as the possibility of Wetlands Mitigation. He further with saying that the Wetlands Mitigation is very interested in the project and is flexible. Councilman Nolan asked if the property could be acquired through eminent domain if necessary. Township Attorney Semrau responded that there is a public purpose, but that this may of great benefit to the property owner because he may have other liability. Mayor Bieri asked if the Council was amenable to giving approval for Plan A and willing to have Township Attorney Semrau look into acquiring the property. Councilman Scangarello asked that with the driving factor with breaching the dam being the sediment, if the sediment could be used for anything. Mr. Lubnow responded that with the cost of transportation, the Township would not break even. He said that in his opinion it is best to have the sediment removed at no cost to the Township. Initial review indicates that there is not a lot of sediment. Councilman Smolinski commented that this project would work well with streetscape. Council gave consensus to proceed with Plan A. Mayor Bieri asked if Council consents to have Township Attorney Semrau proceed with looking into how the Township could acquire the property. Councilman Weisbecker commented that there are many issues to be looked into and that he would like to have the Environmental Committee present the anticipated costs before proceeding with property acquisition. Consensus was given for Township Attorney Semrau to determine with the property owners position would be and to report back to the Council in Executive Session. Mayor Bieri thanked everyone for the interest and participation.

Proclamations

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Older Americans Month - Mayor Bieri read the Township Proclamation declaring the Month of May, Older Americans Month. She presented it to Diane and Richard Wirth on behalf of all Township Older Americans. Mayor Bieri said that there is always a way to help and that there are opportunities every day that all can avail of. The Wirth's thanked the Township for all that they do for older citizens. They spoke of the Townships Bowling Program, Senior Olympics, Meal Program at Hillcrest School, and the Senior Transportation Program. Mayor Bieri said that there are many senior volunteers in this community and she thanked them all.

Agenda No. IV

Unfinished Business, Final Passage of Ordinances

Agenda No. IV 1

~ Ordinance 2008-017 ~

AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 15, ADMINISTRATION OF GOVERNMENT, ARTICLE IX, DEPARTMENT OF PUBLIC SAFETY, SECTION 15-47, DIVISION OF FIRE SUPPRESSION, OF THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF SUBSECTION (L), AUXILIARY MEMBERS

Discussion: Township Attorney Semrau asked about the appropriate liability insurance coverage, saying that he has looked at several policies and cannot confirm that the Township insurance policies provide such coverage. The Township will have to obtain an endorsement from a carrier to confirm coverage and asked that this be tabled to the June meeting to ensure appropriate and adequate coverage.

BY UNANIMOUS ROLL CALL VOTE THIS ORDINANCE WAS TABLED TO THE JUNE 25, 2008 COUNCIL WORKSHOP MEETING

Agenda No. IV 2

~ Ordinance 2008 - 018 ~

AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 414, "FEES, LAND DEVELOPMENT", SECTION 414-2 "SOIL REMOVAL AND SOIL FILL PERMITS" OF THE LAND DEVELOPMENT ORDINANCE

BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

SECTION 1. Chapter 414, "Fees, Land Development," Section 414-2 "Soil Removal and Soil Fill Permits," of the aforesaid Land Development Ordinance for the Township of West Milford is hereby amended and supplemented to read as follows:

§414-2 Soil removal and soil fill permits

In accordance with Chapter 460, Soil Removal and Soil Fill, fees for a soil removal or soil fill permit are as follows:

- A. Minor soil removal or soil fill permit: \$100 plus inspection fees required during the course of operation.
- B. Major soil removal or soil fill permit: \$750 initial escrow fee deposit, plus \$0.05 per cubic yard of soil to be moved or removed, 1/3 of which shall be paid upon the filing of an application. The balance of the permit fee shall be prorated as determined by the Planning Board, based upon the anticipated period of time of the operation and the proposed schedule of soil removal, fill or movement.

SECTION 2. All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 4. This ordinance shall take effect upon final passage and approval in accordance with law.

Mayor Bieri noted that this Ordinance was introduced on April 9, 2008 and is scheduled for public hearing tonight. She opened the meeting to the public to speak on this issue only.

There being no comments from the public, Councilman Smolinski made a motion, seconded by Councilman Weisbecker, to close this public portion of the meeting. Approved by unanimous roll call vote.

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Lichtenberg, Scangarello.
Voted Nay: None.

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Motion carried.
Discussion: No discussion.

Agenda No. IV 3

~ Ordinance 2008 - 019 ~

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 110, CONSTRUCTION CODES, UNIFORM, OF THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF SECTION 110-7, ADDITIONAL REQUIREMENTS FOR RESIDENTS OF LAKE COMMUNITIES

BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

SECTION 1. Chapter 110, Construction Codes, Uniform, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of Section 110-7, Additional requirements for residents of lake communities, to read as follows:

§ 110-7. Additional requirements for residents of lake communities.

- A. Applicability. All residents whose property is part of a Property Owners Association within the Township of West Milford shall, in addition to the requirements for obtaining building and/or construction permits through the Township Planning and Building Department, and pursuant to the Uniform Construction Code, provide notice to their respective Property Owners Association as to the filing of the building and/or construction permit(s).
- B. Procedure. All applicants for a building and/or construction permit, shall, within five (5) business days of the filing of such permit(s), notify their respective Property Owners Association, via regular and certified mail, return receipt requested, of their intentions in applying for such building and/or construction permit(s). The notification shall be in the form of a copy of the application and shall be addressed to the Property Owners Association. The Property Owners Association shall have fourteen (14) calendar days, upon receipt of the notice, to review same and to place any objections it may have as to the permit application with the Township Planning and Building Department. Failure of the Property Owners Association to respond within the fourteen (14) calendars or failure of the Property Owners Association to respond at all to the notification, shall consider such notification to be acceptable to such Association.
- C. Enforcement. The provisions of this Section shall be enforced by the Township Construction Code Official.
- D. Violations and penalties. Lake resident property owners found to be in violation of this Section shall be subject to a penalty of \$250.00 per offense. For purposes of this Section, failure to provide the adequate notice on each and every building and/or construction permit application shall be considered a separate offense.

SECTION 2. All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 4. This Ordinance may be renumbered for purposes of codification.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Mayor Bieri noted that this Ordinance was introduced on April 9, 2008 and is scheduled for public hearing tonight. She opened the meeting to the public to speak on this issue only.

There being no comments from the public, Councilman Weisbecker made a motion, seconded by Councilman Scangarello, to close this public portion of the meeting. Approved by unanimous roll call vote.

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Schimmenti, Scangarello.
Voted Nay: Nolan, Lichtenberg.
Motion carried.

Discussion: Councilman Nolan referred to paragraph C, enforcement by Construction Code Official. He asked if this meant that the POA's become subject to OPRA. Township Attorney Semrau replied that from an enforcement viewpoint, the Township would have documents on file and that only the documents would be acceptable proof provided to the Township. He clarified that this Ordinance originated from a meeting with the Upper Greenwood Lake Property Owners Association (UGLPOA) who had concerns about properties that encroached on others. This Ordinance was proposed and received well. It requires any person seeking a permit to notify the UGLPOA. He has sent the Ordinance to the attorney for the

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UGLPOA and that have written back advising that they are not satisfied with the Ordinance. The UGLPOA attorney's are suggesting that it apply only to contiguous properties. Township Attorney Semrau is concern that this would place a burden on the applicants and the municipal employees to search records. It would change the responsibility and require a change in the Ordinance. There would be no other way without burdening residents and the Township Building Department. At this time, the Council could defeat the Ordinance until a more satisfied solution is reached. Councilwoman Lichtenberg asked about a 14 day waiting period required for the residents in lake communitis. Township Attorney Semrau said that the residents would have to send their application to the POA and that they would have 14 days to state any objections. Councilman Nolan asked who had determined that there would be a penalty imposed of \$250.00. Township Attorney Semrau clarified that it is the intent to diminish potential fines. Councilman Nolan asked why the property owners associations cannot do their own periodic review of the applicatiions filed. Councilman Weisbecker said that the POA's have to show due diligence in determing whether there are properties being affected. Councilman Nolan said that he felt that this Ordinance is over legislating. Mayor Bieri agreed with Councilman Nolan. Township Attorney Semrau clarified that concerns became as a result of property boundaries in the lake communities where properties are much smaller.

Agenda No. IV 4

~ Ordinance 2008 - 020 ~

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 135, "FEES AND COSTS," OF THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF SECTION 135-42, "MARRIAGE AND CIVIL UNION CEREMONIES"

WHEREAS, N.J.S.A. 37:1-13 et seq. permits Mayors to perform such ceremonies to solemnize marriages and civil unions; and

WHEREAS, in accordance with N.J.S.A. 40:48-1, fees collected in association with the service or performance of a marriage or civil union ceremony shall be established and collected pursuant to an ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

SECTION 1. Chapter 135, Fees and Costs, of the aforesaid Revised General Ordinances is hereby amended and supplemented with the addition of Section 135-42, Marriage and Civil Union Ceremonies, to read as follows:

§ 135-42. Marriage, civil union and domestic partnership ceremonies.

The Township shall impose a fee of \$100.00 for marriage, civil union and/or domestic partnership ceremonies conducted by the Mayor pursuant to N.J.S.A. 37:1-13 et seq. Said fee shall be collected by the office of the Township Registrar.

SECTION 2. All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 4. This Ordinance may be renumbered for purposes of codification.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Mayor Bieri noted that this Ordinance was introduced on April 9, 2008 and is scheduled for public hearing tonight. She opened the meeting to the public to speak on this issue only.

There being no comments from the public, Councilman Nolan made a motion, seconded by Councilman Scangarello, to close this public portion of the meeting. Approved by unanimous roll call vote.

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

Discussion: no discussion.

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~ Ordinance 2008 - 021 ~
AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CERTAIN PORTIONS OF CHAPTER 420, LAND USE PROCEDURES, SECTION 420-6, DEFINITIONS AND CHAPTER 500, ZONING, ARTICLE IV, COMMERCIAL DISTRICTS, OF THE REVISED GENERAL ORDINANCES PERTAINING TO THE LAKE COMMERCIAL ZONE

TABLED TO JUNE 4, 2008 COUNCIL WORKSHOP MEETING

Agenda No. IV 6

~ Ordinance 2008 - 022 ~
AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY RE-DEDICATING EXCESS PROCEEDS FROM ORDINANCE 2007-018 TO A FIRE EQUIPMENT STUDY AND TO SERVE AS A DOWN PAYMENT FOR FUTURE PURCHASES OR ACQUISITION OF FIRE EQUIPMENT

BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

Excess proceeds contained in Ordinance 2007-018 in the amount of \$19,250 be and are hereby re-dedicated to fund a fire equipment study and after completion of such study, remaining proceeds shall be used as a down payment for future purchases and/or acquisition of fire equipment.

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Mayor Bieri noted that this Ordinance was introduced on April 23, 2008 and is scheduled for public hearing tonight. She opened the meeting to the public to speak on this issue only.

There being no comments from the public, Councilman Smolinski made a motion, seconded by Councilman Weisbecker, to close this public portion of the meeting. Approved by unanimous roll call vote.

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

Discussion: no discussion.

Agenda No. IV 7

~ Ordinance 2008 - 023 ~
AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY, REPEALING CHAPTER 470, "SUBDIVISION OF LAND AND SITE PLAN REVIEW", SECTION 470-69, "DEVELOPMENT FEES FOR AFFORDABLE HOUSING", OF THE LAND DEVELOPMENT ORDINANCE AND REPLACING SAME WITH A NEWLY CREATED SECTION 470-69 ENTITLED, "MANDATORY DEVELOPMENT FEES"

BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

SECTION 1. Chapter 470, "Subdivision of Land and Site Plan Review," Section 470-69 "Development fees for affordable housing," of the aforesaid Land Development Ordinance for the Township of West Milford is hereby repealed in its entirety and replaced with the newly created Section 470-69, "Mandatory Development Fees" to read as follows:

§470-69. Mandatory Development Fees.

- A. Purpose - The purpose of the mandatory development fee is to provide funding for the Township's Housing Element and Fair Share Plan approved by the Township Council of the Township of West Milford.
- B. Residential Development Fees - Amount: Prior to the issuance of a building permit, all developers of residential subdivisions or site plans of two (2) or more units shall incur a mandatory development fee equal to one percent (1%) of the equalized assessed valuation for each residential unit constructed. This mandatory fee shall be calculated as follows: 1 % x equalized assessed valuation x number of units.
- C. Non-Residential Development Fees - Amount: Prior to the issuance of a building permit, all nonresidential developers shall incur a mandatory development fee equal to two percent (2%) of the total equalized assessed valuation of the non-residential

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development, provided, however, no development fee shall be required where the total equalized assessed value of the development is less than \$15,000 as established by the Tax Assessor. The mandatory fee shall be calculated as follows: 2% x total equalized assessed value.

- D. Timing of Payments.
1. Fifty percent (50%) of the total mandatory development fee owed to West Milford Township whether for residential or non-residential development, shall be paid prior to the issuance of any building permit required in connection with the development, and shall be calculated as follows:
 - a) For residential developments, the fifty percent (50%) payment required prior to the issuance of any building permit shall be calculated using an estimated equalized valuation of each residential unit as determined by the West Milford Township Tax Assessor.
 - b) For non-residential developments, the fifty percent (50%) payment required prior to the issuance of any building permit shall be calculated using an estimated total equalized assessed valuation of the non-residential development as determined by the West Milford Township Tax Assessor.
 2. The remaining portion of the development fee shall be paid prior to the issuance of any Certificate of Occupancy for any development or any part thereof, whether residential or non-residential, and shall be calculated using the actual assessed valuation of the development as determined by the West Milford Township Tax Assessor.
 3. Because the initial payment required prior to the issuance of a building permit is calculated using an estimated assessed valuation based on estimates for construction costs, the following adjustments are permitted to compensate for differences between the estimated assessed valuation and the actual assessed valuation: a) If the estimated assessed valuation used to calculate the initial fifty (50%) payment was over-estimated or under-estimated, causing the actual assessed valuation to be less than or greater than the estimated assessed valuation used to calculate the initial fifty percent (50%) payment, the developer's Certificate of Occupancy payment shall be equal to the difference between the actual assessed valuation and the initial fifty percent (50%) payment as determined by the West Milford Township Tax Assessor.
- E. Exemption, Eligible Exactions and Ineligible Exactions.
1. Developments with on-site low and moderate income housing units as defined and accepted by the Council on Affordable Housing and credited towards the Township's Mount Laurel obligation are exempt from development fees.
 2. Low and moderate income dwelling units as defined and accepted by the Council on Affordable Housing and credited towards the Township's Mount Laurel obligation shall be exempt from paying development fees.
 3. Development that expands an existing structure shall pay a development fee. The development fee shall be calculated based on the increase in the equalized assessed value of the improved structure.
 4. Developers of houses of worship and other not-for-profit institutions, including the Fire Department, rescue and first aid squads and the Board of Education shall be exempt from paying a development fee.
 5. Developments that have received preliminary or final approval prior to the imposition of a municipal development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.
- F. Affordable Housing Trust Fund.
1. All mandatory development fees collected pursuant to this Ordinance shall be deposited in the interest bearing escrow account entitled the "Affordable Housing Trust Fund: Mandatory Fee Account."
 2. If the Court determines that West Milford Township's spending is not in conformance with COAH's rules on development fees, the Court is authorized to direct the manner in which all development fees collected pursuant to this Ordinance shall be expended.
- G. Use of Funds.
1. Money deposited in the Affordable Housing Trust Fund may be used for any activity approved for addressing the Township's low and moderate income housing obligation. Such activities may include, but are not limited to: housing rehabilitation; new construction; development of accessory apartments; regional contribution agreements; the purchase of land for low and moderate income housing; extensions and/or improvements of roads and infrastructure to low and moderate income housing sites; assistance designed to render units to be more affordable to low and moderate income people; and administrative costs necessary to implement the Township's Housing Element. The expenditure of all money shall conform to the approved spending plan.
 2. No more than 20 percent of the revenues collected from development fees each year, exclusive of the fees used to fund an RCA, shall be expended on

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administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.

SECTION 2. All ordinances of the Township of West Milford which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 4. This ordinance shall take effect upon final passage and approval in accordance with law.

Mayor Bieri noted that this Ordinance was introduced on April 23, 2008 and is scheduled for public hearing tonight. She opened the meeting to the public to speak on this issue only.

There being no comments from the public, Councilman Weisbecker made a motion, seconded by Councilman Scangarello, to close this public portion of the meeting. Approved by unanimous roll call vote.

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

Discussion: Councilman Smolinski said that this Ordinance was not discussed at the last Workshop meeting that he and the public need clarification. He said that this pertains to the third round of COAH. The Township has existing COAH credits of about 10 units. He has questions and comments. He asked regarding the spending plan, how the fees are collected and spent, and who is exempt from these fees? He read the limitations from the spending plan and asked if this Ordinance is encouraging and inviting low income housing to West Milford. He expressed concern with regards to exemptions because those who have preliminary or final approval are exempt. He said that all developments in this Township already have preliminary approval and therefore would be exempt. He feels that there is a contradiction. He feels that to accumulate these funds, implies that the Township is wanting development. He said that West Milford does not stand to accumulate much out of this and is concerned about the impact on existing businesses that want to expand. He feels it is a double edged sword and would like to see an exemption for local businesses. He said that if a local business looks to expand or improve their business that this is another tax on them. He would like all of the brown fields and grey fields exempted. This would be attractive to someone who may want to improve those properties. Township Attorney Semrau stated that Affordable Housing is under the jurisdiction of COAH. When there is a development in a community it triggers an affordable housing obligation. If you build 4 or 5 homes, you trigger affordable housing units. If West Milford wants protection and compliance with the obligation, the Township is subject to a builders remedy suit. Through rounds 1 and 2 of COAH, West Milford met with obligations without any funds in the trust fund, when the Township could have been collecting them. For the 3rd round rules, West Milford's number for the next 12 years is projected to be over 600 affordable units. There are factors that dictate this and it is however, not an obtainable figure. There are obligations for commercial expansion. The spending plan is in accordance with COAH rules. The big concern is that there may not be development on the horizon. But if there is development in the future it will trigger the COAH obligation. This does not affect a residential addition. This was reviewed by the Planning Board. This positions the municipality so that West Milford can meet the affordable housing obligations. This will also assist West Milford in meeting the affordable housing goals. If existing businesses expand, the state will require West Milford to come up with additional housing units. If we do not collect, West Milford will have to come up with the housing units. Some municipalities have growth share ordinances which require construction or full contribution. West Milford cannot adopt such an ordinance at this stage in the process. This is to protect the Township. If the funds are not used, they can be returned to the developer. Councilman Smolinski asked if the Township can use the funds to provide for services being provided to low income housing. Township Attorney Semrau said that he would investigate that. Councilman Nolan asked that with the current Township Planner leaving, if the funds could be used to pay the the Professional Services Contracted Planner to develop the 3rd round COAH plan. Township Attorney Semrau said yes. Mayor Bieri said that she doesn't feel as though the Township taxpayers should be responsible for the cost, but rather the entity that triggers the obligation should pay. Council Schimmenti asked how many towns do not have this Ordinance. Township Attorney Semrau replied that all municipalities he is familiar with. Councilman Scangarello said that in the newspaper he had read that certain municipalities may be exempted, but until that passes, we should prepare for our obligation.

Agenda No. V

Public Comments

Mayor Bieri opened the meeting to the public advising that each person wishing to be heard will be given five minutes to speak.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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Karl Danckwerth, 18 Gold Lane, Oak Ridge – reminded everyone that Memorial Day is Monday, May 26, 2008 and that the Township Commemoration begins at 10am in Veterans Park. He welcomed all citizens to attend. He welcomed all groups and listed some groups who have participated in the past. He said that the only purpose is to honor and remember those who have given their lives in the service of our country. They are our heroes. They are our warriors from West Milford who have made us proud. He said that he came before the Council a few weeks ago regarding Veterans Park and said that another resident would be addressing the Council regarding that. He concluded by asking everyone to be in attendance for the Memorial Day Parade.

Pat Lockman, Commander of VFW Post # 7198 – introduced Mr. Lou Cord, District Commander. He said that Veterans Park is very important to the Veterans. Over the years Veterans Park has been used for many different things that the Veterans Council is not consulted on. The trees are monuments to soldiers that have died. He said that lately there have been picnics held there and trash had been left on the monument. Veterans Park is to honor the memory of those who have lost their lives at war. It is inappropriate to have trash on the monument. The Veterans Council should be asked and advised of all events at that park so that they can make the appropriate decisions. Mr. Cord said that other towns keep their Veterans Park clean and that West Milford should do so.

Doris Aaronson, 19 Bearfort Road, West Milford – started by saying that West Milford is entirely in a water deficit area. During the past drought many Township residents experienced their wells going dry. Many Township residents have well outages every summer. Councilman Smolinski recommended additional Ordinances. She stated that the Well Testing Ordinance was approved and is now asking for another Ordinance to protect the ground water. She is suggesting an Ordinance that would restrict the watering of lawns during the heat of the day, with the exception being for newly sodded lawns. She said that during the hot hours of the day, most of the water evaporates. She asked Councilman Smolinski and the Council to authorize Township Attorney Semrau to draft an appropriate Ordinance that would restrict the hours of lawn watering. She spoke about POA's and said that Pinecliff Lake as well as other lakes in the Township are not POA's. She said she would like to know what lakes, in addition to Upper Greenwood Lake, would Ordinance 2008-019 affect.

Doris Osterhoudt, Richmond Road – said that there was a situation in the Township with affordable housing fees. She said that there was a fee collected on Bald Eagle Commons and that they have eleven affordable housing units. She was on the Planning Board at the time that Bald Eagle Commons was built and the fee collected was in excess of \$250,000.

Daniel Jurkovic, Seymour Drive – stated that the Township Planning Director had resigned. He said that he is certain that the Council is seeking to fill that void as quickly as possible. He understands that there is a lot of material to be reviewed and applications to be caught up on. He is concerned that the streetscape grant not be put aside. He suggests hiring an independent consultant to marshal that grant through. He said that funds could pay for the consultant and ensure that the program proceeds.

Andrew Gargano, Apschawa Crossroad – spoke as a member of the Planning Board, saying that the following evening there is to be a discussion about all of the projects that the Township Planning Director is working on and will ensure that all issues will be addressed. He clarified that the past COAH contribution from Bald Eagle was voluntary. He thanked the Council for this new Ordinance and hopes that the Council will put it into effect soon. He hopes that the Email Policy does not fall by the wayside. He said that he is concerned that this may disappear. He feels that members of voluntary boards such as Planning and Zoning need Township email addresses so that personal email accounts are not subject to OPRA. He further stated that the Planning Board has stopped using email. He asked the Council to figure a way to address this and stressed the importance of it being worked on. He asked that the Council consider a second public portion on the meetings so that residents can respond to Council discussions. He said that regarding the Greenwood Forest Fire Department truck incident; clearly someone was not using his or her head. It is a situation that could have been very bad. Mr. Gargano said that he serves on the Insurance Committee and from a liability standpoint, it is very important that it never occur in this Township again.

James Warden, 199 Highcrest Drive, West Milford – said that it is frightening to think that Eagle Ridge and Valley Ridge could have been built without developer's fees and asked who was responsible for that. Secondly he said that he has attended a couple of the budget meetings. He commended Township Finance Director Magnotti and said he has done a good job of providing options to consider. He feels that the gorilla is sitting at the table when it comes to addressing benefits and salaries for Township personnel. He said that already there is a \$100 shortfall in the 2009 budget that the Mayor and Council must address. He said that last year three new employees were hired and this has come to roost this year. He has noticed that the front grass of Town Hall has been being mowed by a landscape service and wondered why it was not being taken care of by employees. He expressed concern that during the West Milford Lake presentation that no one asked how the sediment coming into the lake would be dealt with and how nutrients would be sucked up. He asked if the source of the nutrients was known and said that they must be known prior to beginning the project. He finished by saying that a few weeks ago he

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had gone for an airplane ride and when he landed there were fire engines at the airport and firefighters were filling planes to battle a forest fire off of Clinton Road. He said that they were there for many hours. Two days later, they were there again filling planes for a fire on Ridge Road. He said that it is easy to find fault with mistakes but for the majority of the volunteers, more praise and accolades should be given.

Martin O'Shea, 10 Lakeshore Road East, Stockholm – stated that he agrees with Mr. Gargano who had spoken previously regarding the Townships email policy. He said that this would be the next big OPRA record move. He furthered by saying that with no criticism intended, the response was abysmal to the last OPRA request he had filed. He said that this couldn't be solely thought of as an email policy because it dovetails into the state records retention policy and that regardless of your role, one cannot destroy email records without risking violations. He said that the urgency is such that it should have been done yesterday.

Robert Mazzochi, 4 Clubhouse Trail – asked for a private meeting with Mayor Bieri and Township Attorney Semrau, regarding issues with the Township of West Milford.

Jim Novak – spoke about the Township Hall building not being ADA accessible. He said that it is very disturbing and that he almost demanded that this meeting be cancelled until the building becomes accessible to people with disabilities.

With there being no further comments further from the public, Councilman Smolinski made a motion to close the public portion of the meeting.

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

Agenda No. VI

Council Comments

Councilman Smolinski – regarding outsourcing grass cutting stated that the Parks and Recreation Department had added an employee for the maintenance of the parks. The sports organizations and parents in the Township demanded that our fields be maintained. It has become more economical to outsource grass cutting.

Councilman Schimmenti – agreed that the Township Hall building is not ADA compliant and asked that the door be repaired tomorrow.

Councilman Nolan – asked where the \$250,000 COAH funds were, and requested of Interim Township Administrator Battaglia to verify that the funds were in a trust and to advise what the current balance is. He said that he was impressed with the work that Township Finance Director Magnotti has done since former Township Administrator Kunze had resigned, and he complimented Mr. Magnotti. He commented that he would like to see a second public portion to the Township Council meetings. Regarding a Township email policy, he would like to see both email and the second public portion be scheduled for a future workshop meeting. He also concurred that the Zoning and Planning Boards as well as Township Committees are in need of email accounts.

Councilwoman Lichtenberg – commented that anything that occurs in Veterans Park should be with approval of Mr. Danckwerth. She also suggested that the public be notified not to hang any signs on the trees and agreed with the recommendation for lawn watering restrictions.

Councilman Scangarello – agreed with Councilman Nolan that Township Finance Director Magnotti has really “stepped up to the plate” this year; commenting that this is because no one is dictating the work to be done. He said that he is surprised that people do not have enough sense to water their yards at proper hours. Commenting on Township employees, he said that the Department of Public Works had hired two new employees last year. They were hired to keep up with the work of construction, roads, curbing and excavating. He offered kudos to the Township DPW employees for their dedication.

Councilman Weisbecker – stated that he is in agreement with Councilman Scangarello about the work that the Township Department of Public Works perform. He said that Mr. Warden was a member of the Township Council when the lawn cutting services were discussed and he agreed to hiring outside services. He said that the newly hired employees for Parks and Services was voted on unanimously. He welcomed Mr. Novak back to the Council meeting and apologized that the ADA door did not work. He commented that it should be looked at and repaired as soon as possible. He expressed that everyone should be very vigilant because there has been very little rain and snow, leaving the forest floors dry and susceptible to fires. He also agreed that residents should be conserving water, suggesting that another drought is possible. It would be prudent to begin to conserve water now.

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Mayor Bieri – stated that no disrespect was intended towards the Veterans or Veterans Park and that she will take measures to safeguard the park. She asked if the Council would like Township Attorney Semrau to draft a Watering Ordinance with Council consensus being not to proceed at this time. She encouraged everyone to be vigilant about fires. She asked that a second public portion be added to the agenda for the next workshop meeting. She also asked Township Attorney Semrau to begin to move an email policy along. She assured everyone that the ADA door would be repaired, and that a facilities assessment committee will be formed later this day. One of that committees jobs will be to evaluate all buildings and then make recommendations. She said that an ADA member would be on the committee. She also agreed that Township Finance Director Magnotti has done a wonderful job and feels that over/lack of leadership was a contributing factor to the performance. She said that she also gave Township Clerk Battaglia credit and commended she and Mr. Magnotti for reviewing capital accounts and discovering a sizeable amount of money that had been appropriated in the past years and not spent.

Township Attorney Semrau – said that with regards to Mr. Mazzocchi who had asked for a meeting, he was respectfully asking that Mr. Mazzocchi discuss that with his attorney. Regarding earlier conversation about email and OPRA requests, there is litigation and he suggested that it be discussed at the June 4, 2008 Workshop Meeting. He clarified that with the COAH voluntary contribution, there has been one contribution with regards to Bald Eagle Commons. That has been the only contribution to date. Eagle Ridge had a contribution but for the 288 units, there would be 72 affordable housing units for which the cost would be in the area of \$10 million. He finished by asking that the Planning Board convey to Township Administration their needs regarding the streetscape grant.

Township Clerk Battaglia – explained that Rob Sparkes, Township GIS Specialist, has done quite a lot of work on the streetscape grant and that will not change. Regarding Veterans Park she said that Ada Erik has been doing work on the park and that now it is in the hands of Ada Erik, Karl Danckwerth and the Township DPW.

Agenda No. VII

New Business, Introduction or Ordinances, Resolutions

The following items were acted upon by the Town Council:

Agenda No. VII 1
~ Ordinance 2008 - 024 ~

AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING CHAPTER 321, SOLID WASTE; RECYCLING, ARTICLE IV, COMPOST SITE, SECTION 321-28, DECAL AND PASSES REQUIRED, AND CHAPTER 135, FEES AND COSTS, SECTION 135-3, DEPARTMENT OF PUBLIC WORKS AND ENGINEERING, SUBSECTION (G), RECYCLING FEES, OF THE REVISED GENERAL ORDINANCES

BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

SECTION 1. Chapter 321, Solid Waste; Recycling, Article IV, Compost Site, Section 321-28, Decal and passes required, of the aforesaid Revised General Ordinances is hereby amended to read as follows:

§ 321-28. Decal and passes required.

Use of the Township of West Milford Compost Facility shall be limited to Township residents. Resident commercial and noncommercial vehicles must obtain and display a decal prominently on the window of the vehicle bringing materials to the Township Compost Facility.

Resident commercial vehicles engaged to provide lawn care, landscaping or tree removal services must obtain a booklet of five compost site passes and present a pass to the attendant prior to entering the facility. Each pass is good for one load of material. An additional compost site pass will be required if the vehicle is loaded and is towing a loaded trailer.

Resident commercial vehicles not engaged in lawn care, landscaping or tree removal services and larger than a pickup truck or van, may be required to obtain and present a compost site pass to the attendant prior to entering the facility. Each pass is good for one load of material.

Any resident vehicle, commercial or non-commercial, not engaged in lawn care, landscaping or tree removal services and towing a dual wheel trailer, will be required to obtain and present a compost site pass, for the trailer, to the attendant prior to entering the facility. Each pass is good for one load of material.

Resident vehicles with farm vehicle license plates shall be considered commercial vehicles.

SECTION 2. Chapter 135, Fees and Costs, Section 135-3, Department of Public Works and Engineering, Subsection (G), Recycling Fees, of the aforesaid Revised General Ordinances is hereby amended to read as follows:

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- G. Recycling fees:
(1) Resident noncommercial and commercial vehicles: no charge for compost site decal.
(2) Resident commercial vehicle engaged to provide lawn care, landscaping, or tree removal services: \$250 for five compost site passes. Each pass is good for one load of material.
(3) At the discretion of Township personnel at the Compost Facility resident commercial vehicles not engaged in lawn care, landscaping or tree removal services and larger than a pickup truck or van may be charged \$50 for one compost site pass good for one load of material.
(4) Resident vehicle, commercial or non-commercial, not engaged in lawn care, landscaping or tree removal services and towing a dual wheel trailer: \$50 for one compost site pass good for one load of material.
(5) Passenger car tires, without rims: \$2 per tire.
(6) Passenger car tires, with rims: \$2.50 per tire.
(7) Truck tires, up to 23 inches, with or without rims: \$4 per tire.
(8) Truck tires, 24 inches or larger, with or without rims: \$11 per tire.
(9) Used motor oil: \$0.25 per gallon.

SECTION 3. All ordinances of the Township of West Milford, which are inconsistent with the provisions of this ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 5. This Ordinance may be renumbered for purposes of codification.

SECTION 6. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Mayor Bieri advised that this Ordinance is being introduced tonight. The public hearing will be held on May 28, 2008 and the Ordinance shall be advertised on or about May 11, 2008.

Moved: Weisbecker Seconded: Smolinski
Voted Aye: Weisbecker, Schimmenti, Nolan, Lichtenberg, Scangarello.
Voted Nay: Smolinski.
Motion carried.

Agenda No. VII 2
~ Ordinance 2008 - 025~

AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY RE-DEDICATING FUNDING IN VARIOUS CAPITAL ACCOUNTS TO ONE CAPITAL ACCOUNT TO BE TITLED "STREETSCAPING"

BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

Balances in the following capital accounts shall be collapsed into one capital account to be titled "Streetscaping" and said funds shall be encumbered only with Council approval for purchases and/or services related to a streetscape project to be approved by the Council:

Table with 2 columns: Account Number and Amount. Rows include C-04-05-843-810 (\$55,000.00), C-04-55-900-466 (\$16,270.00), C-04-55-911-810 (\$21,938.18), C-04-55-913-538 (\$6,661.03), C-04-55-923-710 (\$47,468.96), C-04-55-928-927 (\$50,000.00), C-04-03-944-810 (\$25,000.00), and a total of \$222,338.17.

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Mayor Bieri advised that this Ordinance is being introduced tonight. The public hearing will be held on May 28, 2008 and the Ordinance shall be advertised on or about May 11, 2008.

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

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Agenda No. VII 3
~ Ordinance 2008-026~

AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY RE-DEDICATING FUNDING IN VARIOUS CAPITAL ACCOUNTS TO ONE CAPITAL ACCOUNT TO BE TITLED "FACILITIES FUND"

BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

Balances in the following capital accounts shall be collapsed into one capital account to be titled "Facilities Fund" and said funds shall be encumbered only with Council approval for purchases and/or services related to improvements to municipal facilities to be approved by the Council:

<u>Account Number</u>	<u>Amount</u>
C-04-05-933-201	\$ 9,223.21
C-04-55-933-214	\$ 3,800.00
C-04-55-933-215	\$ 7,600.00
C-04-55-934-628	\$ 37,465.19
C-04-55-943-490	\$ 20,000.00
C-04-55-900-628	\$ 6,193.13
C-04-55-932-201	\$ 8,785.01
C-04-55-932-209	\$ 23,661.26
C-04-02-942-200	\$ 79,281.00
C-04-03-942-315	<u>\$137,060.00</u>
	\$333,068.80

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Mayor Bieri advised that this Ordinance is being introduced tonight. The public hearing will be held on April 9, 2008 and the Ordinance shall be advertised on or about March 30, 2008.

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

Agenda No. VII 4
~ Ordinance 2008 - 027 ~

AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY CANCELING FUNDING IN VARIOUS CAPITAL ACCOUNTS TO SURPLUS

BE IT ORDAINED by the Municipal Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

Balances in the following capital accounts shall be cancelled to surplus:

<u>Account Number</u>	<u>Amount</u>
C-04-55-933-212	\$ 182.21
C-04-55-933-221	\$ 680.00
C-04-55-934-465	\$ 5,432.47
C-04-04-942-374	\$ 3,832.37
C-04-04-943-539	\$ 15,377.37
C-04-55-900-465	\$ 77,032.90
C-04-55-911-539	\$ (2,627.76)
C-04-55-920-539	\$ 6,562.82
C-04-55-924-000	\$ 31,098.21
C-04-55-928-939	\$ 1,456.57
C-04-55-928-941	\$ 2,740.00
C-04-55-932-203	\$ 3,550.00
C-04-55-932-539	\$ 1,917.00
C-04-55-935-539	\$ 2,975.43
C-04-03-941-230	\$ 1,699.02
C-04-03-941-370	\$ 8,500.00
C-04-03-942-271	\$ 3,000.00
C-04-03-942-539	\$ 4,582.00
C-04-02-941-200	<u>\$ 1,511.58</u>
	\$169,502.19

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This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Mayor Bieri advised that this Ordinance is being introduced tonight. The public hearing will be held on May 28, 2008 and the Ordinance shall be advertised on or about May 11, 2008.

Adopted: May 7, 2008

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

Agenda No. VII 5
~ Resolution 2008-175~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ESTABLISHING A FACILITIES ASSESSMENT COMMITTEE

WHEREAS, the Township of West Milford did conduct a facilities assessment study in 1999, which study resulted in "The Sullivan Report"; and

WHEREAS, said report provided details of the condition of various facilities within the Township as well as recommendations to improve both the facilities and their use; and

WHEREAS, the Township Council of the Township of West Milford recognizes a need to update this report and to begin the process of proactively addressing the deficiencies within the buildings and the use of those buildings; and

WHEREAS, the Township Council did establish an energy committee whose members have researched and made recommendations to improve energy efficiency in Township facilities; and

WHEREAS, the Township Council did establish an ADA committee whose members advise the Council on matters pertaining to persons with disabilities part of which pertains to compliance and non-compliance with ADA within the municipal facilities; and

WHEREAS, the Township Council has determined that these intrinsically linked issues should be melded with the goal of establishing one process to improve both the Township facilities and their use while addressing the needs of increased energy efficiency.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford that they do hereby establish a Facilities Assessment Committee as follows:

MEMBERSHIP AND APPOINTMENTS: The Committee shall consist of eight members as follows:

- One Council liaison to be appointed by Council
- One staff member from the municipality
- One member from the energy committee
- One member from the ADA committee
- Four citizen members from the Township of West Milford to be appointed by Council

BE IT FURTHER RESOLVED that this committee shall review the Sullivan Report and make recommendations to the Township Council with regard to municipal facilities, said recommendations to be presented before December 31, 2008.

Adopted: May 7, 2008

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

The Council agreed to move all the Resolutions from 176 through 181 as one except for Resoluton 2008-179.

Agenda No. VII 6
~ Resolution 2008-176~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING A SPECIAL EVENT PERMIT APPLICATION TO THE NEW JERSEY DIVISION OF PARKS AND FORESTRY FOR THE USE OF THE FORMER JUNGLE HABITAT PROPERTY TO HOLD A FIREWORKS DISPLAY

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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WHEREAS, the Township of West Milford wishes to use the former Jungle Habitat property to hold a display of fireworks on July 3, 2008 with a rain-date of July 11, 2008; and

WHEREAS, the use of the former Jungle Habitat property requires approval by the New Jersey Division of Parks and Forestry; and

WHEREAS, the Director of Community Services and Recreation has obtained said approval from the State of New Jersey Department of Environmental Protection for the use of the property for this purpose; and

WHEREAS, the Township has approved and received a completed Agreement and required documentation from Garden States Fireworks for the preparation and exhibition of a fireworks display; and

WHEREAS, the Township Council has reviewed the application and the report submitted to it by the Township Administrator.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford, County of Passaic, State of New Jersey, that, based upon the review of the application and report submitted by the Township Administrator, it does hereby approve the application by the Township of West Milford and Garden State Fireworks to the New Jersey Division of Parks and Forestry, Ringwood State Park for the use of the former Jungle Habitat property to conduct a fireworks display on July 3, 2008 with a rain-date of July 11, 2008 based on the guidelines set forth by the New Jersey Division of Parks and Forestry.

Adopted: May 7, 2008

Agenda No. VII 7
~ Resolution 2008-177~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE TOWNSHIP OF WEST MILFORD TAX COLLECTOR TO PREPARE AND MAIL ESTIMATED TAX BILLS IN ACCORDANCE WITH P.L. 1994, C. 72

WHEREAS, the Passaic County Board of Chosen Freeholders has not adopted the Passaic County Budget for 2008 and the Township of West Milford has not adopted the 2008 budget and thus, the Tax Collector will be unable to mail the Township's 2008 tax bills on a timely basis; and

WHEREAS, the Township of West Milford Tax Collector, in consultation with the Township of West Milford Chief Financial Officer, has computed an estimated tax levy in accordance with N.J.S.A. 54:4-66.3, and they have both signed a certification showing the tax levies for the previous year, the tax rates and the range of permitted estimated tax levies.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford, in the County of Passaic and the State of New Jersey on this 7th day of May 2008 as follows:

1. The Township of West Milford Tax Collector is hereby authorized and directed to prepare and issue estimated tax bills for the Township of West Milford for the third installment of 2008 taxes. The Tax Collector shall proceed on the 8th day of May 2008 and take such actions as are permitted and required by L. 1994, c. 72 (N.J.S.A. 54:4-66.3).
2. The estimated tax levy for the third fiscal quarter of 2008 is hereby set at \$21,605,660.58
3. In accordance with the law, the third quarter installment of 2008 taxes shall not be subject to interest until the tenth day of August 2008.

Adopted: May 7, 2008

Agenda No. VII 8
~ Resolution 2008-178~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY TO EXECUTE A REDEDICATION OF A RECREATION TRUST SUB-ACCOUNT TITLED "CIRCUS" TO A RECREATION TRUST SUB-ACCOUNT TITLED "CELEBRATION OF THE TOWNSHIP OF WEST MILFORD'S 175TH ANNIVERSARY"

WHEREAS, authorization is requested of the Township of West Milford Council to rededicate a recreation trust sub-account titled "Circus" to "Celebration of the Township of West Milford's 175th Anniversary", and;

WHEREAS, in accordance with N.J.S.A. 40A: 4-39 the Director of Local Government Services has previously approved expenditures of monies by dedication by rider for the Recreation Trust.

NOW THEREFORE BE IT RESOLVED, by the Township of West Milford, County of Passaic, State of New Jersey, that all amounts in the aforementioned trust sub account captioned "Circus" will be rededicated to a sub account captioned "Township of West Milford's 175th Anniversary" and certain

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

Resolutions:

- (a) **Resolution 2008 – 183** Refund Other Liens
- (b) **Resolution 2008 – 184** Partial Refund of Performance Guarantees
- (c) **Resolution 2008 – 185** Refund of Performance Guarantees
- (d) **Resolution 2008 – 186** Approving Issuance of 2008 Licenses

Applications:

- (a) **Petition to Extend Licensed Premise** w/Police Conditions – Big John’s Pub, May 26, 2008
- (b) **Application for Social Affair Permit** – American Legion Post 289, May 26, 2008

Adopted: May 7, 2008

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

The following resolutions were included in the consent agenda:

Agenda No. VIII (a)
 ~ Resolution 2008- 183~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF OTHER LIENS

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

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:

Certificate No	Certificate Date	Block/Lot /Qual	Reimburse Amt	Pay to the Lien Holder
03-044	04/07/2003	05505-003.10	\$45,837.29	Lien Times LLC 203 Stephens Road West Milford, NJ 07480
06-060	04/11/2006	07801-052.02	\$18,203.61	Fidelity Tax LLC P.O. Box 5707 Fort Lauderdale, FL 33310
07-066	04/11/2006	10812-004	\$36,259.27	Wachovia Cust/SASS5 Muni V Dtr 2 Liberty Place – TLSG 50 South 16 th St. Suite 1950 Philadelphia, PA 19102
07-065	04/03/2007	10602-036	\$28,320.85	Lien Times LLC 203 Stephens Road West Milford, NJ 07480
07-071	04/03/2007	12208-026	\$180.06	Chun T Li 9 Maljim Court Wayne, NJ 07470
Grand Total			\$128,801.08	

Adopted: May 7, 2008

Agenda No. VIII (b)
 ~ Resolution 2008-184~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING PARTIAL REFUND OF PERFORMANCE GUARANTEES

BE IT RESOLVED, by the Township Council of the Township of West Milford that, upon the report and request of the Township's Engineering Department, the following Performance Guarantees be partially refunded:

<u>Name & Address</u>	<u>Block & Lot</u>	<u>Amount Refunded</u>	<u>Pg. No.</u>
Your Home Team 37 Christine Court West Milford, NJ 07480	1208/16	\$ 200.00	70

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Your Home Team Builders/Tim Collins 37 Christine Court West Milford, NJ 07480	2310/3	\$ 200.00	70
Your Home Team LLC 37 Christine Court West Milford, NJ 07480	2410/2	\$ 600.00	72
Your Home Team 37 Christine Court West Milford, NJ 07480	2705/6	\$ 650.00	70

Adopted: May 7, 2008

Agenda No. VIII (c)
 ~ Resolution 2008-185~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF PERFORMANCE GUARANTEES

BE IT RESOLVED, by the Township 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>
Your Home Team 37 Christine Court West Milford, NJ 07480	8101/20	\$ 300.00	68
Your Home Team 37 Christine Court West Milford, NJ 07480	2314/11	\$ 300.00	66
Your Home Team 37 Christine Court West Milford, NJ 07480	1609/10	\$ 765.00	70
Your Home Team 37 Christine Court West Milford, NJ 07480	9801/28.06	\$ 900.00	73
Your Home Team LLC 37 Christine Court West Milford, NJ 07480	10901/10.02	\$ 100.00	73

Adopted: May 7, 2008

Agenda No. VIII (d)
 ~ Resolution 2008-186~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY APPROVING THE ISSUANCE OF LICENSES FOR LICENSE YEAR 2008

WHEREAS, applications have been made by various business owners for the renewal of an Amusement Game License and Taxicab/Limousine License for the year 2008; and

WHEREAS, reports of recommendation have been received from various Township Departments recommending the issuance of said licenses as listed below;

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of West Milford does hereby approve the issuance of *Licenses for 2008 as listed below:*

Amusement Game License No.	Applicant Name	T/A - Licensed Premise Address
2008 – 10	Thomas Befi	Abby Cinemas 35C Marshall Hill Road West Milford, NJ 07480
2008 – 11	Richard Castronova	Valley View Pub 1612 Union Valley Road West Milford, NJ 07480

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Taxi-Limo Owner License No.	Applicant Name	T/A - Address
2008 – 11 2008 – 12 2008 – 13	Douglas Townsend	Douglas Business Services Inc. 1873 Macopin Road West Milford, NJ 07480
Taxi-Limo Driver License No.	Applicant Name	T/A - Address
2008 – 9	Douglas Townsend	Douglas Business Services Inc. 1873 Macopin Road West Milford, NJ 07480
2008 – 10	Mary Weaver	Douglas Business Services Inc. 1873 Macopin Road West Milford, NJ 07480
2008 – 11	John Townsend	Douglas Business Services Inc. 1873 Macopin Road West Milford, NJ 07480

Adopted: May 7, 2008

Agenda No. IX

Approval of Expenditures

None.

Auditor Discussion – Mayor Bieri said that the Township is seeking directon for an auditor. Councilman Scangarello stated that both of the firms represented earlier in the evening looked good on paper. He said that everyone agrees that Ferraioli is the best person for the position and would like to revisit the Pay to Play Ordinance. Mayor Bieri responded that everyone agrees that Mr. Ferraioli is the best, and she had initially thought that it is not in the best interest of the Township to have someone for too many years. She said that after reviewing the resumes of the candidates this evening, these auditing firms all have long term relationships and that there are benefits to familiarity. Mr. Ferraioli knows the Townships history and knows what the Township is dealing with. Councilman Nolan said that after approaching approximately 20 firms statewide, that only five were in compliance with the Townships Pay to Play Ordinance. He said that the second firm who was present tonight had donated \$64,000 in 2006 to various campaigns. They comply with the Townships Pay to Play Ordinance because the donations were not in Passaic County. With regards to the Townships Pay to Play Ordinance, it is well intentioned. However, the Township is saying that one can contribute thousands of dollars in other counties and be alright with West Milford’s Pay to Play Ordinance, but not if they have contributed in West Milford. Contribution in West Milford cannot exceed \$300. Mayor Bieri said that in conjunction with possibly grandfathering Mr. Ferraioli to oversee certain things, she would like to see the Pay to Play Ordinance addressed. She said that with the \$300 limit in West Milford and \$10,000 aggregate in the state, she is not thrilled with the situation and that there should be a compromise. Councilman Scangarello asked for Township Attorney Semrau’s input. Township Attorney Semrau said that a grandfather clause could be done rather quickly however any other amendments would take some time. He suggested that with the intention being to make the Ordinance better, time be taken for further discussion and direction. He asked that this be done in two stages.

Agenda No. X

Reports of Administrator, Mayor and Council Members

Councilman Schimmenti – said that he had visited Greenfest at Bubbling Springs and that there must be more education about recycling. Plastic has been found to be a detriment to the environment and landfills. He said that the people involved in organizing and presenting Greenfest had done a great job and he wished them luck in the future.

Councilman Nolan – reminded everyone that there is a blood drive on May 18, 2008 at the First Aid Building on Ridge Road. He said that there can never be enough donors, and asked everyone to get there. He said regarding COAH that the 3rd round was approved on May 6, 2008. He said that according to the League of Muncipalities, the changes are substantive and will take weeks to review. He said that he has read an article about COAH in the newspaper whereby it was discussing the needs of affordable housing being pitted against the needs of clean water, open space and other environmental issues. He referred back to the League of Municipalities where there is an effort to challenge the 3rd round COAH, and pledges are being sought from municipalities who may challenge. He asked the council to pledge \$500. He asked that a Resolution be drafted and to include in the resolution how the Highlands Act may apply. He said that the insurance committee has not had any recommendations regarding background checks. He said that it is not a Risk Management Committee, however without background checks, the potential for risk remains. He would suggest that this be scheduled for a future workshop discussion. He then extended congratulations to Mr. Tim Foley, Wayne Gotlieb and Marcie Babbitt for their elections to the School Board. He hopes the the Board of Education and the Township Council can work together for

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West Milford's benefit. He discussed Initial Assessment Grants and Township Attorney Semrau asked for a motion to proceed with a grant application. Councilman Nolan motioned to apply for an Initial Assessment Grant administered by the New Jersey Highlands Water Protection Planning Council for \$15,000. Councilwoman Lichtenberg seconded the motion. He said that he is not ready to adopt the Township budget yet. He supports Township Engineer McFaddens' request for road repairs because they are still catching up. He said that the Council should not play politics with the Engineers recommendations especially Apshawa Crossroad. He went on to say that West Milford has a structural deficit and asked Township Finance Director Magnotti for an analysis of what will happen in 2009 for salaries and benefits because he already has concerns regarding a \$112 increase before any other cost increases. He asked that the Council become proactive in 2008. He said that contracts expire at the end of 2009 and perhaps unions will work with the Council to save jobs. Employees must contribute to the cost of health insurance. He asked that unions reopen negotiations and if that is unsuccessful then to consider downsizing. He asked also for a report of which Township employees take Township vehicles home and use them for commuting. He also asked for a report of the number of gallons of gas and diesel used from October 2006 to March 2007 and from October 2007 to March 2008.

Councilwoman Lichtenberg – reminded all in attendance of some important upcoming dates. She started with the Museum Tennis Tournament at West Milford Township High School on May 16 and 17; the Memorial Day Commemoration on May 26, May 31 there is the Hof-Nod Fishing Tournament at Westbrook and for further information to contact Tracy at Skyclean.org. The American Cancer Relay for Life fundraiser is on May 31 and June 1; and Macopin School is having a clothing drive on May 10. She spoke of a letter from Congressman Garrett regarding a Veterans Exposition being held on May 9 from 1-3pm at Liberty Towers in Newton, NJ. She spoke about her concern for the Township by saying that she has stepped into this new position as Councilwoman. She listens and speaks to everyone before suggesting and making changes. Many changes have occurred since she has become a council member. The Township does not have an administrator, an auditor, a planner, no health department head, and the recreation director is leaving. The building inspector is retiring and the fire marshal is leaving. She considers the municipality to be in disarray and is very concerned. She recapped by saying that she is available to all at Town Hall on Thursdays from 10-12.

Councilman Scangarello – started by thanking Township Fire Marshal and Emergency Management Officer, Mike Woch who will be retiring at the end of May. Mr. Scangarello said that he had attended a retirement party for him at Company 4. He has done a great job for West Milford and thanked him for many years of service. He congratulated Michele Fenwic and Tim Foley as President and Vice President of the School Board. He also thanked Midge Touw for her many years of service as President of the School Board.

Councilman Weisbecker – also thanked Mike Woch for his many years of service and said that the Township will miss him. He commented about the resignation of Township Planning Director Drew by saying that he had done a lot of work for West Milford and he has tried his best to help the Township grow in a positive manner. He wished him luck and thanked him for his years of service. He also wished Community Services and Recreation Director Palermo well upon word of her resignation. He is concerned, as Councilwoman Lichtenberg. Regarding the search for a new Township Administrator, he said that the search had been narrowed down to two candidates and that there was a need to open them up to other Council members. He said that it is time to hire a new Administrator. Regarding Department of Public Works employees, he said that the Township has construction workers not DPW workers. There is a need for the DPW workers but feels that there is a lot of foliage overgrowth. He said there have been several complaints regarding sight distances. He asked Interim Administrator Battaglia to contact Passaic County regarding having trees trimmed and removed. He said that at the Bi-State Lake Committee meeting Orange County will give \$30,000 if Passaic County will match the funds. He asked that Interim Administrator Battaglia inquire with Passaic County as to their intentions regarding this matter. He also asked to discuss at an upcoming Workshop Meeting honoring veterans who were not honored by West Milford at Passaic County because of invitation mixups. He suggested sending a letter to the American Legion and the Veterans to invite them to a Council meeting for a special honor.

Councilman Smolinski – said that he was glad to see interviews take place at this meeting with potential Township Auditors. He expressed concern with having six major positions open in the township. He said they should be filled soon, beginning with the Administrator. He said that there have been three qualified applicants and that he is satisfied. He is ready to go to the next level of the hiring process and asked that the Mayor and Council move on this as quickly as possible. He stated that the Township has advertised and no one else is coming forward. He thanked Township Attorney Semrau for explaining about the developer's fees. He said that Passaic Council owes West Milford money and asked Interim Administrator Battaglia to follow up, some of which fall under the Corridor Enhancement Act; things build on county roads such as Walgreens and Battinellis.

Mayor Bieri – began her report with expressing that on May 3, Sustainable West Milford had their first annual Greenfest. Unfortunately the weather did not comply. She encouraged everyone to attend future events. She thanked Sustainable West Milford for organizing the event. She said that she has received a plaque from the Sierra Club that should have been issued to West Milford Township rather than her, as it had been the previous Mayor and Council who had done the work for it. She also said that correspondence had been received from the Highlands Council and that they are being very responsive

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to comments that they had received. There is positive progress. The New Jersey League of Municipalities is opposing the imposition of a user fee to fund open space and farmland preservation projects, which they view as a water tax on consumers. She would like the Township to let them know what West Milford's position is. She feels that these funds should be used for municipalities that are giving so much to preserve our water. She asked what the proper response would be from West Milford by asking Township Attorney Semrau what would be the best way to proceed. He replied that the New Jersey League of Municipalities had previously endorsed a resolution. He said that a letter could be sent, and that he would draft a letter for the Council's consent to send it. Mayor Bieri asked that he draft a letter. She thanked Township Fire Marshal Woch for his years of service and wished Community Services Director Palermo well in her new venture with her husband. She said that she takes no offense at underlying insinuations surrounding the number of position changes within the Township. She said that three of the changes are due to retirement, two others because of new opportunities that benefit them and the Administrator was due to the Council not wanting to appoint the previous Administrator, but rather wanted to search for a new one. As a result of the Interim Administrator, more legislation has been moved this year than had been moved in all of last year. The Council now has a priority list and a complaint list. She expressed that on behalf of Interim Township Administrator Battaglia she took offense that the Township is not accomplishing things. She said, with regards to interviewing potential candidates for Township Administrator, that she has moved forward and that the pickings are slim. Her contention is that with the salary being as imposing as it is, that she feels a better candidate can be found.

Councilman Scangarello – asked to speak with regards to contacting the City of Newark because of some debris that had been dumped on the New City property, off of Germantown Road. He said that it appeared a restaurant had refurbished recently and dumped debris on the site. He said that dumping has been an ongoing issue and needs to be resolved.

Councilman Smolinski – spoke again because he wanted to clarify that he had not insinuated that there is any fault to be had for the vacancies in the Township. However, the Mayor and the Township needs to move forward. Mayor Bieri explained that interviews have taken place for the vacancies and that progress is being made very quickly.

Interim Administrator Battaglia – reported that with the resignation of the Township Planning Director and the retirement of the Construction Official, she has looked carefully at the department and has some ideas for Council consideration. She said that she has requested proposals for Planner Services. That leaves the position of Construction Official vacant and a department overseer. She is looking into revamping the department. She feels that there are many issues which require significant administrative oversight that may not be possible with a department director. She asked for Council consideration to reconsider the department head position and to appoint perhaps a Land Use Administrator. That person would possess the necessary licenses to act as the Construction Official. Thusly with the Planner being outsourced, the role of Department Head would over see permits, boards and commissions as well as coordinating with other departments so as to streamline the process and offer better services. She said that estimated savings to the municipality would be about \$69,000. She stated that she had drafted a memo which was in the Council packets. It is only an idea and more research would be needed and the Township Ordinance would have to be amended. She said that if the Council was amenable that she would not advertise for the Construction Official as currently being done. Councilman Nolan said that he as okay with further research. Councilman Weisbecker said that he wanted more information. His concern is that the length of time that important positions have been open in the Township is not good. He expressed concern that the former Planning Director had been given notice by the Mayor on January 1st.

Mayor Bieri - clarified verbatim what had transpired between herself and the Planning Director and was in denial that she had given him notice. She merely expressed to him that administrations before her had debated the idea of an outsourced Planning Service. She welcomed his resume for review but that outsourcing may not be the route chosen. She said that they are merely seeking Council consent to investigate the possibility of hiring for one position instead of two and to streamline the department while there is the chance to do so. She added that if the concept does not make sense to the Council to merely say, so that the Interim Administrator, who is already working two positions for the Township does not waste her time with investigating something that the Council has no intention of pursuing. She furthered that many townships operate this area of Township business in this fashion and it is streamlined and cost effective.

Township Attorney Fred Semrau - said that many departments have been reviewed and that there are a number of them where communication is critical. He exemplified developments whereby communication was imperative between health, construction and engineering departments. He said that they are striving for a more global planning system. He said that they are looking for a Planner who can focus on working on a Master Plan, Highlands Compliance, grant availability, COAH, town center and other major projects. He said that by elevating the position of Construction Official to Department Head there would be better oversight and coordination between departments. He expressed that a decision is not being sought tonight, only permission to investigate what other towns have found successful. Councilman Smolinski said that he would like additional information that the Council members would then be able to look into themselves. He welcomes further discussion to determine if what the model townships are doing would benefit West Milford's needs. Township Attorney Semrau asked that if the Council members would like to

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provide a list to follow as to what the Council would be interested in finding out, to please let Interim Administrator Battaglia know. Councilman Smolinski outlined a number of questions that he would like to have answered. Township Attorney Semrau explained that West Milford is now in a unique position because with the two positions being open, no one is really affected if change in department structure would take place. Regarding Executive Session, Township Attorney Semrau said that he will review the Property Association Ordinance list with the Construction Office. He said that there had been an oral argument at an Appellate hearing about Valley Ridge this week and there will be discussion about the Hillcrest Lease, Block 2801, Lot 1 property acquisition is on the agenda with regards to the purchase of land at Greenwood Lake Tpke and Lake Shore Drive. They will be discussing the personnel matter regarding the Hardin case. Discussion will be held regarding Browns Point plaza which is under attorney client privilege is limited to potential litigation. He asked that pending litigation of O'Shea v. West Milford, Docket # DAS-L-82508 be added to Executive Session and that they defer discussion of Reflection Lakes.

Agenda No. XI

Appointments and Resignations

Facilities Assessment Committee

Councilwoman Lichtenberg nominated Councilman Scangarello to serve as Council Liaison to Facilities Assessment Committee.

Motion: Lichtenberg Second: Bieri
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Lichtenberg, Scangarello.
Voted Nay: None.
Abstained: None.
Motion carried.

Councilman Scangarello moved to nominate Joseph Ponzo, William Gervens, Philip Luogameno, and Phil Shanahan to Facilities Assessment Committee. Seconded by Councilman Nolan.

Motion: Nolan Second: Scangarello
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Lichtenberg, Scangarello.
Voted Nay: None.
Abstained: None.
Motion carried.

~ Resolution 2008-187~
MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 7th day of May, 2008, 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.
 - (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.
 - Hillcrest
 - Block 2801, Lot 1 – Anjo Associates
 - () 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.
 - Reflection Lakes Property Owner's Association
 - Brown's Point Plaza
 - O'Shea v. West Milford {Docket #PAS-L-825-08}
 - (X) b. (8) Personnel matters.

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- Hardin Discipline Matter
() 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: May 7, 2008

Motion: Nolan Second: Lichtenberg
Voted Aye: Weisbecker, Smolinski, Schimmenti, Nolan, Lichtenberg, Scangarello.
Voted Nay: None.
Abstained: None.
Motion carried.

The Council went into Executive Session at 11:27 p.m.

The Council reconvened in public session at 12:12 a.m. with all present as before.

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 12:14 a.m.

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

Approved: July 9, 2008

Respectfully Submitted:

MAYOR BETTINA BIERI
PRESIDING OFFICER

Judy Manning, Part Time Secretary

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK