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

Minutes of: Township Council  
Date of Meeting: May 24, 2006  
Time of Meeting: 7:30 P.M.  
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The Regular Meeting of the West Milford Township Council was called to order by Mayor DiDonato.

**Adequate Notice Statement**

Mayor DiDonato advised that in accordance with Chapter 231, Public Laws of 1975 of New Jersey, adequate advance notice of this Regular meeting was advertised in the Herald News in its issues of January 23, and January 30, 2006; copies were provided to the Suburban Trends, the Record, Star Ledger, and Greenwood Lake News and posted continuously on the bulletin board in the main corridor of the Town Hall and on file in the Office of the Township Clerk.

**Pledge of Allegiance**

Jim Novack approached the podium and stated that this meeting must be cancelled because the occupancy in the room is above that allowed by law. Mayor DiDonato asked for volunteers to leave the room and advised that the side doors would be opened so that they could hear the proceedings. Mr. Novack became insistent and would not desist from interrupting the Mayor as he attempted to continue with the meeting. Mayor DiDonato summoned the police to have Mr. Novack removed. Two police officers asked Mr. Novack to accompany them outside where they could discuss the matter without interrupting the meeting. Mr. Novack refused to leave. The police then requested that members of the public who are not involved in the presentation vacate the room until the presentation is over and then return to the meeting when the room empties. Mayor DiDonato led all in attendance in a salute to the flag.

**Roll Call**

Present: Councilmembers Joseph Smolinski, William Gervens,  
Robert Nolan, James Warden, Carmelo Scangarello.  
Mayor Joseph DiDonato.

Absent: Councilman Philip Weisbecker.

Also Present: Township Administrator Richard Kunze, Township Clerk Antoinette Battaglia, and Dominick DiYanni of Dorsey & Semrau until the arrival of the Township Attorney Frederick Semrau at 8:20 p.m.

**Presentation**

Mayor DiDonato advised that the agenda is being taken out of order to begin with the scheduled presentation. He noted that it is fitting with Memorial Day approaching to honor those who are currently serving our country. He invited the West Milford Military Recognition Committee to come forward and introduce themselves. He noted that these people have worked very hard to gather a list of all those service people from West Milford who are serving in our military. If someone has been forgotten, he urged residents to contact the Committee to let them know. He asked Councilman Scangarello to join him at the podium because he was instrumental in arranging this tribute. He also asked Councilman Smolinski to join him because he has a family member serving. He then requested that representatives from our military organizations as well as those currently serving in the armed forces to come forward. Bobby Rodriguez and Zack Livingston were summoned from outside. The Mayor advised that both these men are currently serving our country and noted that they were among the first to vacate the room when the meeting was interrupted earlier. The audience welcomed them into the room with a round of applause. Mayor DiDonato advised that the second grade class would sing tributes at both the beginning and end of the presentation. Members of the West Milford Military Recognition Committee thanked the children noting that they are glad to have them here tonight. They expressed gratitude to the men and women in our military for their dedication and commitment while serving in our armed forces since September 11, 2001. They unveiled a plaque which contains all the names of those West Milford residents who are serving in our military. They stated that they are proud to present this perpetual plaque listing the names of 143 persons. The audience applauded as the Mayor invited family members to come forward and take pictures. He also invited the school children to sing another song. Mayor DiDonato thanked the school children and their teachers for the moving tribute. As the room began to clear out, he asked the parents of the soldiers to stay behind.

Mayor DiDonato stated that there are representatives from many veteran groups in attendance tonight. He invited them forward and one of their members spoke to the audience. He advised that the Memorial Day Parade will be held on Monday. It will begin at 10:00 a.m. and he gave an overview of the agenda. He noted that this is a very special day for veterans and he thanked the parents of the second grade students for all their work. He commended the West Milford Military



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

**Unfinished Business, Final Passage of Ordinances**

Agenda No. V 1  
~ Ordinance 2006-003 ~

**ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY TO AMEND CHAPTER 17, SECTION 15, ENTITLED "STORMWATER MANAGEMENT" ESTABLISHING STORMWATER CONTROL FOR NON-RESIDENTIAL MAJOR DEVELOPMENTS**

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of West Milford that Section 15 of Chapter 17 is hereby amended to read as follows:

Section 1: Scope and Purpose

A. Policy Statement

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose

It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for "major development," as defined in Section 2.

C. Applicability

1. This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

- a. Non-residential major developments; and
- b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This ordinance shall also be applicable to all major developments undertaken by the Township of West Milford.

D. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

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Section 2: Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

“CAFRA Planning Map” means the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

“CAFRA Centers, Cores or Nodes” means those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

“Compaction” means the increase in soil bulk density.

“Core” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

“County review agency” means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or

A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

“Department” means the New Jersey Department of Environmental Protection.

“Designated Center” means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

“Design engineer” means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.

“Drainage area” means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

“Environmentally critical areas” means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department’s Landscape Project as approved by the Department’s Endangered and Nongame Species Program.

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“Empowerment Neighborhood” means a neighborhood designated by the Urban Coordinating Council “in consultation and conjunction with” the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

“Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“Infiltration” is the process by which water seeps into the soil from precipitation.

“Major development” means any “development” that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

“Municipality” means any city, borough, town, township, or village.

“Node” means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

“Nutrient” means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

“Person” means any individual, corporation, company, partnership, firm, association, West Milford Township, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq.

“Pollutant” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “Pollutant” includes both hazardous and nonhazardous pollutants.

“Recharge” means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

“Sediment” means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

“Site” means the lot or lots upon which a major development is to occur or has occurred.

“Soil” means all unconsolidated mineral and organic material of any origin.

“State Development and Redevelopment Plan Metropolitan Planning Area (PA1)” means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state’s future redevelopment and revitalization efforts.

“State Plan Policy Map” is defined as the geographic application of the State Development and Redevelopment Plan’s goals and statewide policies, and the official map of these goals and policies.

“Stormwater” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

“Stormwater runoff” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“Stormwater management basin” means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be

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normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

“Stormwater management measure” means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

“Tidal Flood Hazard Area” means a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

“Urban Coordinating Council Empowerment Neighborhood” means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

“Urban Enterprise Zones” means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

“Urban Redevelopment Area” is defined as previously developed portions of areas:

- (1) Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- (2) Designated as CAFRA Centers, Cores or Nodes;
- (3) Designated as Urban Enterprise Zones; and
- (4) Designated as Urban Coordinating Council Empowerment Neighborhoods.

“Waters of the State” means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

“Wetlands” or “wetland” means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**Section 3: General Standards**

**A. Design and Performance Standards for Stormwater Management Measures**

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in Section 4. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.
2. The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

**Section 4: Stormwater Management Requirements for Major Development**

- A.** The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 10.

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- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.F and 4.G:
1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
  2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
  3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.F and 4.G may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
  2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 4.F and 4.G to the maximum extent practicable;
  3. The applicant demonstrates that, in order to meet the requirements of Sections 4.F and 4.G, existing structures currently in use, such as homes and buildings, would need to be condemned; and
  4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 4.F and 4.G that were not achievable on-site.
- E. Nonstructural Stormwater Management Strategies
1. To the maximum extent practicable, the standards in Sections 4.F and 4.G shall be met by incorporating nonstructural stormwater management strategies set forth at Section 4.E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
  2. Nonstructural stormwater management strategies incorporated into site design shall:
    - a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
    - b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;

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- c. Maximize the protection of natural drainage features and vegetation;
  - d. Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
  - e. Minimize land disturbance including clearing and grading;
  - f. Minimize soil compaction;
  - g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
  - h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
  - i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
    - (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section 4.E.3. below;
    - (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
    - (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
    - (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
3. Site design features identified under Section 4.E.2.i.(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 4.E.3.c below.
- a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
    - (1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
    - (2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
  - b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear

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spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard does not apply:

- (1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- (2) Where flows from the water quality design storm as specified in Section 4.G.1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
  - (a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
  - (b) A bar screen having a bar spacing of 0.5 inches.
- (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in Section 4.G.1; or
- (4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 4.F and 4.G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org).

**F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards**

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

b. The minimum design and performance standards for groundwater recharge are as follows:

- (1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 5, either:
  - (a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

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- (b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.
  - (2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.
  - (3) The following types of stormwater shall not be recharged:
    - (a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
    - (b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
  - (4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.
- c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 5, complete one of the following:
- (1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
  - (3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or

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project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

- (4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and (3) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

- 2. Any application for a new agricultural development that meets the definition of major development at Section 2 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

**G. Stormwater Runoff Quality Standards**

- 1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution			
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

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2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7, or found on the Department's website at [www.njstormwater.org](http://www.njstormwater.org). The BMP Manual and other sources of technical guidance are listed in Section 7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.
3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs	
Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See Section 6.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.
5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 4.F and 4.G.

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6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 7.
7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
  - a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
    - (1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.
    - (2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.
  - b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq.
  - c. If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:
    - (1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
    - (2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;
    - (3) Temperature shall be addressed to ensure no impact on the receiving waterway;

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- (4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
  - (5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and
  - (6) All encroachments proposed under this section shall be subject to review and approval by the Department.
- d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 4.G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in G.8.a.(1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.
- e. Paragraph G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

**Section 5: Calculation of Stormwater Runoff and Groundwater Recharge**

A. Stormwater runoff shall be calculated in accordance with the following:

- 1. The design engineer shall calculate runoff using one of the following methods:
  - a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or
  - b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
- 2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology at Section 5.A.1.a and the Rational and Modified Rational Methods at Section 5.A.1.b. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- 3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands,

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depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.
5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

Section 6: Standards for Structural Stormwater Management Measures

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 8.D.
3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.
4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 8.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section 4 of this ordinance.

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C. Manufactured treatment devices may be used to meet the requirements of Section 4 of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

**Section 7: Sources for Technical Guidance**

A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.
2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

B. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;
2. The Rutgers Cooperative Extension Service, 732-932-9306; and
3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

**Section 8: Safety Standards for Stormwater Management Basins**

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

**B. Requirements for Trash Racks, Overflow Grates and Escape Provisions**

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
  - a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
  - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
  - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

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- d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.
2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
  - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
  - b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
  - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.
3. For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
  - a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section 8.C a free-standing outlet structure may be exempted from this requirement.
  - b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 8.D for an illustration of safety ledges in a stormwater management basin.
  - c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

**C. Variance or Exemption from Safety Standards**

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

**Section 9: Requirements for a Site Development Stormwater Plan**

**A. Submission of Site Development Stormwater Plan**

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 9.C below as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit the same number of copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 9.C of

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this ordinance as is required for submission of an application to the Planning Board or Zoning Board of Adjustment.

**B. Site Development Stormwater Plan Approval**

The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

**C. Checklist Requirements**

The following information shall be required:

**1. Topographic Base Map**

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

**2. Environmental Site Analysis**

A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

**3. Project Description and Site Plan(s)**

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

**4. Land Use Planning and Source Control Plan**

This plan shall provide a demonstration of how the goals and standards of Sections 3 through 6 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

**5. Stormwater Management Facilities Map**

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

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- b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 4 of this ordinance.
- b. When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 10.

8. Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 9.C.1 through 9.C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

Section 10: Maintenance and Repair

A. Applicability

- 1. Projects subject to review as in Section 1.C of this ordinance shall comply with the requirements of Sections 10.B and 10.C.

B. General Maintenance

- 1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- 2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
- 3. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
- 4. If the person responsible for maintenance identified under Section 10.B.2 above is not a public agency, the maintenance plan and any future revisions based on

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Section 10.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
6. The person responsible for maintenance identified under Section 10.B.2 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
7. The person responsible for maintenance identified under Section 10.B.2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
8. The person responsible for maintenance identified under Section 10.B.2 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 10.B.6 and 10.B.7 above.
9. The requirements of Sections 10.B.3 and 10.B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

C. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

**Section 11: Penalties**

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the following penalties: A fine in an amount not to exceed \$2,000 for each occurrence or instance. Each day shall be considered an occurrence. Each day thereafter shall be considered a subsequent violation.

**Section 12: Effective Date**

This ordinance shall take effect immediately upon the approval by the county review agency, or sixty (60) days from the receipt of the ordinance by the county review agency if the county review agency should fail to act.

**Section 13: Severability**

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

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Introduced: May 3, 2006  
Adopted: May 24, 2006

Mayor DiDonato noted that this ordinance was introduced on May 3, 2006 and is scheduled for public hearing tonight. He opened the meeting to the public to speak to this issue only. There being no comments from the public, Mayor DiDonato closed the public portion of the meeting.

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Moved: Gervens Seconded: Nolan  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Abstained: None.  
Motion carried.  
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Agenda No. V 2  
~ Ordinance 2006-004 ~

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS  
AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)**

**WHEREAS**, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

**WHEREAS**, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

**WHEREAS**, the Township Council of the Township of West Milford in the County of Passaic finds it advisable and necessary to increase its CY 2006 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

**WHEREAS**, the Township Council hereby determines that a 1.0% increase in the budget for said year, amounting to \$168,142.29 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

**WHEREAS** the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

**NOW THEREFORE BE IT ORDAINED**, by the Township Council of the Township of West Milford, in the County of Passaic, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2006 budget year, the final appropriations of the Township of West Milford shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.50%, amounting to \$598,498.02, and that the CY 2006 municipal budget for the Township of West Milford be approved and adopted in accordance with this ordinance; and,

**BE IT FURTHER ORDAINED**, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Introduced: May 10, 2006  
Adopted: May 24, 2006  
Effective Date: June 13, 2006

Mayor DiDonato noted that this ordinance was introduced on May 3, 2006 and is scheduled for public hearing tonight. He opened the meeting to the public to speak to this issue only.

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

Minutes of: Township Council  
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Andrew Gargano, Apsawa Cross Road, West Milford asked for an explanation of this ordinance. Administrator Kunze advised that CAP laws changed a couple of years ago and, as a result, municipalities cannot bank extra appropriations. Municipalities are allowed to exceed the CAP by 1% but must adopt a resolution to do so. He advised that we do not anticipate that we will exceed the CAP by that much but adopting the ordinance is sound financial practice for future years.

Kathleen Caren, Quince Tree Lane, West Milford stated that our previous CAP was 1% and this ordinance gives us flexibility to go up to 3.5%. The state has set the CAP at 2.5%. She stated that, at a time when everyone is tightening their belts, she would like West Milford officials to stop raising taxes.

Council President Gervens noted that adoption of this ordinance does not commit the Council to spending that amount of money.

Councilman Nolan made a motion to close the public portion of the meeting.

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Moved: Nolan Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Abstained: None.  
Motion carried.  
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Councilman Nolan made a motion to adopt the aforementioned ordinance.

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Moved: Nolan Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Abstained: None.  
Motion carried.  
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**Public Comments**

Mayor DiDonato opened the meeting to the public.

Carla Horton, Bearfort Road, West Milford thanked Councilmen Nolan and Warden for their work on the budget. She stated that their position has validated the electoral decision which brought them into office. She stated that the Council is not prudently addressing our financial situation most specifically by wanting to use one-time funds to fill a budget gap. She advised that she is the Executive Director of a Domestic Violence Agency and gave an overview of the steps she has taken to address fiscal constraints on her organization. She stated that, if her agency can have fiscal integrity, she would like to encourage the Council to do the same.

Jim Novack, Mount Laurel, West Milford stated that he is a fifty year resident of West Milford and a six year veteran. On Monday night the police kept the occupancy in this room down to 107 persons. He advised that the Mayor allowed an excessive occupancy tonight and advised that he will contact the State fire agencies tomorrow to report these actions. He said that the law dictates capacity for safety reasons. He further stated that the agenda should be better prepared so that we don't have so many presentations with so many people present. He stated that the Council, lawyers, and police broke the law tonight.

Doris Aaronson, 19 Bearfort Road, West Milford stated that she read in the Greenwood Lake News that Bill Drew is pushing a FAR ordinance to change all lake residential zoning from one house per half acre to one house per quarter acre. She noted that this has been presented and denied before. Increasing density would cause three problems to residents. A house on every quarter acre of land would increase the population density. As a general rule, each house would add children to our school system which will increase the school taxes. Lake communities have scarce well water with heavy clay soil and dense rock below. Additional houses would also increase pollution in the lakes with more lawn fertilizer and septic runoffs as well as more impervious surfaces. She urged the Council to reject such an ordinance.

Dr. Salvatore Schimmenti, 71 Vreeland Road, West Milford noted that "tax" has always appeared to be a bad word. At this time, everyone is hurting economically and we must stop spending and start saving. By working together, we can decrease the overhead in municipal operations. Passaic County taxes are expected to rise by about 12% because our County officials are spending money frivolously. He cited a frivolous lawsuit involving the County Clerk which has cost the County \$54,000. He urged the Council to start saving and stop spending.

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

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Martin O'Shea, 22 Greenbrook Drive, West Milford told the Mayor that he disgraced himself today. He noted that he spent four years in Korea in the US Air force and opined that dissent is honest. He advised that Judge Graziano of the Passaic County Superior Court is expected to issue a decision on the Trammel Crow case. At this point in time, the West Milford Planning Board does not have legal representation. Weiner Lesniak was representing us but had to pull out 36 hours before filing a brief because of a conflict. On May 12, Stephen Glatt filed a substitute of attorney with the court which was also signed by Mr. Kienz on May 11<sup>th</sup>. On May 18<sup>th</sup>, Mr. Glatt wrote to the judge stating that he had filed the substitute of attorney without authority and a resolution from the planning board. He asked that for a withdrawal or that the matter be held in abeyance. Mr. O'Shea stated that Mr. Glatt filed a brief, claiming that it was his own work when it was actually authored by Brian Gonzalez who was conflicted. State public contract laws have been violated. He asked who told Mr. Glatt that the Planning Board needed an attorney.

Denise Janitz, 4 Bearfort, West Milford stated that she has spoken with the Township Administrator on many occasions about the unpaved roads in the town. Her street is not paved and thus there is no drainage. On February 3<sup>rd</sup>, heavy rains caused a flood from the road onto her property. She asked why we cannot get anything done about this and why only certain roads in town get paved. She noted that the roads get re-filled rather than paved and that ultimately this costs more money because the work is never done properly. She stated that if there is no drainage put in and the roads remain unpaved, water will continue to flow under the houses.

Steve Mann, 14 Lambert Road, West Milford stated that he is also here about the road conditions and that he too has called the town on numerous occasions. He stated that something must be done to have the roads paved and that they should have been paved years ago. He recalled that money was allocated for paving many years ago and he asked what happened to those funds.

Vasa Savov, 1846 Macopin Road, West Milford and Teresa DiMenza, 10 First Avenue, West Milford. Ms. DiMenza spoke on behalf of Ms. Savov. She noted that in March 2005 the Savov's noticed that their neighbors were building something. They were advised that it was a storage shed but it turned out to be a barn. The building inspector said it was for horses and the health department said that their property could accommodate horses under the law. She reviewed the history of many visits to various departments in town hall where the Savov's were advised that nothing could be done about the horses. On one occasion they asked the zoning officer to come out because the odors were so bad. He did come out to the property but he made little of the situation. Ms. DiMenza stated that there is a distinct stench emanating from the horses' excrement after it rains.

Andrew Gargano, 45 Apshawa Cross Road, West Milford reminded the Council that, at the last meeting, members of the Parks and Recreation commission asked Mr. Nolan to apologize for statements he had made citing that they are an a-political group. He held up a sign from a previous election campaign, which said, "Gargano and Marino said No to Recreation" and noted that the disclaimer said that it had been paid for by the Scangarello campaign. He stated that many of the Parks and Recreation commissioners supported Mr. Scangarello when he ran for office and stated that the sign was a blatant effort to besmear residents and volunteers. He provided an overview of his altruistic efforts in West Milford. He stated that his goal is to have voters vote on a recreation tax and use open space funds for open space. Parks and Recreation will have to do some fundraising to realize their dreams for Jungle Habitat. He asked why the Council does not appoint to committees those people who have worked hard for recreation.

Ada Erik, Macopin Road, West Milford advised that on March 5, 1989 the current horse ordinance was adopted and it was a big fight. The ordinance states that horses are allowed on a property that consists of one acre or more and that the property previously mentioned is just over an acre in size. She stated that the turnout for last week's blood drive was great with well over 100 units taken. However, we still need more donors and more blood because one in every four people will need a blood transfusion. The next drive is scheduled for the third Sunday in June, Father's Day. She encouraged everyone to bring their father, mother, brother or a friend. You will be doing something that you can be proud of.

Kathleen Caren, 16 Quince Tree Lane, West Milford thanked the vets who have served this country. She despises the glorification of the war and stated that too much money is being spent on the war in Iraq. She stated that the Passaic County tax increases are due to the policies of president of the United States, George W. Bush. She reviewed the tax cuts that have benefited the wealthy under the Bush administration. She read a poem she wrote about West Milford elections, highlands, the budget, and fiscal responsibility.

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

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Bob Pawlo, 7 Madelyn Avenue, West Milford stated that he opposed the partisan form of government four years ago. He recalled that three years ago Mr. Kienz had to recuse himself from Hovnanian hearings because he had a conflict. He stated that Weiner Lesniak is a powerful firm known for siding with developers. He served on the Smart Growth Committee, which, he claimed, was sabotaged by the Planning Board. He stated that we should stop berating the Freeholders noting that we can bring any concerns directly to them when they meet every other Tuesday. Noting that some people want to send petitions to Governor Corzine to stop rising taxes, he asked where these people were when then-Governor Whitman bankrupted the pension system. He stated that he attended the school budget meeting last week and Councilmen Nolan and Warden were the only people who asked questions. He recommended that the Council eliminate nonessential positions in municipal government. He commended Councilmen Warden and Nolan and asked that the tax bills bear a stamp stating the increases were “approved by the Republican Council of West Milford”.

Councilman Nolan moved to close the Public Comments portion of the meeting at 9:06 p.m.

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

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**Council Comments**

Mayor DiDonato stated that one tax point is \$150,000, which is approximately \$13 for the average homeowner. He asked Administrator Kunze to look into the road paving issue.

Administrator Kunze advised that Ms. Janitz has called his office in the past and that these roads are Township roads. There are drainage problems and efforts have been made to resolve these problems. These roads will be paved as soon as possible and hopefully that will be some time this year. The Township is already planning to pave Lambert and the adjoining roads. Draining improvements are made hand-in-hand with paving. He will verify that these plans have not changed. With regard to the property on Macopin Road referred to during the public portion of the meeting, the structures on the property meet the current codes and the property has sufficient acreage to allow horses. The health department has gone to the property and has determined that there is no problem with odor and runoff. He will have them revisit the site.

Councilman Nolan stated that he appreciates the comments about the budget. He stated that he works for a nonprofit and knows what it is like to made the tough choices. The budget is a reflection of priorities. We had a problem last year and, if we don't address the problem again this year, it will be an even greater problem next year. We should not use one-time funds to offset budget shortfalls. He stated that he shares Mr. O'Shea's concerns about Mr. Glatt, the Planning Board, and Weiner Lesniak.

Councilman Warden stated that we cannot control what is done at the state and county level. However, we can control what happens in West Milford. We are currently spending more than we are taking in and, if we were in business, we would be out of business. The Council must make tough decisions to handle out-of-control expenses. Right now, the Council is not assuming that responsibility. He hopes his colleagues have the courage to make those decisions. He stated that he will not vote to approve a Weiner Lesniak bill if it is submitted for the brief in the Valley Ridge case. He asked the Township Attorney to find out why the Council is finding out about the conflict at the last minute. He also questioned who gave Mr. Glatt authority to file papers.

Councilman Smolinski asked the Council to confirm that they are still in agreement about the \$100 tax increase in the budget. He noted that employees attended the last meeting and shared facts about their jobs and the money they save the Township. He stated that, before making any decisions, he wants to know how much it would cost to outsource the work. He advised that the Council owes the taxpayers the best savings without jeopardizing services.

**New Business, Introduction of Ordinances, Resolutions**

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

Agenda No. VIII 1

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

Minutes of: Township Council  
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**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AMENDING CERTAIN BUILDING SUBCODE FEES**

**BE IT ORDAINED**, by the Township Council of the Township of West Milford, County of Passaic and State of New Jersey that the Revised General Ordinances of the Township of West Milford are amended to provide for modifications to Chapter 12, Section 2.1. Fees, to increase certain fees under the Construction Code as follows:

1. The following underlined subsections of Section 2.1, Fees, shall be amended or added in pertinent part to read as follows:

**A. BUILDING SUBCODE FEES:**

1. Fees for new construction shall be based on the volume of the structure. The new construction fee shall be in the amount of \$.034 per cubic foot of volume with a minimum of \$1,000.

- a. Use group U shall be a minimum fee of \$70.00
- b. Residential utility sheds under 150 square feet shall be a minimum fee of \$50.00.
- c. Use groups U, S1, S2 for agricultural use as defined under N.J.A.C. 5:23-3.2(d) shall be a minimum fee of \$75.00 and \$.020 per cubic feet of volume.
- d. Use group S1 and S2 for commercial; and use group F1 and F2 shall be charged .025 per cubic foot of volume with a minimum fee of \$250.00.
- e. Residential roof R-3/R-4 flat fee of \$60.00.
- f. Residential siding R-3/R-4 flat fee of \$60.00.

2. For renovations, alterations and repairs or minor work as defined \$27.00 per \$1,000.00 of estimated cost of the work, provided that the minimum fee shall be \$60.00.

3. Additions for all use groups \$.034 per cubic foot of building or structure volume for the added portion, provided that the minimum fee shall be \$150.00.

4. For combinations of renovations and additions the sum of the fees computed separately as renovations and additions.

5. Swimming pools will be a flat fee of \$100.00 for above ground and inground pools.

6. For residential elevators, dumb waiters or hoists in R-3 or R-4 use group shall be \$60.00.

7. For structures of temporary uses \$60.00 for a period up to ninety (90) days.

8. Asbestos abatement a flat fee of \$65.00.

9. Lead Hazard a flat fee of \$65.00.

10. Application for Variation \$100.00.

11. Retaining Walls - Permits

- a. 550 sq ft or less associated with a Class III Residential Structure-\$100.00
- b. 551 sq ft and over associated with a Class III Residential Structure-\$200.00
- c. Other than Class III Residential Structures shall be based on cost of construction.

12. Annual Construction Permits. The annual fee to be charged for an Annual Construction Permit shall be a Flat fee based upon the number of maintenance workers employed by a facility, and who are primarily engaged in work that is governed by a Subcode. Managers, engineers and clerical personnel shall not be considered maintenance workers for the purpose of establishing the Annual Construction Permit fee. Permits may be issued for building protection, electrical and plumbing sub-codes.

Prior to the issuance of an Annual Construction Permit, a training registration fee of \$100.00 per Subcode shall be submitted by the applicant to the Department of Community Affairs, Construction Code Element, Training Section along with a copy of the Construction Permit (form F-170). Fees shall be made payable to "Treasurer, State of New Jersey".

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

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- a. 1 to 25 maintenance workers-----\$425.00 per worker.
- b. For each additional worker over 25-----\$165.00 per worker.
- c. Training Registration-----\$100.00 per worker.

13. Demolition Permit fee.

- a. The fee for a permit for demolition of a building or structure shall be \$100.00 for structures of all use groups.
- b. Demolition of all flammable or combustible storage tanks residential shall be \$70.00.
- c. Demolition of all flammable or combustible storage tanks commercial shall be \$200.00.

14. The fee for a permit to construct a sign shall be \$2.00 per square foot of the surface area of the sign, provided that the minimum fee shall be \$60.00. In the case of double-faced signs, the area of the surface of only one side of the sign shall be used for purposes of the fee computation.

15. Certificate of Occupancy Fees

- a. Certificate of Continual Occupancy \$140.00(Upon request only). The fee for a letter requesting that No Certificate of Continual Occupancy is required is \$10.00.
- b. Certificate of Occupancy granted pursuant to change of use \$100.00.
- c. Certificate of Occupancy \$100.00.
- d. Certificate of Occupancy for Asbestos Abatement \$100.00.
- e. Temporary Certificate of Occupancy-There shall be no fee for the first issuance of a Temporary Certificate of Occupancy provided that a Certificate of Occupancy fee was paid. Each renewal after the first issuance shall be a fee of \$50.00.

**B. PLUMBING SUBCODE FEES:**

- 1. The fee shall be in the amount of \$25.00 per fixture, piece of equipment or appliance connected to the gas piping or oil piping system.
- 2. The fee shall be \$75.00 per special device for the following: grease traps, oil separators, refrigeration units, utility service connections, backflow preventors, steam boilers, hot water boilers, active solar systems, sewer pumps and interceptors. There shall be no inspection fee charged for gas service entrances.
- 3. The Plumbing Subcode fees shall be a minimum of \$60.00.

**C. ELECTRICAL SUBCODE FEES**

- 1. Electrical fixtures and devices:
  - a. Receptacles and Fixtures- First 25 fixtures \$60.00.
  - b. Each additional 25 will be \$20.00.
- 2. Each motor or electrical device greater than one (1) HP and less than or equal to 10 HP and for transformers and generators greater than 1 KW and less than or equal to 10 KW fee is \$25.00 each.
- 3. Each motor or electrical device greater than 10 HP and less than or equal to 50HP for each service panel, service entrance or sub panel less than or equal to 200 amperes and for all transformers and generators greater than 11 KW and less than or equal to 45 KW and for each utility load management devices the fee is \$65.00.
- 4. Each motor or electrical device greater than 50 HP and less than or equal to 100 HP for each service panel, service entrance or sub panel greater than 200 amperes and less than or equal to 1,000 amperes and for each transformer or generator greater than 45 KW and less than or equal to 112 KW fee is \$125.00 each.
- 5. Each motor or electrical device greater than 100 HP, for each service panel, service entrance or sub panel greater than 1,000 amperes and for each transformer or generator greater than 112 KW fee is \$550.00.
- 6. The fee for the annual electrical inspection of swimming pools spas or hot tubs shall be 60.00.

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

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- 7. Each pool bonding inspection shall be a flat fee of \$60.00.
- 8. MINIMUM fee shall be \$60.00.

**D. FIRE SUBCODE FEES**

- 1. ALARM/SUPERVISORY/SIGNALING (smoke, heat, pulls, water/flow)

- 1 - 6 \$60.00  
Each Additional 5 \$10.00

- 2. Fire Suppression System. For the installation of either a wet or dry suppression system:

- A. 1-20 sprinkler heads \$75
- B. 21-100 sprinkler heads \$130
- C. 101-200 sprinkler heads \$250
- D. 201-400 sprinkler heads \$625
- E. 401-1,000 sprinkler heads \$900
- F. 1,001 & over sprinkler heads \$1,200

- 3. Stand Pipe \$200.00

- 4. Pre-Engineered Systems

- a. Wet Chemical \$125.00
- b. Dry Chemical \$125.00
- c. CO2 Suppression \$125.00
- d. Foam Suppression \$125.00
- e. FM 200 Suppression \$125.00

- 5. Commercial Hood Exhaust System \$100.00.
- 6. Smoke Control System \$70.00.
- 7. Gas & Oil Fired Appliance which is not connected to a Plumbing system \$80.00.
- 8. Central air conditioning unit or ducts \$60.00.
- 9. Incinerators \$500.00.
- 10. Crematoriums \$500.00

- 11. The fees for the issuance of a permit for a flammable or combustible storage tank installation shall be as follows:

- a. 1 - 1,000 gallons \$75.00
- b. 1,001 - 3,000 gallons \$150.00
- c. 3,001 – 5,000 gallons \$300.00
- d. 5,001 and over gallons \$400.00

- 12. The fee for each solid fuel-burning appliance such as a fireplace, wood stove or pellet stove shall be \$75.00

- 13. The fire sub-code fees minimum fee \$60.00.

E. Any Change of Contractor shall be \$60.00 per subcode.

F. Section 12-2.1 (E) of the Revised General Ordinances of the Township of West Milford entitled "Elevator Subcode Fees." The Elevator Subcode inspection fees shall be the actual costs incurred by the Township in accordance with the State fee schedule as set forth in N.J.A.C. 5:23-4.20, plus an administration fee of fifteen percent (15%).

**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.

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

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**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 as of and upon final passage and approval in accordance with law.

Introduced: May 24, 2006  
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Moved: Gervens Seconded: Nolan  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Mayor DiDonato advised that second reading and public hearing for this ordinance is set for the Regular Meeting of the Township Council scheduled for June 28, 2006. Notice of this public hearing shall be published in the New Jersey Herald on or about May 28, 2006.

Agenda No. VIII 2

~ Ordinance 2006-006 ~

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER X,  
TRAFFIC, OF THE REVISED GENERAL ORDINANCES OF THE  
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY**

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

**SECTION 1.** Chapter X, Traffic, Section 10-5, Speed Limits, Schedule V, is hereby amended in regard to the speed limit for both directions of traffic along Doremus Road as follows:

<u>NAME OF STREET</u>	<u>DIRECTION</u>	<u>SPEED</u>	<u>LOCATION</u>
Doremus Road	Both	a. 35 mph	From Route US 23 to Old Hoop Hole Road
		b. 35 mph	From Old Hoop Hole Road to Route US 23

**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, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 4.** This Ordinance shall take effect as required by law and upon the posting of appropriate signs and the approval of the Commissioner of Transportation.

INTRODUCED: May 24, 2006

Introduced: May 24, 2006  
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Moved: Nolan Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Mayor DiDonato advised that second reading and public hearing for this ordinance is set for the Regular Meeting of the Township Council scheduled for June 28, 2006. Notice of this public hearing shall be published in the New Jersey Herald on or about May 28, 2006.

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

Minutes of: Township Council  
Date of Meeting: May 24, 2006  
Time of Meeting: 7:30 P.M.  
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Agenda No. VIII 3

**~ Resolution 2006-191 ~**

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY APPROVING A PROFESSIONAL SERVICES CONTRACT WITH HANDILIFT, INC. TO INSTALL A GARAVENTA STAIR LIFT MODEL XPRESS II FOR THE TOWNSHIP OF WEST MILFORD**

**WHEREAS**, the Township Council of the Township of West Milford is desirous of complying with statutes requiring that public buildings be accessible to the handicapped; and

**WHEREAS**, pursuant to N.J.S.A. 40A:11-1, et seq. the Township has requested proposals for the purchase and installation of a wheelchair lift in the municipal building to facilitate access to the health department; and

**WHEREAS**, in response to our RFP, one complete proposal was received from Handi-Lift, Inc.; and

**WHEREAS**, the Township Administrator has submitted a written recommendation for the award of a contract to Handi-Lift, Inc. for these services; and

**WHEREAS**, the Township of West Milford has a need to execute a contract for the furnishing and installation of one (1) Garaventa Stairlift as a non-fair and open contract pursuant to the provisions of *N.J.S.A. 19:44A-20.4 or 20.5 as appropriate*; and

**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds for this purchase and installation said funds to be encumbered from account number C-04-02-942-200.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of West Milford in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Mayor be and is hereby authorized to execute a contract with Handilift, Inc. for the furnishing and installation of one (1) Garaventa Stairlift in the municipal building pursuant to the terms of the contract in an amount not to exceed \$18,880.00.
2. This contract is awarded without competitive bidding as "Professional Services" pursuant to *N.J.S.A. 19:44A-20 et seq.* and the local public contracts law and all associated documents have been on file in the Administrator's office for at least ten (10) days.
3. That a notice of this action shall be published in accordance with law, and said notice to provide that the contract awarded and this resolutions authorizing same are available for public inspection in the office of the Township Clerk.

Adopted: May 24, 2006

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Moved: Scangarello Seconded: Gervens  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Agenda No. VIII 4

**~ Resolution 2006-192 ~**

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE SUBMISSION AND ACCEPTANCE OF AN APPLICATION FOR MUNICIPAL AID UNDER THE NEW JERSEY DEPARTMENT OF TRANSPORTATION TRUST FUND AUTHORITY ACT**

**WHEREAS**, the New Jersey Department of Transportation Trust Fund Authority Act has provided funds for the improvement of municipal roads.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of West that application is hereby made to the Commissioner of Transportation for aid under the Transportation trust Fund Fiscal Year 2007 State Aid Program for the following application and the grant amount requested:

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

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ROADWAY INFRASTRUCTURE

WARWICK TURNPIKE – SECTION 9 \$350,000.00

**BE IT FURTHER RESOLVED** that the Mayor and Township Administrator are hereby authorized to execute and attest this application and agreement.

Adopted: May 24, 2006

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Moved: Nolan Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Abstained: None.  
Motion carried.  
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Agenda No. VIII 5

**~ Resolution 2006-193 ~**

Councilman Nolan made a motion to have this resolution placed on the floor for consideration. Councilman Warden seconded the motion. Councilman Nolan stated that he distributed this at the last workshop meeting with the intent that the Council would discuss it before taking any action. With that in mind, he noted, that he would have no objection to withdrawing his motion so that the Council can discuss this resolution at the next workshop meeting.

Councilman Nolan withdrew his motion.

Agenda No. VIII 6

**~ Resolution 2006-194 ~**

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE SETTLEMENT OF THE 2004 AND 2005 TAX APPEALS INVOLVING BLOCK 15901, LOT 1**

**WHEREAS**, appeals of the 2004 and 2005 real property tax assessment of Block 15901, Lot 1, for property located on Oak Ridge Road in the Township of West Milford have been filed; and

**WHEREAS**, said property is owned by Oak Ridge Associates, LLC; and

**WHEREAS**, the Township Tax Assessor and expert appraiser are of the opinion that settlement of these appeals is in the best interest of the Township.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Township Council of the Township of West Milford, in the County of Passaic, and State of New Jersey, as follows:

1. Settlement of the tax appeals filed with the Tax Court of New Jersey challenging the assessed valuation of Block 15901, Lot 1 is hereby authorized as follows:

Tax Year	Original Assessment	Proposed Assessment	Docket No.
2004	\$865,700	\$804,700	002501-2004
2005	\$865,700	\$708,800	003628-2005

2. This settlement is conditioned upon the taxpayer waiving any interest due on the refund of taxes.

3. The Tax Assessor is hereby authorized to apportion the value between the land and improvements for this settlement.

4. The Tax Collector is authorized to credit/refund or change amounts reflected in this resolution upon receipt of a Judgment of the Tax Court.

5. All municipal officials are hereby authorized to take whatever actions may be necessary to implement the terms of this Resolution.

6. This Resolution shall take effect immediately.

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

Minutes of: Township Council  
Date of Meeting: May 24, 2006  
Time of Meeting: 7:30 P.M.  
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Adopted: May 24, 2006

Discussion: Mr. Semrau directed the Council to a confidential memo he had drafted to them on this subject. He noted that this matter was settled some time ago but was never finalized by resolution. The resolution authorizes him to sign the agreement.

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Moved: Gervens Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello  
Voted Nay: None.  
Abstained: None.  
Motion carried.  
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Agenda No. VIII 7

~ Resolution 2006-195 ~

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY REQUESTING THAT OPEN SPACE FUNDS PREVIOUSLY ALLOCATED TO THE SHERIDAN PROPERTY BE TRANSFERRED TO EAGLE RIDGE PROPERTY**

**WHEREAS**, the Passaic County Board of Chosen Freeholders, in accordance with a recommendation from the Passaic County Open Space Committee, awarded funds to the Township of West Milford in the amount of \$300,000 to be used for the acquisition of open space property in the Township of West Milford known as Block 5301, Lots 39 and 40 and referred to as the Sheridan Property; and

**WHEREAS**, the Passaic County Board of Chosen Freeholders, in accordance with a recommendation from the Passaic County Open Space Committee, also awarded funds to a non-profit entity known as "Helping People Help Themselves" in the amount of \$300,000 to be used for the acquisition of open space property in the Township of West Milford known as Block 5301, Lots 39 and 40 and referred to as the Sheridan Property; and

**WHEREAS**, the award of these funds to the non-profit organization was contingent upon certain conditions being met; and

**WHEREAS**, the Governing Body of the Township of West Milford has identified the Eagle Ridge tract, known as Block 5405, Lot 8, as a priority for open space acquisition.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Township of West Milford, County of Passaic, that they do hereby request that the Passaic County Board of Chosen Freeholders authorize the Township of West Milford to utilize the funds previously appropriated through the Passaic County Open Space and Farmland Preservation Trust Fund to acquire the Sheridan property for the acquisition of the Eagle Ridge property.

**BE IT FURTHER RESOLVED** that the Township Council does further request that, if for any reason the non-profit entity known as "Helping People Help Themselves" cannot secure the purchase of the Sheridan property, those funds previously allocated to them be re-appropriated to the Township of West Milford for the purpose of acquiring the Eagle Ridge property.

Adopted: May 24, 2006

Discussion: Councilman Nolan asked if this is simply providing the Freeholder Board with the information they need to consider our request. Councilman Scangarello answered in the affirmative. Councilman Warden stressed that this resolution is important because it is linked to the redevelopment money. He stated that the Eagle Ridge must be purchased by an entity that does not want to develop it. He stated that the \$1.2 million redevelopment money should be held for the purchase of Eagle Ridge because developing that property will increase our taxes even more and will have a negative impact on water quality. Mr. Semrau noted that, because Eagle Ridge has been identified here, the reference to that property is not a condemnation by the Council. There is no attempt to interfere with a non-profit entity's attempt to obtain the Sheridan property.

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Moved: Scangarello Seconded: Gervens  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Agenda No. VIII 8

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

Minutes of: Township Council  
Date of Meeting: May 24, 2006  
Time of Meeting: 7:30 P.M.  
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**~ Resolution 2006-196 ~**

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD,  
COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING  
CHANGE ORDER NO. 1 TO VMG GROUP TO INSTALL A PARAPET TO FACILITATE THE  
INSTALLATION OF A ROOF ON THE JOHNER BUILDING**

**WHEREAS**, the Township Engineer has recommended approval of a change order to the Johner Building Roof installation; and,

**WHEREAS**, the increased cost recommended in the approval of the change order is \$5,100.00; and,

**WHEREAS**, the change is recommended due to unforeseen absence of a parapet on the existing roof which flaw could not be determined during the design and bidding phase of this project; and

**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds for this change order, said funds to be paid from line item number C-04-55-932-209 in the Township budget.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of West Milford, County of Passaic, State of New Jersey, the following:

1. The Administrator be and is hereby authorized and directed to execute a contract amendment with VMG Group in an amount not to exceed \$5,100.00 representing an increase to the original contract amount of \$139,000.00.
2. The Township's Chief Financial Officer has certified the availability of funds for same.
3. This resolution and contract shall be available for public inspection in the office of the Municipal Clerk.

Adopted: May 24, 2006

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Moved: Gervens Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Agenda No. VIII 9

**~ Resolution 2006-197 ~**

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND  
STATE OF NEW JERSEY AMENDING RESOLUTION 2006-164 TO INCLUDE  
PINECREST LAKE ASSOCIATION AS A MEMBER OF THE LAKES COMMITTEE**

**WHEREAS**, the by virtue of Resolution 2006-164 adopted on May 3, 2006, the Township Council of the Township of West Milford established a Lakes Committee; and

**WHEREAS**, Resolution 2006-164 listed eighteen lake communities that would participate and be represented on the Lakes Committee; and

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of West Milford, County of Passaic, State of New Jersey that Resolution 2006-164 be and is hereby amended to add Pinecrest Lake Association as a Member of the Lakes Committee.

**BE IT FUTHER RESOLVED** that the Lakes Committee continue with the following objectives: (A) advise and submit recommendations to the Mayor, Council and Planning Board on matters related to the role Township government may play to improve the various lake communities within the Township; (B) increase public awareness regarding the importance of the lakes and their impact on its surrounding environment; and (C) to review and make recommendations to the Mayor, Township Council and Planning Board on pending federal and state legislation.

**BE IT FURTHER RESOLVED**, that the Mayor and Township Council shall annually identify up to nineteen members and designees of the surrounding lake community associations to serve one-year terms as members of the Lakes Committee. Each of the nineteen members shall have one vote and the members of the following lake communities shall be represented on the Committee:

1. Awosting Community
2. Big Rock Cove Association
3. Forest Hill Park



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

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1. That the Transportation Coordinator is authorized to execute and file an application on behalf of the Township of West Milford with the U.S. Department of Transportation to aid in the financing of administration, capital and/or operating assistance projects pursuant to Section 5311 of the Federal Transit act, as amended.
2. That the Transportation Coordinator is authorized to execute and file with such applications and assurance or any other document required by the U.S. Department of Transportation effectuating the purposes of Title VI and EEO requirements of the Civil Rights Act of 1964.
3. That the Transportation Coordinator is authorized to set forth and execute affirmative minority business policies pursuant to 47 C.F.R. Part 23, Subpart D.
4. That the Transportation Coordinator is authorized to furnish such additional information as the U.S. Department of Transportation may require in connection with the application.
5. That the Township Administrator is authorized to execute grant agreements on behalf of the Township of West Milford Transportation for aid in the financing of the administration, capital and/or operating assistance.
6. That the Township of West Milford hereby authorizes the amount of \$26,781.00 be obligated as the local share required under the provisions of the grant application.
7. The Township of West Milford authorizes the payment of an additional \$51,938.00 for a total of \$78,719.00.
8. That any of the following:  
Township Administrator  
Chief Financial Officer  
Recreation Director and Transportation Coordinator  
are hereby authorized to sign compliance reports as may be required from time to time during the course of this grant agreement.

Adopted: May 24, 2006  
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Moved: Gervens Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Agenda No. VIII 11

~ Resolution 2006-199 ~

**RESOLUTION AUTHORIZING THE FILING AND ACCEPTANCE OF AN APPLICATION TO N.J. TRANSIT CORPORATION AND THE DEPARTMENT OF TRANSPORTATION UNITED STATES OF AMERICA, ON BEHALF OF THE TOWNSHIP OF WEST MILFORD FOR AN INTER-CITY GRANT UNDER THE FEDERAL TRANSIT ACT**

**WHEREAS**, the Secretary of Transportation is authorized to make grants for a mass transportation program of projects in other than urbanized areas under Section 5311 of the Federal Transit Act, as amended; and

**WHEREAS**, the grant for financial assistance will impose certain obligations upon the Township of West Milford, including the provision of the local share of the project costs in the program; and

**WHEREAS**, it is required by the U.S. Department of Transportation in accordance with the provisions of Title VI of the Civil Rights Act of 1965, that in connection with the filing of an application for assistance under the Federal Transit Act, as amended, the Recipient give an assurance that it will comply with Title VI and EEO requirements of the Civil Rights Act of 1964 and the U.S. Department of Transportation requirements thereunder; and

**WHEREAS**, the Recipient is required to adhere to the requirements as specified in the U.S. Department of Transportation's Minority Business Enterprise (MBE) regulation set forth in 49 C.F.R. Part 23, Subpart D.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of West Milford as follows:

1. That the Transportation Coordinator is authorized to execute and file an application on behalf of the Township of West Milford with the U.S. Department of Transportation to aid in the financing of administration, capital and/or operating assistance projects pursuant to Section 5311 of the Federal Transit act, as amended.
2. That the Transportation Coordinator is authorized to execute and file with such applications and assurance or any other document required by the U.S. Department of Transportation effectuating the purposes of Title VI and EEO requirements of the Civil Rights Act of 1964.



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

Minutes of: Township Council  
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**WHEREAS**, the Township of West Milford presently leases the following vehicles:  
1996 Ford Van – VIN #1FDKE30F5THA49129 known as Vehicle #16-750  
1997 Bluebird Bus – VIN #1BAAGCSA4VF071045 known as Vehicle #16-781

and;

**WHEREAS**, pursuant to New Jersey Transit Section 5310 State Management Plan, the vehicles may be removed from the entity's inventory as they have sustained their useful service life requirements; and

**WHEREAS**, New Jersey Transit proposes to transfer said vehicles "as is" to the Township of West Milford; and

**WHEREAS**, the Township Administrator believes it is in the best interest of the Township to accept the transfer of the aforementioned vehicles subject to the municipality taking responsibility for maintenance, repair, insurance and any all claims relevant to said vehicles from the date of acceptance hereon.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Township Council of the Township of West Milford, in the County of Passaic, and State of New Jersey that the Township hereby accept the aforementioned vehicles from New Jersey Transit and the Mayor is hereby authorized to execute the Transfer of Title Agreements for said vehicles.

This Resolution shall take effect immediately.

Adopted: May 24, 2006

Discussion: Mr. Semrau advised that New Jersey Transit will turn over these previously leased vehicles to us if we assume full responsibility for their maintenance going forward. The vehicles are used for the municipal transportation program.

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Moved: Gervens Seconded: Warden  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Agenda No. VIII 14

Mr. Semrau requested the Council to consider an ordinance for introduction tonight that pertains to the Gordon Lakes Dam Assessment although it was not on the agenda. He gave an overview of the project and the responsibilities of both parties. The Council agreed.

~ Ordinance 2006-007~

**AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING A SPECIAL ASSESSMENT TO ENSURE THE COLLECTION, PROPER ADMINISTRATION AND REPAYMENT OF THE LOAN MONIES TO THE 2003 DAM, LAKE AND STREAM REVOLVING LOAN FUND AND/OR NJDEP PURSUANT TO DAM REHABILITATION LOAN**

**WHEREAS**, the Gordon Lakes West dam was severely damaged in September of 1999 during Hurricane Floyd; and

**WHEREAS**, the New Jersey Department of Environmental Protection, Dam Safety Division, determined that said dam was unsafe and was in need of repair; and

**WHEREAS**, on March 6, 2002, the Mayor and Township Council passed a resolution authorizing the execution of an agreement between the Township and the Gordon Lakes Property Owners Association; and

**WHEREAS**, pursuant to such Agreement, the Township of West Milford would take title to the properties known as Block 12307, Lot 49 and Block 12307, Lot 16, by way of a tax foreclosure action and subsequently convey same properties back to the Gordon Lakes Property Owners Association upon the completion of the Dam Rehabilitation Project; and

**WHEREAS**, the Agreement further stated that the Township of West Milford would make reasonable efforts to obtain grants for repairs of the dam; and

**WHEREAS**, the 2003 Dam Bond Act, allocated ninety-five million (\$95,000,000.00) dollars to the 2003 Dam, Lake, and Stream Revolving Loan Fund, a revolving, non-lapsing fund ("2003 Fund") to provide loans, subject to the regulations set forth in Dam Restoration and Inland Waters Loan Program N.J.A.C. 7:24A-1.1 et seq., payable over twenty years (20), at two percent (2%) interest, to private lake associations, such as the Gordon Lakes Property Owners Association to accomplish dam rehabilitation projects; and

**WHEREAS**, subsequently the Township of West Milford and the Gordon Lakes Property Owners Association applied for a low interest loan under the 2004 Dam Restoration Loan Program; and

**WHEREAS**, pursuant to the submitted loan application, the State of New Jersey has estimated the cost of the actual work on the dam to be approximately \$800,000; and

**WHEREAS**, the 2003 Dam Bond Act specifically provides:

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

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The cost of payment of the principal and interest on any loan made to the owner of a private dam, or to a private lake association, as a co-applicant with a local government unit, **shall be assessed**, in the same manner as provided for the assessment of local improvements generally under chapter 56 of Title 40 of the Revised Statutes, **against the real estate benefited thereby in proportion to and not in excess of the benefits conferred**, and such assessments shall bear interest and penalties from the same time and at the same rate as assessments for local improvements in the municipality where they are imposed, and from the date of confirmation shall be a first and paramount lien upon the real estate assessed to the same extent, and be enforced and collected in the same manner, as assessments for local improvements. **P.L.2003, Chapter 162, 5f(1)**. and;

**WHEREAS**, the final costs of the project will not be determined until the Dam Rehabilitation Project is complete.

**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.** The assessments levied under this Ordinance shall include any and all of the reasonable and necessary costs incurred in connection with the Gordon Lakes Dam Rehabilitation Project, including but not limited to the repayment of the Loan monies, the interest thereon, any associated penalties, late payments and other charges imposed in connection therewith, as provided under **P.L.2003, Chapter 162, 3**. An estimate of costs relating to this project is attached hereto as Exhibit A.

**SECTION 2.** The Township Clerk shall cause a notice of this proposed assessment to be mailed to the owner(s) of real estate impacted by the special assessment prior to the commencement of the Gordon Lakes Dam Rehabilitation Project. The notice shall contain a description of the property impacted sufficiently to identify it. Such notice shall be served in accordance with the law and proof of service shall be filed with the tax office within ten (10) days after such service. A copy of the list of affected property owners is attached to this Ordinance as "**EXHIBIT B**."

**SECTION 3.** The special assessment assessed against each impacted property shall constitute a first and paramount lien as provided for in **P.L.2003, Chapter 162, 5f(1)**.

**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.** All Ordinances or parts of Ordinances which are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 6.** This Ordinance may be renumbered for purposes of codification.

**SECTION 7.** This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

INTRODUCED: May 24, 2006

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Moved: Nolan Seconded: Gervens  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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Agenda No. IX 1

~ Resolution 2006-202 ~

**RESOLUTION AUTHORIZING PASSAGE OF CONSENT AGENDA**

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

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

**Resolutions:**

- 2006-203** – Resolution Authorizing Cancellation of Taxes
- 2006-204** – Resolution Authorizing Refund of Overpayments
- 2006-205** - Resolution Authorizing Refund of Recreational Fees
- 2006-206** – Resolution Authorizing Refund of Other Liens
- 2006-207** – Resolution Authorizing Reinstatement of Taxes
- 2006-208** – Resolution Authorizing Assignment of Tax Sale Certificate - Fisher
- 2006-209** – Resolution Authorizing Renewal of Inactive Pocket License

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

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**Applications:**

- RL-2006-24** – West Milford High School PTSO – Off Premise 50/50 Raffle
- RL-2006-25** – Our Lady Queen of Peace Home School Association – On Premise 50/50 Raffle
- Special Permit for Social Affair - Our Lady Queen of Peace Home School Association

Adopted: May 24, 2006

Discussion: Mr. Semrau asked if there is anyone in the audience who wishes to be heard in regard to resolution 2006-208, Block 11001, Lot 52.01. There was no such entity in attendance.

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

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

Agenda No. IX 1a

**~ Resolution 2006-203 ~**

**RESOLUTION AUTHORIZING CANCELLATION OF TAX**

**WHEREAS**, there appears on the tax records balances as listed below; and

**WHEREAS**, the Collector of Taxes recommends the cancellation of taxes due to reasons listed below;

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

**REASON: TOTALLY DISABLED VETERAN**

<u>BLOCK/LOT</u>	<u>NAME</u>	<u>AMOUNT</u>	<u>Year</u>
5402-1	Pat & Heidrun Mastricola	\$562.24	2004
5402-1	Pat & Heidrun Mastricola	\$6,650.32	2005
	<b>TOTAL</b>	<b>\$7,212.56</b>	

Adopted: May 24, 2006

Agenda No. IX 1b

**~ Resolution 2006-204 ~**

**RESOLUTION AUTHORIZING REFUND OF OVERPAYMENTS**

**WHEREAS**, there appears on the tax records overpayments as shown below; and

**WHEREAS**, the overpayments were created by reasons stated below and the Collector of Taxes recommends the refund of such overpayments.

**NOW, THEREFORE, BE IT RESOLVED** that the proper officers be and they are hereby authorized and directed to issue checks refunding such overpayments as shown below:

**REASONS:**

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

<b>Block/Lot</b>	<b>Name</b>	<b>Amount</b>	<b>Year</b>	<b>Reason</b>
408-12	Mark Muskivitch 403 Warwick Tpke. Hewitt, NJ 07421	\$76.00	2006	1
810-1	E. & G. Boomer P.O. Box 432	\$143.00	2006	1

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

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	Hewitt, NJ 07421			
1101-11.02	D. J. Keeler Jr. 723 Warwick Turnpike Hewitt, NJ 07421	\$387.00	2006	1
2014-13	Fredericks Fuel Profit Share Program P.O. Box 448 Oak Ridge, NJ 007438	\$307.00	2006	1
2416-6	John & Mary Haas 326 Lakeshore Drive Hewitt, NJ 07421	\$1,081.00	2006	2
2511-1	Justina Horton P.O. Box 727 Hewitt, NJ 07421	\$29.00	2006	1
2512-4	Milos Belcewich 214 Lakeshore Drive Hewitt, NJ 07421	\$595.00	2006	1
2605-19	D. & M. Templeton 200 4 <sup>th</sup> Avenue Hawthorne, NJ 07506	\$573.00	2006	2
2706-6	Nancy M. White 128 Lakeshore Drive Hewitt, NJ 07421	\$82.02	2006	1
3503-11	Sarah Lauer C/O Ken Lauer P.O. Box 782 Rehobath Beach, DE 19971	\$44.00	2006	2
4004-3	T. & S.Gladtko 180 Long Pond Road Hewitt, NJ 07421	\$140.00	2006	1
4801-2	LSI Tax Service 6851 Jericho Turnpike Ste 125 Syosset, NY 11791	\$2,081.00	2006	1
5305-5	Jeffrey Mergler 97 Alpine Ridge Road West Milford, NJ 07480	\$139.00	2006	1
5501-2.03	Dolores Birkhoff 470 Ridge Road West Milford, NJ 07480	\$20.00	2006	1
5504-2.08	Dorothy Drason 1307 S. W. 20 <sup>th</sup> Street Boyton Beach, FL 33426	\$250.00	2006	3
6401-7	John, Nicholas, & George Pappas 921 Kennedy Boulevard North Bergen, NJ 07047	\$40.00	2006	2
6401-7Q	John, Nicholas, & George Pappas 921 Kennedy Boulevard North Bergen, NJ 07047	\$65.00	2006	2
6503-2	Antonio Cruz 13 Coolidge Terrace West Milford, NJ 07480	\$2,601.00	2006	2
6606-6	Henrietta Rae C/O Allan W. Rae, Executor 140-30 Ash Avenue Apt. 3E Flushing, NY 11355	\$104.00	2006	1
7006-8	Marie & Alfred Ragonese Jr. 496 Palmer Farm Road Yardley, PA 19067	\$250.00	2006	3
7208-1	Nurik, Lefkowitz & Accardi Esq. 207 Wanaque Avenue P.O. Box 289 Pompton Lakes, NJ 07442	\$1,558.00	2006	2
7402-7.01	Brenda Melstein & Melinda Scarso 227 Bearfort Road West Milford, NJ 07480	\$147.69	2006	1
7402-7.02	Brenda Melstein 227 Bearfort Road West Milford, NJ 07480	\$359.45	2006	2

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

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7519-2	Mellinger, Sanders & Kartzman 101 Gibraltar Drive Ste 2 F Morris Plains, NJ 07950	\$165.69	2006	1
7519-2	First American R.E. Tax Service 8435 N. Stemmons Freeway Dallas, Texas 75247	\$1,032.00	2006	2
7617-6	Susan Stewart 6 Washington Lane West Milford, NJ 07480	\$1,720.00	2006	2
7801-12.05	Edward P. Azar, LLC Gallant Building 2840 Route 23 South Newfoundland, NJ 07435	\$1,229.00	2006	2
7801-41.07	M. McLean & T. Richmond 41 G Lexington Lane West Milford, NJ 07480	\$1,164.00	2006	2
9302-15	Donald & Teresa Carr 100 Nozenzo Pond Road West Milford, NJ 07480	\$1,318.00	2006	2
9501-19.01	Gus & Margarita Lopez 1387 Macopin Road West Milford, NJ 07480	\$22.62	2006	1
9705-5	G. Hallak, & C. Bivone 20 Warren Place West Milford, NJ 07480	\$1,653.00	2006	2
9712-2	J. & P. Cenicola 99 Morris Avenue West Milford, NJ 07480	\$572.83	2006	1
9901-23.01	Kirkor & Emma Dokum 713 Macopin Road West Milford, NJ 07480	\$2,645.00	2006	2
10602-11	Richard Belotta 29 Glen Drive West Milford, NJ 07480	\$1,092.00	2006	2
10703-2	Markendorf/Castline 47 Woodside Drive West Milford, NJ 07480	\$61.92	2006	1
15804-9	A. Terp & J. Murgolo 25 Oak Ridge Road Newfoundland, NJ 07435	\$1,765.00	2006	2
15804-11	D'Angelo & D'Angelo Esq. 1395 Route 23 South Butler, NJ 07405	\$1,164.00	2006	2
2003-7	Almar 2 Kiel Avenue #202 Kinnelon, NJ 07405	\$872.10	2006	1
5301-20	Almar 2 Kiel Avenue #202 Kinnelon, NJ 07405	\$30.62	2006	1
2404-12	Jose & Dargee Gonzalez 85 Upper Greenwood Road Hewitt, NJ 07421	\$22.00	2006	2
5706-10	Wells Fargo R.E. Tax Service LLC Att: Fin. Support Unit Region 1 1 Home Campus MAC X2502-011 Des Moines, IA 50328-0001	\$1,222.00	2006	2
8602-42	M. Brown & A. Dana 14 Cherbourg Drive West Milford, NJ 07480	\$326.00	2006	1
9501-39	Wells Fargo R.E. Tax Service LLC Att: Fin. Support Unit Region 1 1 Home Campus MAC X2502-011 Des Moines, IA 50328-0001	\$1,453.00	2006	2
	<b>TOTAL</b>	<b>\$30602.94</b>		

Adopted: May 24, 2006

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

Minutes of: Township Council  
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Agenda No. IX 1c

~ Resolution 2006-205 ~

**RESOLUTION AUTHORIZING REFUND OF RECREATIONAL FEES**

**RESOLVED**, that the following Recreational fees upon the report of the Recreation Director be refunded:

<u>Name &amp; Address</u>	<u>Reason</u>	<u>Amount Refunded</u>
Michelle Zita 8 Warrant Place West Milford, NJ 07480	Cancellation of Art Classes	\$140.00
Dawn Schutte 8 Capstan Road West Milford, NJ 07480	Cancellation of Art Classes	\$50.00
Maureen Schinasi 58 Melrose Avenue Hewitt, NJ 07421	Cancellation of Art Classes	\$50.00
Catherine Clinton 14 Eagle Rock Road West Milford, NJ 07480	Cancellation of Art Classes	\$50.00
Kimberly Christie 530 Hamburg Turnpike West Milford, NJ 07480	Cancellation of Art Classes	\$50.00
Jennifer Dittermer 108 Alpine Ridge Road West Milford, NJ 07480	Cancellation of Art Classes	\$50.00

Adopted: May 24, 2006

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 Agenda No. IX 1d

~ Resolution 2006-206 ~

**RESOLUTION AUTHORIZING REFUND OF OTHER LIENS**

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

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

<b>Certificate No.</b>	<b>Certificate Date</b>	<b>Block/Lot/Qual</b>	<b>Reimbursement Amount</b>	<b>Pay to the Lien Holder</b>
03-077	04/07/2003	14113-009	\$45,876.25	Lien Times LLC 203 Stephens Road West Milford , NJ 07480
06-028	04/11/2006	03503-005	\$8,267.58	JN Properties Associates 175 Market Street #301 Paterson, NJ 07505
06-042	04/11/2006	05317-004.12	\$11,8891.24	Park Finance LLC P.O. Box 109 Cedar Knolls, NJ 07927
06-050	04/11/2006	06303-031	\$608.68	Harmony Financial Services LLC 759 Bloomfield Avenue #2 West Caldwell, NJ 07006
06-051	04/11/2006	06602-009	\$10,367.84	PAM Investors C/o Patrick Carabellese 127 South Washington Avenue Bergenfield, NJ 07621
06-061	04/11/2006	08001-001	\$51,071.19	ATF LLC Harris Nesbitt Corp as Sec. P.O. Box 862658 Orlando, Florida 32886-2658
<b>Grand Total</b>				<b>\$128,082.78</b>

Adopted: May 24, 2006

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

Minutes of: Township Council  
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 Agenda No. IX 1e

~ Resolution 2006-207 ~

**RESOLUTION AUTHORIZING REINSTATEMENT OF TAXES**

**WHEREAS**, there appears on the tax records receipt of payment of taxes; and

**WHEREAS**, the Collector of Taxes recommends the cancellation of receipt and reinstatement of taxes due to reasons stated below.

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

**REASON: 1. INSUFFICIENT FUNDS**

| <u>BLOCK/LOT</u> | <u>NAME</u>               | <u>AMOUNT</u>           | <u>YEAR</u> | <u>REASON</u> |
|------------------|---------------------------|-------------------------|-------------|---------------|
| 14901-29         | S. Yasika & K. Saunderson | \$2,091.00              | 2006        | 1             |
|                  | <b>TOTAL</b>              | <b><u>\$2091.00</u></b> |             |               |

Adopted: May 24, 2006

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 Agenda No. IX 1f

~ Resolution 2006-208 ~

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, AND STATE OF NEW JERSEY PROVIDING FOR THE ASSIGNMENT OF TAX SALE CERTIFICATE AT PRIVATE SALE**

**WHEREAS**, the Collector of Taxes has reported to the Township Council the offer of James & Diane Fisher to acquire by assignment the following tax lien certificate, held by the Township of West Milford;

<u>LIEN CERTIFICATE NO.</u>	<u>SALE DATE</u>	<u>BLOCK/LOT</u>	<u>AMOUNT DUE ON CERTIFICATE</u>
89-94	10/5/1989	11001-52.01	\$ 1,385.09

**WHEREAS**, the said James & Diane Fisher have paid to the Collector of Taxes the sum of \$1,385.09 representing the amount due on said Certificate, together with subsequent liens thereon.

**BE IT RESOLVED** that June 28, 2006, at 7:30 P.M. prevailing time at the West Milford Town Hall, be set as the date, time and place when and where the Township Council shall take action on the said offer of James & Diane Fisher;

**BE IT FURTHER RESOLVED**, that the Collector of Taxes be and hereby is directed, pursuant to N.J.S.A. 54:5-114, to publish such notice in the Herald News, mail such notice and post such notices as shall be required by law prior to any action as shall be taken by the Township Council on said offer.

Adopted: May 24, 2006

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 Agenda No. IX 1g

~ Resolution 2006-209 ~

**RESOLUTION AUTHORIZING THE RENEWAL OF INACTIVE PLENARY RETAIL CONSUMPTION  
 POCKET LICENSE NO. 1615-33-028-004 RICHARD FARHAT  
 FOR THE 2005 - 2006 LICENSE YEAR**

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

Minutes of: Township Council  
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**WHEREAS**, an application for renewal of Plenary Retail Consumption Pocket License No. 1615-33-028-004, Richard Farhat for the 2005 - 2006 License year has been received and reviewed; and

**WHEREAS**, the Mayor and Township Council has conducted a public review of the application as stipulated in the guidelines of the Director of the Division of Alcoholic Beverage Control dated April 14, 1980; and

**WHEREAS**, as a result of that review the Mayor and Township Council has determined as follows:

1. The submitted application is complete in all respects.
2. The applicant is qualified to be licensed according to all statutory, regulatory and local governmental A.B.C. laws and regulations.
3. The applicant has disclosed to the issuing authority the source of all additional financing obtained in the previous license year (July 1, 2004 - June 30, 2005).
4. Special Ruling to Permit Renewal of Inactive License Pursuant to N.J.S.A. 33:1-12.39 has been received from Jerry Fisher, Director Division of Alcoholic Beverage Control.
5. Licensee must file an amendment to the current license application, pages 1, 2 and 11 of the 12 page application, within ten days before or after the opening of the business to receive current license certificate.

**WHEREAS**, the Police Department has recommended that the license be renewed to the current owner as a pocket license - no licensed premise.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Clerk is directed to issue and hold the license certificate for the Township Council of the Township of West Milford as follows:

***LICENSE/LICENSEE/T/A***

Richard Farhat  
606 7th. Avenue  
Belmar, NJ 077719  
License No. 1615-33-028-004

Adopted: May 24, 2006  
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**Payment of Bills**

Agenda No. X

**~ Resolution 2006-210 ~**

**RESOLUTION APPROVING THE PAYMENT OF BILLS**

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

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

| <b>Acct #</b> | <b>Account Name</b>       | <b>Amount</b> |
|---------------|---------------------------|---------------|
| 1             | Current Account. . . . .  | \$ 87,843.59  |
| 2             | Reserve Account . . . . . | 4,479.81      |
| 3             | Animal Control Trust      | 52.00         |
| 6             | Capital. . . . .          | 32,970.70     |
| 7             | Grants. . . . .           | 2,830.00      |
| 8             | Refuse. . . . .           | 96,183.46     |
| 9             | Refunds. . . . .          | 159,075.72    |

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

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|                           |                             |                      |
|---------------------------|-----------------------------|----------------------|
| 12                        | General Ledger. . . . .     |                      |
| 16                        | Heritage Trust. . . . .     |                      |
| 14                        | Open Space Trust            |                      |
| 17                        | Trust . . . . .             | 7,307.00             |
| 18                        | Development Escrow. . . . . | 772.00               |
| 19                        | LOSAP                       |                      |
| 20                        | Special Reserve             |                      |
| Total                     |                             | \$ 391,514.28        |
| Less Refund Resolution    |                             | (159,075.72)         |
| <b>Actual Bill List</b>   |                             | <b>\$ 232,438.56</b> |
| Other Payments            |                             |                      |
| Less Refund Resolution    |                             |                      |
| <b>Total Expenditures</b> |                             | <b>\$ 232,438.56</b> |

Adopted: May 24, 2006

Discussion: Councilman Nolan noted that there is a bill to Tilcon that concerns him because they are in breach of a contract with us. Mr. Semrau advised that he has received a verbal commitment from Tilcon that they will follow through on this matter and settle with us.

Moved: Nolan Seconded: Warden  
 Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
 Voted Nay: None.  
 Abstained. Councilman Nolan abstained on the Valley Health bill only.  
 Motion carried.

**Reports of Administrator, Mayor and Members of the Council**

Mayor DiDonato reminded everyone that the Memorial Day Parade will be held on Monday. He reviewed the agenda and noted that this is always a great opportunity to pay tribute to those who gave their lives for this country. He encouraged everyone to come out on Monday.

Administrator Kunze stated that he has asked the staff to recommend projects for the Passaic County Opens Space Fund grant. They have recommended Bubbling Springs. He provided a brief overview of the proposed updates being requested in the grant application. In response to Councilman Warden’s query, the Administrator advised that the staff did not recommend Farrell Field because it would require some closures of the fields to do the work and this would impact the soccer program. The grant application is due on June 29<sup>th</sup> and it requires a public hearing on the proposed application. The Administrator asked for Council consent to hold the public hearing on Monday June 19<sup>th</sup>. Councilman Nolan asked the Administrator to take the necessary steps to ensure that the Council has an opportunity to discuss proposed projects in greater detail next year. Councilman Warden expressed concern that Farrell Field is not being considered because three weeks ago there was an emergency situation at Farrell Field. Councilman Smolinski stated that displacement is an issue. He stated that Bubbling Springs is in need of many upgrades. In response to Mr. Scangarello, Administrator Kunze advised that he spoke with the PAL president who expressed concern if Farrell Field were to be closed down.

Councilman Warden moved to have a grant application submitted to the Passaic County Open Space Committee for grant funds to rehabilitate Bubbling Springs. He further moved to have the public hearing for same on June 19, 2006. Councilman Scangarello seconded the motion.

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

Councilman Smolinski stated that he enjoyed tonight’s presentation and thanked the second graders for a job well done. Noting that his daughter is in the Navy, he stated that one cannot anticipate how they will react when one’s child comes home and says that he or she has just

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

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enlisted. Ultimately, one is filled with pride; fearful but proud. He stated that we need to get facts from the Administrator before any layoff decisions are made.

Councilman Nolan stated that Memorial Day is about the vets and their families, it is not about shopping. He encouraged everyone to take a few moments to remember those who served our country. He stated that every dad should come out to the blood drive on Father's Day. He stated that he is very concerned about the lack of communication between the planning department and the Council. He stated that he read in the Trends that the planning board has scheduled visioning sessions with the County and noted that the Council has never been notified. He congratulated the West Milford Players for their recent production of the Lareby project which was very thought-provoking. He proffered his congratulations to Bryce Warden and his High School team for their most recent win and wished them luck at their next game on Friday.

Councilman Warden stated that the weed harvesting program is in full bloom. He advised that John Hurl is working every day and taking between seven and nine loads out of the lake each day. He thanked the Township Attorney for all his help and asked the Council to consider an ordinance banning phosphorous fertilizer noting that they cause weeds to grow in the lakes. Mayor DiDonato interjected that the Council has already asked to Environmental Commission to study this matter and advise. Councilman Warden stated that he would like to see the Township move forward with this and he asked Mr. Semrau to take the lead. He stated that, during the preparation of brief in the Hovnanian matter, documents that state the MUA has been out of compliance and contributing to pollution of Belcher's Creek were discovered. He stated that it appears that no one wishes to deal with this subject and he stated that the Council should call the MUA to task. He asked Mr. Semrau if those documents can be made public. Mr. Semrau advised that he will review the documents and will brief the Council at the next meeting. Councilman Warden stated that, if the MUA is not brought to task, this will eventually become a very serious problem for property owners. He asked, if the MUA is out of compliance, how can the planning and zoning boards consider pumping sewage over a mountain for Valley Ridge. He stated that he would like the MUA to come to the Council and explain this situation. If homeowners are being held liable for septic systems, surely the MUA must be held accountable for any non-compliance issues.

Councilman Scangarello stated that it was very touching to see the participants, parents, second-graders, and veterans here tonight. He urged residents to show strong support for veterans at Monday's parade. He noted that the County has not adopted their budget as yet and he recommended that West Milford express our feelings on their proposed budget in the hope that they get their erasers out. He noted that Bill Remia, the Chairman of the Parks and Recreation Commission, and the Recreation Director recently met with the PTA to discuss bicycle helmets and safety training. As a result of that meeting, a survey will be sent out to determine what age group should be targeted first for training. There will be a CASA town meeting on Monday June 5<sup>th</sup> at the High School cafeteria at 6:00 p.m. This is part of a national effort to combat underage drinking. Those wishing to attend can RSVP to the recreation department. Councilman Scangarello advised that Mr. Remia is planning a fishing contest at West Brook Park. The committee needs prizes and sponsors. More details will follow and interested parties can contact the recreation department. He thanked his wife of nineteen years noting that today is their wedding anniversary.

**Report of Township Clerk**

The Township Clerk noted that the Primary Election will be held on June 6<sup>th</sup>. The polls will be open from 6:00 a.m. to 8:00 p.m. She advised that persons can now apply for absentee ballots without having to provide an excuse. She also noted that undeclared voters can vote in the primary. By doing so, the affected person will be declaring a party affiliation.

**Report of Township Attorney**

Mr. Semrau stated that a motion was filed last week requesting dismissal of the Eagle Ridge appeal of the denial of a water permit. West Milford is not part of that litigation. The attorney for Eagle Ridge has written to the appellate division asking that our appeal move forward. They now owe a response to the DEP for non-compliance with the application. He noted that he has reviewed the executive session minutes with the Clerk and has advised the Council that they can expect to approve release of some executive minutes in the near future. He stated that he is drafting a revision to the fee ordinance to increase the violations fees. Tonight in executive session he will discuss with the Council Your Home Team vs. West Milford and Valley Ridge. He advised that he has sent a letter to the planning board secretary inquiring about the recent withdrawal of the attorney. He has not had a response as yet and will follow up.

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

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**Executive Session**

Agenda No. XIV

~ Resolution No. 2006-211 ~

**MOTION FOR EXECUTIVE SESSION**

**BE IT RESOLVED** by the Township Council of the Township of West Milford on the 24<sup>th</sup> day of **May**, 2006, that:

1. Prior to the conclusion of this **Regular Meeting**, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
  - ( ) b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
  - ( ) b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
  - ( ) b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
  - ( ) b. (4) A collective bargaining agreement including negotiations.
  - ( ) 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.
  - ( ) 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.
    - Your Home Team, LLC v. Township of West Milford et al Civil Action Docket No. 05-4354
  - ( ) b. (8) Personnel matters.
  - ( ) b. (9) Deliberations after a public hearing that may result in penalties.
  
2. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: May 24, 2006

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Moved: Gervens Seconded: Nolan  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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The Council reconvened into open session at 10:38 p.m. with all present as before.

**Adjournment**

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

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Moved: Nolan Seconded: Scangarello  
Voted Aye: Smolinski, Gervens, Nolan, Warden, Scangarello.  
Voted Nay: None.  
Motion carried.  
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APPROVED: June 28, 2006

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MAYOR DI DONATO  
PRESIDING OFFICER

\_\_\_\_\_  
ANTOINETTE BATTAGLIA  
TOWNSHIP CLERK