
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Workshop
Date of Meeting: June 14, 2006
Time of Meeting: 7:30 P.M.
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The Workshop Meeting of the West Milford Township Council was called to order by Mayor Joseph DiDonato.

Adequate Notice Statement

Mayor DiDonato read the following statement:

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

Pledge of Allegiance

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

Roll Call

Present: Councilmembers Philip Weisbecker, Joseph Smolinski, William Gervens (arrived @ 7:45 p.m.), Robert Nolan, James Warden (arrived @ 8:15 p.m.), Carmelo Scangarello, Mayor Joseph DiDonato.
Absent: None.
Also Present: Township Administrator Richard Kunze, Township Clerk Antoinette Battaglia, Township Attorney Frederick Semrau

Reading of or Approval of Unapproved Minutes

Councilman Nolan moved to adopt the minutes of the May 10, 2006 Workshop Meeting as presented.

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

Councilmembers Warden and Gervens had not arrived at the meeting as yet.
Motion carried.

Councilman Weisbecker moved to adopt the minutes of the May 16, 2006 Special Meeting as presented.

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

Councilmembers Warden and Gervens had not arrived at the meeting as yet.
Motion carried.

Councilman Nolan moved to adopt the minutes of the May 17, 2006 Special Meeting as presented.

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

Councilmembers Warden and Gervens had not arrived at the meeting as yet.
Motion carried.

Councilman Nolan moved to adopt the minutes of the May 22, 2006 Special Meeting as presented.

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

Councilmembers Warden and Gervens had not arrived at the meeting as yet.
Motion carried.

Councilman Nolan moved to adopt the minutes of the May 24, 2006 Executive Session Meeting as presented.

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Frank Hannan, 83 Krattiger Court, West Milford, commended this Council and past Councils for controlling municipal spending. He stated that the Council members devote a lot of time and effort. He noted and cited incidences of lost State aid. He stated that, because of the State, we must cut local services. He asked, if we had the \$1.5 million in aid that the State has taken away, what would our increase be today?

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

Moved: Weisbecker Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Scangarello.
Voted Nay: None.
Councilman Warden had not arrived at the meeting as yet.
Motion carried.

Council Comments

Mayor DiDonato asked the Council to reserve their comments tonight until after the public hearing on the budget.

Presentations

None.

2006 Municipal Budget Public Hearing

Administrator Kunze reviewed the 2006 budget as introduced last month. He noted that the budget document represents a 2.13% increase over 2005. Most of this increase is due to several large non-discretionary increases such as pension, health, salary & wages, debt services, library budget, and utility costs. Those six areas alone account for more than the total increase in the budget. The budget maintains previous service levels with additional appropriations for weed harvesting and codification of ordinances. We rely on grants wherever possible. He reviewed several capital items that have been cut. In revenue, the budget document reflects use of surplus funds, increase in local revenues primarily due to increases in investment income, state aid remains flat and we received Highland Act stabilization aid. The increase to the average homeowner is \$100.

Andrew Gargano, 45 Apshawa Cross Road, West Milford asked the Township Attorney if there is a five-minute time limit imposed at a budget hearing? Mr. Gargano asked how much surplus is being used in this budget? Administrator Kunze advised that the budget, as introduced, reflected use of \$3.9 million of surplus funds to which Mr. Gargano expressed shock and asked if the Township Auditor, Mr. Ferraioli, had approved this. Mr. Ferraioli responded in the affirmative. Mr. Gargano asked if there is a budget line item for open space tax and was answered in the affirmative. He stated that use of such a large amount of surplus is unprecedented and he asked the Council what to propose to do next year after they have depleted the surplus account by so much. He stated that our increase next year will soar and seniors will be forced to sell their homes. Citing historical trends, Mr. Gargano opined that, if seniors sell their homes, more families will move in causing further strain on our services and our schools. He urged the Council to be responsible. While nobody likes layoffs, residents cannot afford these high costs any more. He stated that surrounding towns do not have any planning departments. Ringwood, Kinnelon, and Jefferson have never had planning departments and have never had any complications. Consultant costs are borne by developers. Grants can be obtained through a grant writer or the efforts of others. The master plan can easily be generated; it can be a simple one page statement to the State stating that we are rubber-stamping our current plan with no changes. He noted that the planning board attorney is compensated at \$180 per hour which is more than our Township Attorney gets. He urged the Council to look at the Boards who have lawyers who keep the meters running.

Doris Aaronson, 19 Bearfort Road, West Milford stated that she, too, is shocked by the amount of surplus being used in this budget. She is on the Pinecliff Lake Board and they have chosen not to use surplus funds but have opted to conduct some fundraisers. She suggested that the Towns do likewise. She stated that she has written grants in the past and that the Town could look to volunteers to write grants in the future. At NYU, where she teaches, the average wage increase for the past few years has been 2% and everyone now contributes to health benefits. She also suggested that the Township initiate a hiring freeze. She cautioned the Council about using so much surplus funds. There will be no money if a disaster happens.

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Township Auditor, Chuck Ferraioli stated that the municipal budget was reviewed by Trenton this year and we have been approved. Technically, the Council could adopt the budget tonight. Because we are sending out estimated tax bills, we can take the time to do some amendments. This will require introduction of the amendments, a public hearing, and then adoption of the budget. Towns that have already adopted their budgets have not been authorized to print their tax bills and will not receive authorization until the State passes its budget. Councilman Nolan asked if it is possible that the State will reduce our state aid as part of their budget process. Mr. Ferraioli noted that no sitting governor has ever cut state aid since certifying the number. Although it can be done, it is unlikely.

Councilman Nolan moved to close the Public Hearing.

Moved: Nolan Seconded: Scangarello
Voted Aye: Weisbecker, Smolinski, Gervens, Nolan, Scangarello.
Voted Nay: None.
Councilman Warden had not arrived at the meeting as yet.
Motion carried.

Action Items

The Township Council took action on the following items:

Agenda No. IX 1

~ Resolution 2006-213 ~

**A RESOLUTION OF THE TOWNSHIP OF WEST MILFORD,
COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING
A SPECIAL EVENT PERMIT APPLICATION TO UPPER GREENWOOD LAKE PROPERTY
OWNERS ASSOCIATION TO HOLD A FIREWORKS DISPLAY AT THE UPPER GREENWOOD
LAKE LAUNCH AREA**

WHEREAS, the Upper Greenwood Lake Property Owners Association wishes to hold a display of fireworks on June 24, 2006 at the Upper Greenwood Lake launch area, with a rain date of September 3, 2006; and

WHEREAS, the Township Council has reviewed the application and the report submitted to it by the Township Fire Marshall and Chief of Police; and

WHEREAS, the Upper Greenwood Lake Property Owners Association has submitted an application to the Township of West Milford, along with a Certificate of Insurance and the required \$2,500.00 Bond in the form of a certified check.

WHEREAS, the Upper Greenwood Lake Property Owners Association has paid in advance for Special Police Officers to work at this event.

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

1. Based upon the review of the application and report submitted by the Township Fire Marshal and Chief of Police, it does hereby approve the application by the Upper Greenwood Lake Property Owners Association and Garden State Fireworks to conduct a fireworks display on June 24, 2006 at the Upper Greenwood Lake launch area, with a rain date of September 3, 2006, between the hours of 8:30 p.m. and 9:30 p.m.

Adopted: June 14, 2006

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

Councilman Nolan asked about the updated version of this resolution being voted on tonight. Administrator Kunze advised that the condition about payment was removed because the Association has already paid in advance for special police officers, and a rain date of September 3, 2006 has been inserted.

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Agenda No. IX 2

~ Resolution 2006-214 ~

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

WHEREAS, the Passaic County Board of Chosen Freeholders has not adopted the Passaic County Budget for 2006 and the Township of West Milford Tax Collector will be unable to mail the Township's 2006 tax bills on a timely basis; and

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

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford, in the County of Passaic and the State of New Jersey on this 24th day of May 2006 as follows:

1. The Township of West Milford Tax Collector is hereby authorized and directed to prepare and issue estimated tax bills for the Township of West Milford for the third installment of 2006 taxes. The Tax Collector shall proceed on the 24th day of May 2006 and take such actions as are permitted and required by L. 1994, c. 72 (N.J.S.A. 54:4-66.3).
2. The estimated tax levy for the third fiscal quarter of 2006 is hereby set at \$19,158,041.79.
3. In accordance with the law, the third quarter installment of 2006 taxes shall not be subject to interest until the tenth day of August 2006.

Adopted: June 14, 2006

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

Agenda No. X

~ Resolution 2006-215 ~

RESOLUTION APPROVING THE PAYMENT OF BILLS {AMENDED}

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

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

Acct #	Account Name	Amount
	Current Account.	\$ 569,644.53
1	Amended Current Account	\$ 568,218.81
2	Reserve Account	8,506.00
3	Animal Control Trust	780.00
6	Capital.	201,142.98
7	Grants.	8,974.43
	Refuse.	192,669.23
8	Amended Refuse	188,038.73
9	Refunds.	
12	General Ledger.	
16	Heritage Trust.	100.00
14	Open Space Trust	

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17	Trust	1,284.00
18	Development Escrow.	
19	LOSAP	
20	Special Reserve	
Total		\$ 983,101.17
Amended Total		\$ 977,044.95
Less Refund Resolution		
Actual Bill List		\$ 983,101.17
Amended Actual Bill List		\$ 977,044.95
Other Payments		
Less Refund Resolution		
Total Expenditures		\$ 983,101.17
Total Expenditures as Amended		\$ 977,044.95

Adopted: June 14, 2006

Councilman Weisbecker made a motion to adopt this resolution as presented. Councilman Nolan seconded the motion.

Discussion: Councilman Nolan questioned a bill from Allstate ORC for removal of contaminated soil from Farrell Field. He noted that we are in litigation with a contractor relative to Farrell Field and asked if this is related. Administrator Kunze advised that this bill is separate from that matter. He advised that last year a contractor spilled fuel in the parking lot because the container we were using was deficient. Therefore, we cannot hold the contractor liable. Councilman Smolinski asked about the bill for boarding up a house and Council President Gervens responded that we have an obligation to board up houses if they are deemed to be abandoned. While we put the money up for this, we place a lien on the property and get the money back as a result of the associated lien. Councilman Weisbecker queried the payment to Clean Enterprises for champagne plates. Administrator Kunze advised that this bill is for cleaning and chemical supplies. Councilmen Weisbecker and Nolan advised that they would like back-up on the bills they questioned before authorizing payment for same.

Councilman Weisbecker amended his motion to exclude the Allstate ORC invoice and the Clean Enterprises invoices.

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

Items For Discussion

The Township Council discussed the following items:

1) and 2)	Property Donations and Property Sale – Administrator Kunze advised that there are sixty-five properties on the tax sale list. He overviewed how the list was compiled and noted that the relevant departments have all been asked for their input on each property. The Council gave consensus to proceed with the sales. Mr. Semrau, noting that sixty-five sales in one day may be too many, asked if we can break the list down into smaller groups. Administrator Kunze advised that the departments conducted a file review of each property. Administrator Kunze directed the Council to the list of proposed property donations and asked for guidance on how to proceed. Mr. Semrau advised that, as a general rule and unless directed otherwise, we would not obtain title searches on donated properties. Councilman Nolan, noting that there are eight properties on the list, recommended that the Township staff inspect each site to ensure that there are no on-site violations. Mayor DiDonato instructed the Administrator to determine if any taxes are owed on any of the properties. Mayor DiDonato stated that he imagines that the property adjacent to Westbrook Park would be of benefit to the municipality. Councilman Smolinski stated that there are abandoned vehicles on both properties located on Otterhole Road.
3)	Resolution in Support of a Property Tax Reform Convention - Councilman Nolan advised that he requested discussion of this matter. The proposed convention may result in a solution for persons on a fixed income who can no longer afford property tax increases.

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	<p>He is proposing that the Council adopt a resolution expressing support of such a convention in New Jersey. Councilman Smolinski stated that he has some reservations about the proposed committee structure. Councilman Nolan responded that the convention he is seeking support for is a different matter; it is asking for a citizen's convention this summer. The Council instructed that the resolution be presented for action on June 28th. Councilman Warden noted that the average person in West Milford is experiencing financial pressure. It is emanating from the Federal government and the money being spent on the war in Iraq. He stated that the Council can only control what happens here in West Milford and, thus far, this Council has not assumed responsibility for the financial problems we are facing locally during this year's budget process. He stated that our financial woes are due to the President and the Republican party.</p>
4)	<p>Resolution in Support of Arbitration Reform – Councilman Nolan advised that this resolution deals with binding arbitration. Arbitrators continue to award salaries and benefits to police in excess of the budget CAP. This creates budget problems for municipalities. The resolution he is proposing asks for a cap to binding arbitration awards to keep them either within the CAP or linked to inflation. He recommended removal of the paragraph in the current resolution that states that the high salaries are curtailing other services. Mayor DiDonato expressed support for this resolution noting that it would allow arbitrators to consider the state CAP law and would allow for a fairer system. The Council gave consensus to proceed.</p>
5)	<p>Clinton Road Embankment Agreement – Mr. Semrau advised that Clinton Road is a Township road on which the County owns the culvert. Both the road and the culvert are in need of repairs and this agreement would facilitate a cost sharing initiative to effectuate the repairs. Under the agreement, the County would be the lead agency, we will conduct inspections, and we will pay prorated engineering and project costs. The estimates are \$175,000 construction costs and \$29,000 for engineering. Working in conjunction with the County will minimize the closing of the road. The Council gave consensus to proceed.</p>
6)	<p>Mutual Aid Agreement for Public Health Events – Administrator Kunze advised that this proposed agreement came from the Health Department. It would allow West Milford to act with other municipalities in emergency circumstances to share services. This is not an obligation; it is contingency planning. In response to Councilman Nolan's query, Administrator Kunze advised that the County drafted the agreement. It is based on County planning and the various municipalities within the County are divided into groups. For example, Paterson is part of another grouping. Each town would be responsible for the cost of services they provide and it is included in our existing insurance policies. Mr. Semrau advised that we are not compelled to participate, so if we find it too costly to pursue, we can simply refuse to participate in any given solution. Councilman Nolan stated that it is best to have this agreement in place before an emergency arises. The Council gave consensus to proceed.</p>
7)	<p>Recreational Opportunities for Individuals with Disabilities Grant – Administrator Kunze advised that we have applied for this grant since 2001. This year we are requesting \$37,840 to provide funding for various programs for the disabled community. The Council gave consensus to proceed.</p>
8)	<p>Greenwood Lake (319h) Stormwater Management Grant Application – this grant would be used for implementation of findings of past studies. The application proposes the installation of filters in storm drains which would remove phosphorous from Greenwood Lake. It is a combined grant for both our storm drains and the County's storm drains. After the initial installation (covered by the grant) each entity would maintain their respective systems. The initial cost is between \$800,000 and \$900,000 with an estimated annual maintenance cost of between \$720 and \$2,880. The actual maintenance cost will be based on the number of membranes rather than the type of filter. The Council gave consensus to proceed.</p>
9)	<p>604b Grant Amendment – Administrator Kunze advised that the DEP has requested that we amend our resolution to reflect the in-kind services we will be providing under the grant agreement. The in-kind services are comprised of contributions and work to be done primarily by the Environmental Commission. The Council gave consensus to proceed.</p>
10)	<p>Professional Services Contract for Work Related to the 604b Grant – Administrator Kunze directed the Council to the detailed proposal in their packets for the development of an on-site water management plan. This agreement would fund the professional work need on the plan and the funding comes from the grant. Councilman Warden asked Mr. Semrau if he had found the documents which show that the MUA is out of compliance. Mr. Semrau stated that he is still working on that. Councilman Warden stated that the problem he has with this grant is that it makes no mention of the MUA pumping sewage into Belchers Creek. The MUA has been out of compliance for a long time now and their response has been that they don't have the money to get into compliance. The Council appoints the Environmental Commission and they have not addressed the problems with the MUA. This situation is the culprit to the weed problem into Greenwood Lake. He is not in favor of approving this grant until the Environmental Commission takes steps to hold the MUA</p>

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	responsible. He also noted that Mr. Elcavage is still sitting on the MUA. Councilman Nolan expressed his agreement with Councilman Warden. Mayor DiDonato asked Mr. Semrau to look into the accusations made tonight and Councilman Warden expressed his displeasure at that approach. Mayor DiDonato recommended getting the grant money while the attorney looks into the matter. Councilman Weisbecker, noting that this has been an on-going problem with the MUA, stated that we should request the Environmental Commission to research the possibility of obtaining another grant to deal with the MUA situation. Councilman Warden stated that we requested information from the Environmental Commission weeks ago and never received it. He expressed frustration that the Council continues to talk about the septic systems and overlooks the MUA. In his opinion, the MUA causes more pollution than the septic systems do. Mayor DiDonato asked Mr. Semrau to contact the counsel for the MUA and Mr. Kunze to contact the Environmental Commission. Councilman Smolinski stated that he would like to get more information about the MUA but he also recommended pursuing this grant opportunity. The Council gave consensus to proceed.
11)	Traffic Line Striping – Administrator Kunze advised that he and the Engineer are recommending award of a contract through the Morris County Coop to Denville Line Painting for striping of the roads that are being repaved. The funding will be split between operating funds and previously approved capital funds. The Council gave consensus to proceed.
12)	Professional Services Contract for Bond Counsel – Administrator Kunze noted that, anticipating adoption of the budget in the near future, we must prepare to adopt bond ordinances for the capital programs. We have received a draft contract from Hawkins, Delafield and Wood which needs some revisions. The Mayor requested that we receive proposals from some other firms also. The Administrator will readdress this subject upon receipt of those proposals.
13)	Professional Services Contract for Tax Appeal Services – Mr. Semrau advised that there was a settlement conference last week regarding an appeal that was filed as a result of the Highlands Act. Mr. Semrau stated that the Township should be prepared for action in this matter and he asked Scott Holzhauer to submit a proposal to help with the Apple Valley Estates Tax Appeal. Mr. Holzhauer has worked for the Township in the past and we have been satisfied with his services. He comes highly recommended by our Tax Assessor, Brian Townsend. The proposal should be here before the next meeting. The trial date is set for October 31 st and the work should be done before the end of September.
14)	Fee Ordinance Revisions – Administrator Kunze noted that we review our fee ordinance every year. The department heads have been asked to review the ordinance and make recommendations. Mr. Semrau noted that one of the adjustments will increase the maximum court fine from \$1,250 to \$2,000 as a result of recent legislation that affords the courts more discretion. Council President Gervens recommended increasing the commercial rates for the use of our recycling center. Administrator Kunze advised that the Engineer has recommended that commercial brush be eliminated but that grass and weeds be allowed at a higher rate than we currently charge. Council President Gervens recommended raising the fine for illegal dumping to \$2,000 and encourage the Newark Watershed to follow suit on their property. Councilman Weisbecker stated that we may wish to consider outsourcing the tub grinding services but that we need to carefully select a contractor.
15)	Mayor DiDonato stated that he would be making appointments to the Planning and Zoning Boards as a result of resignations we have recently received. Councilman Weisbecker asked the Mayor to consider moving alternates into the citizen positions and appointing the new members to the alternate positions. Mayor DiDonato stated that interested alternates should send their letters to the Clerk. Councilman Nolan recommended posting the vacancies on our website to generate more interest. Martin O’Shea, from the audience, interrupted the meeting and the police were called.

Mayor's Report

Mayor DiDonato advised that he and the Administrator met with a representative from JCP&L for two hours on Monday to discuss power outages in West Milford. They provided some data but have been asked for more information. The Mayor advised that he is seeking information about the causes and frequency of these outages. JCP&L will provide the requested information.

Township Administrator's Report

Administrator Kunze advised that work has been proceeding with the Johner roof repair. He reminded the Council that it was discovered that there was no parapet holding the roof on one side of the building. He advised that the contractor has discovered that there is no parapet on the other side. The new roof is on and the final capping has to be put in place. The Administrator requested that Council grant approval for the parapet to be installed with a resolution approving

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the change order to be presented for consideration at the next meeting. He noted that the contractor could not anticipate this situation when he reviewed the job before bidding. The Council gave consent. Administrator Kunze advised that he would be distributing a packet about Avian Flu preparations to the Council. He noted that today is Flag Day. He advised the Council that we received a plaque expressing appreciation from the Delmar Fire Company thanking West Milford for the fire truck recently donated to them. He passed the plaque around.

Township Council Reports

Councilman Weisbecker commended the high school students on tonight's presentation. The first Lakes Committee meeting is scheduled for June 26th at 7:30 p.m. in the Court Room. One of their first items of discussion will be the fertilizer ordinance. He has spoken to the County about telephone poles being installed for hanging banners. The County's traffic engineer is to clarify with the Administrator the clearance from the curb. Administrator Kunze noted that he will ask JCP&L to donate the poles. Otherwise the Council will have to determine how to fund the anticipated cost of \$4,800. Councilman Weisbecker noted that it is nice to see the County investing in road repairs in West Milford. He advised that they will be doing 2.53 miles of road in town. He reviewed the projects. He noted that there was a letter in the Council's packets from the Highlands Council indicating that there would be further delays with their Master Plan. He noted that these delays continue to have a negative impact on our community and asked the Township Attorney to look into the matter. He stated that West Milford has been conscientious in working with the Highlands Council and now their inaction is causing us a hardship. He asked if we have legal recourse and asked the Township Attorney to determine the status of the Hunterdon County lawsuit against the Highlands Council. Mr. Semrau advised that there have been two recent cases challenging the Highlands Act and, in both instances, the court has upheld the Highlands Act. He gave a brief overview of the cases. Councilman Weisbecker asked the Administrator to place discussion of a possible resolution in support of gang deterrent tactics on the agenda for a future workshop meeting. Noting that the state will no longer remove dead carcasses from the roadside, Councilman Weisbecker asked if we have a contract for this service. Administrator Kunze advised that the matter is being looked into. Councilman Weisbecker asked the Administrator to monitor all zoning and building ordinances being enacted in contiguous communities to determine what development is being considered close to our boundary lines. He asked the Administrator to get him an update on No Name Dam. He stated that the weeds in Greenwood Lake piled up and sank themselves. He stated that they will come back. He noted that he would like to get an opinion from the DEP about using solar or other chemical treatments in the lakes. He stated that many other lakes have effectively used solar.

Councilman Smolinski stated that he attended a field meeting last night at Farrell Field with Topsoil Depot. Noting that July 10th is the deadline date for Topsoil Depot to fulfill their commitment to West Milford, he would like proceedings initiated on July 11th if the work is not done. He stated that we must assume the work and cost and then pursue them for reimbursement if they do not complete the work because this has negatively affected the soccer program for two years now. He advised that CPR classes will be offered to volunteer coaches in September. He urged everyone to show up tomorrow evening at 7:30 for the Planning Board presentation on our town center. He advised that he plans to deliver the petitions for the water surcharge to Trenton tomorrow.

Council President Gervens wished Councilman Smolinski luck on his trip to Trenton and thanked him for going.

Councilman Nolan thanked the Administrator for getting the department reports to the Council. He advised that the Telecommunications Task Force held a very productive first meeting and he thanked the members for their contributions. Noting that we will discuss the budget at the meeting on Monday night, he stated that recurring revenues should match recurring expenses, not only for this year but as we look forward to 2007 and 2008. He noted that he sent the Administrator a letter about Valley Ridge and that the court date is this Friday. In December, the Planning Director made a COAH presentation to the Council where it was anticipated that Valley Ridge would be used toward our COAH obligation. Shortly thereafter, the Valley Ridge application appeared before the Planning Board. Instead of telling them at that time to go get the necessary DEP permits, we asked the Court to make a decision and we have now assumed the legal fees. He reviewed the problems with the Planning Board legal counsel. Mr. Semrau sent a letter on behalf of Councilman Nolan requesting an explanation of the conflict of interest and no response has been received. If they fail to respond to the Council, we should refuse to pay their bills. Councilman Nolan asked that the proposed pay-to-play ordinance be discussed again in July.

Councilman Warden stated that the weed harvesting season has come to a close. The cold water weeds have completed their cycle and the next growth will be the warm weather weeds.

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He thanked John Hurl for his hard work. He advised that solar kills algae, not weeds. He stated that we are polluting the lake from septic systems and sewage from the MUA and because of continued development. We must deal with problems like the MUA to adequately deal with pollution problems.

Township Attorney

Mr. Semrau reported that the oral arguments on the Eagle Ridge appeal were made today. He reviewed the history of this case. There was a lot of speculation from the panel and legal council for the developer attempted to paint a picture that the permits were denied because of a meeting with the Commissioner. The Attorney General did an excellent job answering the questions posed. Mr. Semrau expressed the Township's concerns and told the court that the concerns date back to 1988, pre-Highlands. He noted that five experts have all had concerns about the long term effects and the capacity of the wells on this site. Hovnanian admitted to a meeting with the DEP that Mr. Semrau did not know about. The last question posed by the judges was, "Why was a portion of the permit granted and a portion denied with respect to Eagle Ridge?" Mr. Semrau's response was that the permit was diverted because the approved wells were for existing residences, they were already operational, and they had already dried out. These dried out wells are part of the same aquifer. He stated that he expects a decision in the very near future.

Mr. Semrau advised that public hearing on the Gordon Lakes Dam ordinance will be held at the next regular meeting. The Township Clerk will mail out notices that will include a letter signed by Fred Semrau and the Association's attorney. The cost estimate for Topsoil Depot to redo Farrell Field is \$40,000. The settlement requires them to take out the topsoil, replace it, spread, grade and seed. He asked the Council for a motion authorizing the Mayor to sign the agreement.

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

Mr. Semrau advised that a deposit is permissible for the fireworks contract with Garden State. However, he spoke with Garden State and they have agreed to forego the deposit and the Township will make payment within fifteen days of the show. He reviewed the topics to be discussed in executive session and noted that Councilman Nolan has requested that Valley Ridge also be discussed in executive session tonight.

Township Clerk's Report

None.

Executive Session

Agenda No. XIII

~ Resolution 2006-216 ~

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 24th 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.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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- () 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.
 - Attorney-Client Privileged Information
- (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.
 - Paff v. Byrnes, Docket No. A-1641-04T1
 - Your Home Team, LLC v. Township of West Milford et al Civil Action Docket No. 05-4354
 - K. Hovnanian Appeal Docket Nos. A-44-07-04T3 and A-6031-04T3
 - Valley Ridge Litigation
- () 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: June 14, 2006

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

The Council went into executive session at 10:15 p.m.

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

Absent: None.

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

Items for discussion at Executive Session were as follows:

- Paff v. Byrnes, Docket No. A-1641-04T1
- Your Home Team, LLC v. Township of West Milford et al Civil Action Docket No. 05-4354
- K. Hovnanian Appeal Docket Nos. A-44-07-04T3 and A-6031-04T3
- Valley Ridge Litigation

Executive Session adjourned at 10:40 p.m.

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

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting at 10:43 P.M.

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

Approved: June 28, 2006

JOSEPH DiDONATO, MAYOR
PRESIDING OFFICER

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

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ANTOINETTE BATTAGLIA
TOWNSHIP CLERK