
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Township Council Special Meeting
Date of Meeting: June 19, 2006
Time of Meeting: 7:30 P.M.
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Rich Firorilla, 1432 Macopin Road, West Milford stated that his property is contiguous to Bubbling Springs. He commended the engineering and recreation departments as well as everyone else involved in this proposed project. He noted that some time ago, the tall pine trees in the parking lot at Bubbling Springs were removed and this impacted his property. The trees provided a wind barrier and ensured his privacy. He noted that he has spoke with Ms. Palermo about this matter and he is simply speaking tonight to have his concerns placed on the record. He commended the proposed plan to raze the building on the property noting that it is a safety hazard.

Martin O'Shea, 22 Greenbrook Drive, West Milford asked how much money is being applied for. Administrator Kunze reviewed the costs and advised that we are applying for \$412,500 which equates to half the estimated costs of the project.

Doris Aaronson, 19 Bearfort Road, West Milford asked where the other funding will come from. Mr. Kunze advised that the Township would pay for half of the project. Ms. Aaronson asked if the plan has been reviewed by the County Engineering Department. Administrator Kunze replied in the negative advising that such review is not a requirement of the application process. However, he advised, the Passaic County Open Space Committee will review the application in its entirety when it has been submitted. Ms. Aaronson asked if the funds must be used for Bubbling Springs or if they can be applied to other projects. Mr. Kunze responded by noting that this application is specific to Bubbling Springs. Noting that she understands Ms. Aaronson's concerns, Ms. Palermo added that there is no ceiling on the rehabilitation grants.

Scott Quigley, 142 Rolling Ridge Road, West Milford stated that he is father to three young girls who have been involved in cheerleading. He noted that goose feces is always a concern and asked if there is any reason to be worried about such runoff in the lake at Bubbling Springs. Ms. Palermo advised that the Township makes every effort to keep the geese away. This year, we are using motorized cars as a deterrent. She advised that the lake water is tested every week by an outside agency and by Township employees every day. If there was a problem, we would be closed down. She also advised that the lake is treated and the staff pays very close attention to water quality. Mr. Quigley expressed relief. He asked if this project would impact the possible purchase of the property on the corner of Cahill and Ridge roads. Council President Gervens advised that this public portion is limited to this application only.

Bill Remia, 5 Yancy Terrace, West Milford asked for Council support for this proposal. He noted that the Recreation Commission requested renovations at Bubbling Springs in 1992 and have been consistently asking since then. The enumerated items in need of repair then have never been repaired. There is a host of needs and problems, including drainage, which impact this beautiful park. He urged the Council to support this application.

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

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

Council Comments

Councilman Weisbecker stated that, as he recalls, Bubbling Springs was purchased with Green Acres funds. Therefore, everyone in the State can enjoy those facilities. He asked about the condition of the house that is to be razed. Ms. Palermo advised that the building department has recommended that the building be taken down. She advised that the hope for the future is to construct a building on that footprint for senior recreation and a day camp. Councilman Weisbecker expressed concerns that, under the Highlands Act, if you demolish the building without a plan to rebuild, you will forfeit the right to do so in the future. Ms. Palermo stated that she has been advised that, because it is an existing impervious structure, that would not apply. The Health Officer will be inspecting the wells and the septic. Mr. Miller advised that the septic and wells are in good condition and this may be a good location for restrooms and a concession stand. Councilman Weisbecker asked if the existing structure could be used for these facilities. Mr. Miller responded that using the footprint may be good but the existing structure would not. Councilman Weisbecker asked why rubberized mulch is being proposed for the playground instead of the less-expensive standard mulch. Ms. Palermo advised that the initial cost for rubberized mulch is greater. However, it has a lifespan of 20-30 years, is cleaner, and the children do not get splinters. In the long run, it is safer and more cost effective.

Councilman Nolan asked if the proposed rubberized turf that will cover the day camp and will ultimately save us money. Ms. Palermo replied that it will save us money on annual maintenance and will also provide a surface that the children can use, even after a rainstorm. He asked if backstop chain link

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fences actually cost \$14,000 each. Mr. Miller advised that the fences in question are the most current backstop on the market and the girl's softball team has requested this specific type. Noting that this is a conceptual plan, he advised that individual items can be changed as the plan evolves. Councilman Nolan asked for an explanation of item number 23 on the cost estimate. Mr. Miller advised that the topsoil, seed, fertilizer, and mulch will re-grade all the fields. They will be leveled off to bring the fields to tournament standards, they will be evened out, drainage issues will be addressed, and the foul territory will be sufficient. Councilman Nolan noted that the Township would probably have to bond for their portion of the funds. Mr. Miller stated that the plans are conceptual and are subject to change based on finances as well as changes that become necessary as the plan evolves.

Councilman Warden asked the Township Attorney if our chances of getting the grant are based on how much we are requesting. Mr. Semrau deferred to Ms. Palermo who advised that, using the format in the grant documents, we achieve the highest score in meeting the criteria established for this program. On one site, we address many of the specifics this grant targets. Councilman Warden, noting that there is an appropriation for contingency funds of 20%, asked what happens to the contingency funds if we don't use them. Administrator Kunze responded that the cost of the project, within the parameters of the approved amount from the County, would be split 50/50 between the County and the Township. Township staff will research how the County distributes the monies (i.e. a percentage up front and the rest at completion; progress payments throughout the project; etc.). Councilman Warden asked if any consideration was given to a skate park at this site. Ms. Palermo noted that there is not sufficient space at Bubbling Springs to house a skate park. She further advised that there would be a conflict with keeping a skate park open while other areas of the park are closed for permitted events. Councilman Nolan stated that the kids in town want multiple skate parks. Mr. Miller advised that, from an engineering perspective, there would be concerns about impervious areas and the limitations. There was discussion about those limitations and previous efforts to have such facilities at Bubbling Springs. Councilman Smolinski advised that a skate park may be better located at West Brook which is located in the same general area of town.

Councilman Scangarello thanked Mr. Remia for persevering with this subject for fourteen years. He asked the Administrator to get a report from the building department on the existing structure. He stated that the resident-only issue was addressed about three years ago when it was mandated that the sign "Residents Only" be removed. Agreeing that the goose feces is a problem, he advised that in certain areas of the County cutouts of German Shepard dogs have been used successfully as a deterrent to the geese. He asked how this project will impact the day-to-day operations of the recreation department. Ms. Palermo replied that it would eliminate the need to send all the staff to Bubbling Springs after every rainstorm.

Councilman Smolinski stated that Bubbling Springs has had many needs for many years. The same issues noted tonight were brought forward in 1992 and again in 1996. He noted that, in his opinion, this plan is a good thing for West Milford.

Council President Gervens complemented the engineering and recreation departments, not only for the presentation made tonight, but also for the on-going work they do with maintaining Bubbling Springs in spite of the conditions. He stated that this park needs upgrades and the fields are a safety issue because of the slopes. He thanked everyone for participating this evening.

Council President Gervens called for a five-minute break. The Council reconvened at 8:25 p.m. with all present as before.

Budget Discussion

Administrator Kunze noted that the purpose of tonight's budget discussion is to get consensus to prepare the amendments to the budget and proceed toward adoption. He reviewed the numbers agreed to at the last budget meeting. He advised that those Council members who were not present at the last meeting received packets showing the updated figures. Council President Gervens asked that comments be based on those figures.

Councilman Warden stated that the amendments simply took more money from surplus and there was no decision to cut the planning department. He advised that he will not vote on this budget and stated that this Council was elected to make hard decisions which they have not done. Councilman Nolan stated that he is concerned about the legal budget. He noted that we are paying Weiner Lesniak \$165 per hour and receiving no cooperation from them. He also noted that we pay our Planning Board attorney more than we pay our Township attorney. The Council sets the budget and we must demand that the boards conform to that budget. If we reduce the appropriations for legal expenses for these boards and commissions, they will have to come back to the Council if they need more funding. He stressed that the weeds in Greenwood Lake are a problem and that Councilman Warden should not bear the sole responsibility for this problem. We allocated \$10,000 to address the problem but more money must be appropriated to do a better job. Without Councilman Warden's leadership, we would be facing a much

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greater problem. \$250,000 of cuts were made but nothing has been done to address the problems we will be facing with next year's budget and subsequent budgets. Pension contributions are expected to increase by \$570,000 next year and he asked where those funds will come from. He stated that we are currently negotiating with the unions but are not getting any concessions from them. The only way, in his opinion, to get the budget under control is to reduce the number of employees. The Planning Department, he said, is a luxury at best. Surrounding towns do not have planning departments; we are the exception. He requested and received a schedule from the Administrator comparing municipal employee's benefits with those of the private sector. He noted that municipal employees do not contribute to medical benefits and get very generous vacation leave while employees in the private sector do not get such benefits. He stated that we must have recurring revenues to match recurring expenses and stop using surplus to make the budget whole. If we don't downsize municipal government this year, we will have a larger problem next year. Noting that everyone has worked hard on this budget, he stated that he cannot support this budget because he is not in favor of the proposed amendments. Councilman Warden stated that the Council is failing to make the necessary decisions this year and that inaction will affect next year's budget. He noted that we will not have surplus to fall back on next year and, using the surplus this year, may very well affect our credit rating. He cannot support this budget.

Councilman Smolinski stated that the \$1 million balance in the surplus account will allow the surplus funds to regenerate. He asked Councilman Nolan to concentrate on the municipal budget and he asked him to explain his earlier accusation that the planning department "greased the skids for developers." Stating that he is all for saving money, Councilman Smolinski stated that he wants to know how much outsourcing would cost before making any decisions. He stated that it appears that the main objections tonight seem to be related to the use of surplus funds. Council President Gervens concurred that the Council must know how much it would cost to outsource the planning department before making such a decision. Administrator Kunze stated that he is collecting the information and, pursuant to Council's instructions, will have it ready for the July workshop meeting. He also noted that decisions about the planning department can be made after the adoption of the budget because such cuts will have no impact on this year's budget.

Councilman Weisbecker stated that we must deal with the reality of the increases that are coming next year. We must take a good hard look at the possibility that we may have to do layoffs. He suggested that we start freezing department head salaries. If they want to continue to work here, he said, we can ask them to give back. Most surrounding municipalities do not have planning departments and, of the three that do, two have experienced high density housing development in recent years. We should face the fact that, in a few years, municipalities will have no control over planning issues because of state mandates. He stated that we must find a way to ease the pain at the municipal level so that residents can afford to live in this town. Councilman Scangarello affirmed that we will experience increases next year. However, he stated, if we continue to cut our capital programs, we will reach a time in the future where we will have to catch up. Rather than cutting all the proposed capital expenditures and passing the cost to future budgets, he asked if we could purchase four police vehicles this rather than the six proposed. The capital program was established to set up an annual replacement program to minimize the long-term effects of such expenditures. Councilman Smolinski concurred that this budget reflects significant cuts to all our emergency services. He stated that we must always bear in mind the taxes saved versus the services lost. Council President Gervens noted that we conducted that comparison at a previous meeting where the Council compared loss of services to the cost for those services. Now, he noted, we are back on the same subject. Councilman Warden stated that the Council is talking about reducing the staff in the planning department, not eliminating the entire department. Councilman Nolan stated that the planning department is a luxury. When the regional master plan comes out, we will have to conform to that plan. Then, because we're in the preservation zone, we're done; we do not need a planning department.

Councilman Smolinski asked the Administrator to explain the cuts to emergency services. Administrator Kunze explained that the budget was introduced with cuts in first aid, a reduction in operating aid to the fire companies, cuts to fire department equipment, and cuts to the office of emergency management.

Councilman Warden stated that the Council continues to avoid the issue. Personnel costs will be higher next year and we cannot continue to cut things in the budget to fund higher personnel costs. Councilman Smolinski countered saying that he does not want to compromise safety and that the residents have a right to expect that a fire truck will be dispatched to their home in an emergency. Councilman Weisbecker stated that we can revisit personnel and all the other subjects in July. For now, he said, we should focus at keeping the tax increase at \$100 and revisit the other issues in July. Councilman Warden stated that, at this point, even the \$100 increase is not acceptable. He asked the Township Attorney if we would be facing this dilemma if we had Valley Ridge. Mr. Semrau advised that he cannot answer that question in this context. Councilman Warden stated that the planning department plans large-scale development so they are no longer necessary to the Township. Administrator Kunze noted that the planning department does not plan developments. Council President Gervens, noting that the discussion now seems to be centered on one department, cautioned that we should have a meeting with those employees before continuing with this discussion. He recommended waiting for the needed information and then having an

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in-depth discussion. Councilman Nolan stated that, when we do talk about the planning department, the Council must remember that the applicants will pay for services if we hire a consultant. Councilman Warden stated that he will not vote for any tax increase until the Council has dealt with the planning department issue in preparation for next year's budget and Councilman Nolan added that we must prepare a temporary budget for June 28th. The Council directed that rice notices be sent to affected employees so that the Council can have a full discussion of the planning department at the July 12th workshop meeting.

The Township Attorney, Mr. Semrau, advised that he has two subjects for executive session tonight.

Public Comments

Council President Gervens opened the meeting to the public.

Doris Aaronson, 19 Bearfort Road, West Milford stated that she attended the last visioning session concerning downtown. She provided an overview of that meeting stating that the consultant tried to convince West Milford residents to choose high density. She advised that the residents gave a negative rating. She stated that the consultant recommended narrowing the lanes on Union Valley Road which are already too narrow. She stated that the consultant has obviously never seen the traffic back-ups in town during rush hour. He repeatedly recommended that the turn lane at Macopin and Union Valley be eliminated even though Township residents know that there were many accidents at that intersection before that turn lane was installed. She stated that it is an ethical violation to tell people how to respond if one is conducting a survey. She distributed photographs to the Council showing children playing on Pinecliff Lake Drive and stated, if the town center project proceeds, these children will be in danger from people cutting through to avoid Union Valley Road.

Jim Geist, 57 Bayonne Drive, West Milford stated that bad budgeting has bad consequences. He urged the Council to reconsider using surplus funds in this year's budget stating that they are only delaying decisions that will have to be made next year. West Milford taxpayers want tax relief; we must raise taxes or make cuts. The time has come for the Council to make cuts in the planning department. Hire a consultant, but do not use surplus funds. He stated that people expect the Council to lead and make good decisions.

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

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

Council Comments

Councilman Nolan stated that the Council was in court on Friday on the Valley Ridge application. A hearing is scheduled for July 5th. At this point, we do not know what the conflict of interest was with Weiner Lesniak because they have not responded to the written request from the Township Attorney. He stated that the Council should conduct its own investigation. He distributed a resolution to the Council and made a motion for its adoption, which would start the process and he read the resolution aloud. Councilman Warden seconded the resolution as read into the record. The Township Attorney, Mr. Semrau, noting that he has not seen this resolution before, asked for an opportunity to review it, notify the planning board's legal counsel in the hopes of achieving conclusion before action is taken, and make a recommendation next week.

Councilman Nolan stated that the precedent for such action was set in January when the Council determined it would investigate then-Councilman Elcavage. He recommended that the Council investigate why Weiner Lesniak's conflict came about and why they won't tell us the reasons. He wants to know when the conflict occurred noting that this does not have anything to do with the legalities. Councilman Nolan withdrew his motion. The Council instructed Mr. Semrau to ask Weiner Lesniak for a written explanation, ask them to have a representative at the June 28th meeting to answer questions, and notify the planning board. The Council advised that time is of the essence because of the litigation and, therefore, the planning board should be urged to respond. The Council stressed that they want to be in a position to take action on June 28th.

Executive Session

Agenda No. VI

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MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 19th day of **June**, 2006, that:

1. Prior to the conclusion of this **Special 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.
 - 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.
 - Valley Ridge Litigation – Docket No. PAS-L-1429-06
 - K. Hovnanian vs. DEP – Docket No. A-4407-04T3 (Appellate Division)
 - () 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 19, 2006

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

The Council reconvened into open session at 10:24 p.m. with all present as before.

Adjournment

There being no further business to come before the Council, the Township Council adjourned the meeting a 10:26 P.M.

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

Approved: July 26, 2006

WILLIAM GERVENS
COUNCIL PRESIDENT
PRESIDING OFFICER

ANTOINETTE BATTAGLIA
TOWNSHIP CLERK